

**ALASKA LEGISLATURE**

**2385**

**HOUSE and SENATE FINANCE COMMITTEE FILES, 2001 - 2002**

**SB**

**243**

HFIN

FILE

# HOUSE COMMITTEE REPORT

(11)

Date Referred to Committee: April 8, 2002

FURTHER REFERRALS:

Date of Committee Action: 5/1/02

The FINANCE Committee considered:

CSSB 243(FIN)

CS FOR SENATE BILL NO. 243(FIN)

CHIROPRACTORS: SUNSET/LICENSING

"An Act extending the termination date of the Board of Chiropractic Examiners; and relating to chiropractors."

Recommends it be replaced with CS SB 243 (FIN) | Same Title [ ] New Title [ ]  
 For Senate Bills with new title: [ ] Technical Title [ ] New Title: HCR \_\_\_\_\_

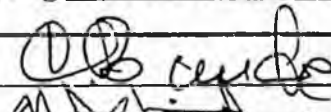
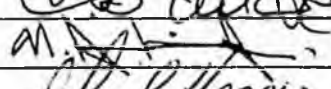
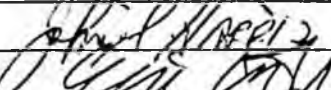
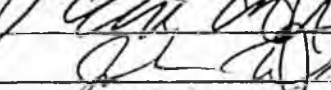
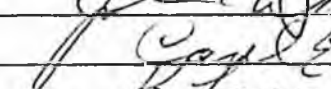
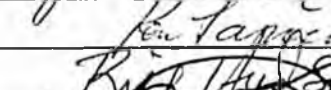
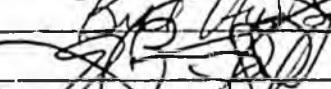
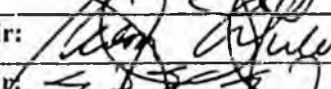

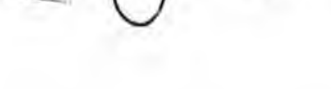

- [ ] attach amendments
- [ ] add new referral to \_\_\_\_\_ Committee
- [ ] Letter of Intent \_\_\_\_\_ Committee

List of  
Abbrev.  
for  
Depts.:

- ADM
- CEC
- COR
- CRT
- EED
- DEC
- DFG
- GOV
- HISS
- LAA
- LAW
- LWF
- MVA
- DNR
- DPS
- REV
- DOT
- UA

<u>NEW FISCAL NOTES</u>				
*For Chief Clerk's Office Use Only				
List by Dept(s):	*FN#	Fiscal	Indet.	Zero

<u>PREVIOUS FISCAL NOTES</u>				
List by Dept(s):	FN#	Fiscal	Indet.	Zero
DCED		✓		

<u>Signing with recommendations</u>	Printed Last Name	DP	DNP	NR	AM
	Blunde	✓			
	Whitaker	✓			
	HARRIS	✓			
	CRISP	✓			
	DAVIS	✓			
	MOSES	✓			
	Lancaster	✓			
	Hudson	✓			
	FOSTER	X			
Chair: 	Muldin	✓			
Chair: 	Williams	✓			

# FISCAL NOTE

STATE OF ALASKA  
2002 LEGISLATIVE SESSION

Fiscal Note Number: 1  
Bill Version: SB 243  
(S) Publish Date: 2/1/02

Revision Date/Time (Note if correction): 1/30/2002 Dept. Affected: DCED  
Title: An Act extending the termination date of the BRU: Occupational Licensing (117)  
Board of Chiropractic Examiners Component: Occupational Licensing  
Sponsor: Senator Therriault  
Requester: Senate Labor & Commerce Component No.: 2360

### Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Personal Services	24.5	24.5	24.5	24.5	24.5	
Travel	10.8	10.8	10.8	10.8	10.8	
Contractual	8.9	8.9	8.9	8.9	8.9	
Supplies	0.0	0.0	0.0	0.0	0.0	
Equipment	0.0	0.0	0.0	0.0	0.0	
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>44.2</b>	<b>44.2</b>	<b>44.2</b>	<b>44.2</b>	<b>44.2</b>	<b>0.0</b>

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ( )	44.2	44.2	44.2	44.2	44.2	
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### FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other 1156-Receipt Supported Services	44.2	44.2	44.2	44.2	44.2	
<b>TOTAL</b>	<b>44.2</b>	<b>44.2</b>	<b>44.2</b>	<b>44.2</b>	<b>44.2</b>	<b>0.0</b>

Estimate of any current year (FY2002) cost: 0.0  
Check this box (X) if funding for this bill is included in the Governor's FY 2003 budget proposal:

### POSITIONS

Full-time						
Part-time						
Temporary						

### ANALYSIS: (Attach a separate page if necessary)

The bill extends the Board of Chiropractic Examiners to June 30, 2006. In accordance with AS 08.03.020, funding is extended one year following the termination date allowing the board to conclude its affairs. The information above identifies direct expenditure and revenue information included in the FY 2003 Operating Budget request. The bill also amends AS 08.20.180(a) to include license by credentials. New funds are not required to implement this amendment.

Prepared by: Jennifer Strickler, Administrative Manager Phone (907) 465-2144  
Division: Occupational Licensing Date/Time 1/30/02 10:58 AM  
Approved by: Deborah B. Sedwick, Commissioner Date 1/30/2002  
Agency: Department of Community & Economic Development

# FISCAL NOTE

**STATE OF ALASKA**  
**2002 LEGISLATIVE SESSION**

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 Sponsor Senator Therriault  
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<b>CAPITAL EXPENDITURES</b>						
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Prepared by: Jennifer Strickler, Administrative Manager Phone (907) 465-2144  
 Division Occupational Licensing Date/Time 1/30/02 10:58 AM  
 Approved by: Deborah B. Sedwick, Commissioner Date 1/30/2002  
 Agency Department of Community & Economic Development

# Alaska State Legislature

SENATOR  
GENE THERRIAULT  
Chair

SESSION ADDRESS  
State Capitol  
Juneau, Alaska 99801-1182  
(907) 465-4797  
Fax: (907) 465-3884

## Legislative Budget and Audit Committee

**Senate Bill 243**

**“An Act extending the termination date of the Board of Chiropractic Examiners.”**

**Sponsor:**

**Senator Gene Therriault**

### **Sponsor Statement**

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Under AS 08.20.010 the State Board of Chiropractic Examiners regulates qualified professionals by ensuring that the requirements laid out for licensure are met and adhered to. The Board was established in 1949 and currently regulates 208 chiropractors in the State of Alaska.

The Board consists of five members appointed by the governor. Four members shall be licensed chiropractic physicians who have practiced in Alaska for no less than two years. The fifth member shall be a person with no direct financial interest in the health care industry.

The regulation and licensing of qualified chiropractors continues to safeguard the public by promoting competence and integrity of those individuals who represent themselves as chiropractors to the public. The Board continues to do this by establishing standards for licensed professionals and monitoring the manner in which they practice.

The State Board of Chiropractic Examiners is set to expire June 30, 2002 under AS 08.03.010, Termination of State Boards and Commissions. If the Legislature does not act to extend the Board, it will have one year, until June 30, 2003, to administratively conclude its affairs. Senate Bill 243 will extend the Board for another four years and restore the Board's statutory authority to license by credentials.

Contact: Heather Brakes, Legislative Budget and Audit Committee Aide, 465-6590

### INTERIM ADDRESS

119 N. Cushman Suite 101, Fairbanks, Alaska 99701 • (907) 488-0857 • Fax: (907) 488-4271

October 1, 2001

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 COMMUNITY  
AND ECONOMIC DEVELOPMENT  
BOARD OF CHIROPRACTIC EXAMINERS  
SUNSET REVIEW

September 13, 2001

Audit Control Number

08-20009-01

This audit was conducted as required by AS 44.66.050 and under the authority of AS 24.20.271(1). Alaska Statute 44.66.050(c) lists criteria to be used to assess the demonstrated public need for a given board, commission, agency, or program subject to the sunset review process. Currently under AS 08.03.010(c)(5), the Board of Chiropractic Examiners is scheduled to terminate on June 30, 2002. The board would be allowed one year in which to conclude its administrative operations.

In our opinion, the termination date for the Board of Chiropractic Examiners should be extended. The regulation and licensure of chiropractors contributes to the protection of the public's welfare. We recommend the legislature extend the termination date of the Board of Chiropractic Examiners to June 30, 2006.

This 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 Objective, Scope and Methodology section of this report.

Pat Davidson, CPA  
Legislative Auditor

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## OBJECTIVES, SCOPE, AND METHODOLOGY

In accordance with the intent of Title 24 and 44 of the Alaska Statutes (sunset legislation), we have reviewed the activities of the Board of Chiropractic Examiners. Under AS 44.66.050(a), the legislative committee of reference is to consider this report during the legislative oversight process to determine whether the board should be reestablished. Currently, AS 08.03.010(c)(5) requires the board to terminate on June 30, 2002. If the legislature takes no action to extend the termination date, the board will have one year from that date to conclude its operations.

### Objectives

There are three central, interrelated objectives of our report. They are:

1. To determine if the termination date of the board should be extended.
2. To determine if the board is operating in the public's interest.
3. To determine if the board has exercised appropriate regulatory oversight of licensed chiropractors.

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

### Scope and Methodology

Under the direction and supervision of the Division of Legislative Audit, another auditor conducted the majority of this review. We followed professional standards to determine that the other auditor was independent and that their work was competent and sufficient.

Our audit reviewed the operations and activities of the Board of Chiropractic Examiners for the period of FY 99 through FY 01.

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

1. Applicable statutes and regulations
2. Tests of files and documentation of licensees
3. Investigation files
4. Minutes of board meetings and division correspondence files
5. Attorney general's opinions applicable to professional boards

We also conducted interviews with employees of the Department of Community and Economic Development, Division of Occupational Licensing.

## ORGANIZATION AND FUNCTION

The Board of Chiropractic Examiners was established under the provisions of Title 8, Chapter 20 of the Alaska Statutes. The board consists of five members appointed by the governor and subject to legislative confirmation. Four members must be chiropractors and one member must be appointed from the general public. Board members serve staggered terms of four years.

The board regulates chiropractic practice in the state by setting the following standards of practice:

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

<p style="text-align: center;"><b><u>Board of Chiropractic Examiners</u></b></p>
--

<p style="text-align: center;"><i>(As of June 30, 2001)</i></p>
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<p>Trevor Ireland, Chiropractor, Chair LeRoy Nordstrom, Chiropractor Carol Davis, Chiropractor Steven Messerschmidt, Chiropractor Sean Siegel, Public Member</p>
--

### Department of Community and Economic Development, Division of Occupational Licensing

The Department of Community and Economic Development, Division of Occupational Licensing provides administrative and investigative assistance to the Board of Chiropractic Examiners. Administrative assistance includes budgetary services, functions such as collecting fees, maintaining files, receiving and issuing application forms, and publishing notices of examinations and meetings.

Alaska Statute 08.01.065, mandates the Department of Community and Economic Development, with the concurrence of the board, adopt regulations to establish the amount and manner of payment of application fees, examination fees, license fees, registration fees, permit fees, investigation fees, and all other fees as appropriate for the occupations covered by the statute.

Alaska Statute 08.01.087 empowers the Division of Occupational Licensing with the authority to act on its own initiative or in response to a complaint. The division may:

1. Conduct an investigation if it appears a person engaged or is about to engage in a prohibited professional practice.
2. Bring an action in Superior Court to enjoin the act.
3. Examine the books and records of an individual.
4. Issue subpoenas for the attendance of witnesses and records.

## REPORT CONCLUSIONS

In our opinion, the Board of Chiropractic Examiners is operating in an efficient and effective manner and should continue to regulate and license chiropractors. We believe the board is serving the public interest by promoting competence and integrity of individuals holding themselves out to the public as chiropractors.

The Board of Chiropractic Examiners serves a public purpose by promoting the competent and safe practice of chiropractic therapy. The board does this through establishing standards for licensed professionals and monitoring the manner in which they practice. The board has carried out these responsibilities satisfactorily.

Alaska Statute 08.03.010(c)(5) requires that the Board of Chiropractic Examiners be terminated on June 30, 2002. Under AS 08.01.020, the board has a one-year period to administratively conclude its operations. Based upon our review, we recommend that the board's termination date be extended to June 30, 2006.

## FINDINGS AND RECOMMENDATIONS

### Recommendation No. 1

The legislature should consider legislation clarifying the Board of Chiropractic Examiners' authority to license by credential.

The board is currently considering developing regulations establishing the manner by which chiropractors licensed in other states could become licensed in Alaska. This process is referred to as licensure by credentials. Providing for licensure by credentials is, in our view, good public policy and should generally be promoted whenever it serves the broader interest of the public – licensure of competent professionals who will practice in an ethical manner.

The board's legal authority to adopt such regulations is somewhat clouded by legislative action taken in response to our agency's last sunset report on the board. In that report we recommended the legislature repeal the statutory provisions related to the Board of Chiropractic Examiners' authority to license by credentials. Section 2 of Chapter 96, SLA 96 repealed AS 08.20.140. This statute allowed the board to license chiropractors without taking the State of Alaska chiropractic practical examination.

In this report, we are recommending the legislature reestablish the board's authority in this area. We make this recommendation because the board has changed the manner in which it considers Alaska licensure for prospective applicants licensed in another jurisdiction. The explanation of our change in position is as follows:

Previously, board actions were inconsistent with the implications of the credentialing statute

The recommendation in our 1995 report (Department of Commerce and Economic Development Board of Chiropractic Examiners 08-1434-96) was prompted by our concern that board practices at the time were not consistent with the statutes related to licensure by credentials. At that time the board was requiring all candidates for licensure to pass a practical examination, in front of the board, in order for the candidate to demonstrate they could physically perform the requirements of the profession. This was required even if the individual seeking an Alaska chiropractor license was already licensed and practicing in good standing in another jurisdiction – as long as that jurisdiction had licensing requirements that were **equivalent** to those established by the board.

The implication of the credentialing statute was that a practicing chiropractor, licensed in another state, only had to meet the equivalency standard to receive their Alaska license. There was no suggestion that further testing or examination may be required. In reality, the board always required such an applicant to pass the practical exam demonstrating they were physically able to practice chiropractic therapy.

We were concerned this incongruity between statute and procedure exposed the board to potential legal liability. To reduce this potential liability we recommended repeal of the credentialing statute because of two factors:

1. It seemed a practical examination confirming an applicant's physical capacity to practice was reasonable.
2. We saw no evidence the board was using the practical exam to unfairly exclude applicants from being licensed.

Currently, the board is phasing out the state practical examination requirement

The Board of Chiropractic Examiners requires applicants to pass all sections of the National Board of Chiropractic Examiners Examination (NBCEE). In recent years the NBCEE examination has added a practical section similar to that utilized for many years by the state board. The state board has informally decided that an applicant licensed by another jurisdiction, who has passed all of the NBCEE examination, should be eligible for licensure by credential.

Discussion with the current chairman indicates the board is interested in both expanding the credentialing process and placing more reliability on the NBCEE examination as it is currently constructed. Toward this end, the board may be willing to explore licensure by credentials of individuals from other states, even if at the time the individual was licensed they did not pass a practical examination. That is, they were licensed in a manner not equivalent to that of Alaska. This would be done only if the individual could demonstrate they practiced for a specified period of time (at a minimum five years) and had done so in good standing with the board in their local jurisdiction.

The board's regulatory authority is uncertain due to the repeal of the credentialing statute

We have been advised by the Department of Law that the board may not have the authority to adopt regulations providing for licensure by credentials. The board's authority is made more uncertain due to the 1996 legislative action that specifically repealed the statute which gave the board the specific authority to grant licenses by credential. Accordingly, we recommend the legislature clarify the board's authority in this area by considering and adopting legislation that returns to the board the power to license applicants through a reasonable credential review process.

Recommendation No. 2

The Office of the Governor should expedite the appointment of vacant and expired board member positions. Additionally, the Office of the Governor should proactively recruit prospective board members from rural communities to attain broader representation.

During our review of board member terms and appointments, it was noted that a member had reached the end of the appointed term and a replacement member had not been appointed.

# CORRECTION

THE FOLLOWING DOCUMENT(S)  
HAVE BEEN REFILMED TO  
ASSURE LEGIBILITY OR PAGINATION



Rev. 6/98

Central Microfilm Services  
Department of Education & Early Development  
State of Alaska

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During our review of board member terms and appointments, it was noted that a member had reached the end of the appointed term and a replacement member had not been appointed.

We recommend that the Board of Chiropractic Examiners and the Governor's office actively recruit new board members on a continual basis, so that the time between term expiration and new appointments is minimized.

Additionally, we noted adequate board representation by all of the major population areas: Anchorage, Juneau and Fairbanks. However, there is a lack of board representation from smaller urban communities around the state. We recommend the board solicit and encourage their colleagues living in and around smaller rural areas of the state to apply for board positions as they become vacated.

## ANALYSIS OF PUBLIC NEED

The following analysis of the Board of Chiropractic Examiners (board) activities relates to the public need factors defined in the "sunset" review law, AS 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.

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

The board has improved its accessibility to the public and prospective applicants. The board has increased the number of meetings to three times a year. Additionally, the board now offers examinations three times a year.

The board has formed a peer review committee that has been instrumental in the establishment of minimal professional standards and guidelines that will be requirements for licensed chiropractors in the course of their practice.

The board has committed itself to raising domestic violence awareness among chiropractors and encouraging reporting of suspected cases they may become aware of in the course of their practice. They developed and distributed a pamphlet to chiropractors which discusses domestic violence and provides points of contact for further information and voluntary reporting of suspected domestic violence and child abuse.

***Determine the extent to which the operations of the board 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 national licensing examination administered by the National Board of Chiropractic Examiners has in recent years adopted what is termed a "practical" section. Since the national examination now has such a section, the state board has determined it can reasonably rely on this examination when considering applicants for licensure. Accordingly, if individuals licensed in other states pass this examination as part of that jurisdiction's licensing requirements, the board wants to develop regulations to allow it to license such individuals by credential.

Due to past legislative actions, the board's current authority to adopt regulations permitting licensure by credentials is uncertain. As discussed in Recommendation No. 1, we suggest the legislature clarify the board's authority in this area by reestablishing the board's authority to license by credentials.

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

In recent years the board has supported the legislation concerning temporary and *locum tenens* permits to practice. The board has supported legislation that has served to clarify the statutes related to licensing by credential. In our view, these statutory changes have been in the best interest of the profession, and in the public's interest.

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

The location, date, and time of upcoming meetings and exams were advertised in Alaskan newspapers, as well as on the board's web page. Adequate time has been provided at public meetings for individuals to attend and testify or to submit written comment for review. The board's meeting agenda sets aside suitable time for public comment. Minutes from the meetings of the board reflect public participation at various meetings.

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

Public notices of proposed regulations are published in major newspapers. As noted above, meetings were adequately advertised, and time was set aside for public testimony.

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

For the period between July 1, 1998 and June 30, 2001 (FY 99 – FY 01), the Division of Occupational Licensing opened 45 cases related to chiropractors. The cases can be summarized as follows:

1. Malpractice, incompetence, unlicensed practice, or advertisement of services beyond the scope of chiropractic practice. Nineteen of the cases involved allegations of malpractice, incompetence, or licensees providing services beyond the scope of chiropractic practice. All ten of the complaints received from the public during the period under the review fall into this category. The other nine complaints were generated by either by the Division of Occupational Licensing staff or other license holders. None of the complaints to date have been found serious enough to warrant action against an individual's license. The primary sanction utilized for complaints found to be valid has been a letter of warning. At the time of fieldwork in August 2001, the status of the complaints and cases were as follows:

Source of complaint	Total	Complaint Valid Warning Letter Sent	Invalid No Action	Case open
Public	10	3	3	4
License Holders	5	4	1	-0-
Occupation Licensing Staff	4	3	-0-	1

2. Untimely renewal of licenses. Eighteen of the opened cases involved situations where the Division of Occupational Licensing formally followed up on chiropractors who did not renew their licenses on a timely basis. The Division wanted assurance that all individuals holding themselves out to the public as chiropractors were licensed appropriately. The division brought all of the chiropractors into compliance either by prompting them to obtain a license or by confirming that the license holder no longer practiced in the state.
3. Insurance settlements. When insurance companies pay out large malpractice settlements on chiropractors, they notify the Division of Occupational Licensing. The insurance companies notify the division so the agency can conduct an investigation into the full scope of the insured professional's practice.

While such settlements may not be related to the general competency of a given practitioner, they may be a key indicator of a chiropractor who is acting in an unethical, improper, or dangerous manner. During our scope period, four such cases were reported. The cases involved settlements ranging from \$5,000 to \$110,000. A division investigation of the chiropractor with the largest settlement payment found no violation. The other three cases were open as of August 2001 pending further investigation.

4. Background Checks at Licensure. Two of the cases were opened on individuals where criminal background checks conducted at the time of initial licensure indicated the applicants did not disclose previous criminal activity when seeking licensure as chiropractors.
5. License Actions. Two cases were opened on individuals where action was taken on their licenses for activities beyond strict chiropractic practice. The first individual had signed a Memorandum of Agreement (MOA) regarding his abuse of alcohol, since it had an adverse impact on his practice. When he was arrested and pleaded *nolo contendere* to the charge of driving while intoxicated, he was in violation of the MOA, which resulted in the board suspending his license to practice. After the local district attorney declined prosecution of an individual whose license had been suspended when he faced possible prosecution on sexual misconduct charges, he sought reinstatement. The board sustained its earlier suspension and the individual did not pursue a formal hearing.

We have reviewed the nature and extent of complaints filed involving licensed chiropractors. In our view, the Division of Occupational Licensing, in conjunction with the board, took appropriate investigative actions, prioritized complaints in a reasonable manner, and

proceeded in a manner consistent with the potential threat the complaints posed to the public welfare.

*Determine the extent to which the board regulates entry into an occupation or profession and whether it has presented qualified applicants to serve the public.*

New Licenses Issued (Exclusive of Renewals)	FY 99	FY 00	FY 01	Issued to Date
License	14	10	9	205
Temporary permit	2	1	2	6
Locum Tenens permit	—	—	-0-	-0-

The board has some of the most stringent licensing requirements of any state. These requirements ensure that only those candidates who meet these specific requirements are licensed as chiropractors.

The board has started to issue temporary and *locum tenens* permits. These permits are valid for limited practice (sixty days) and are issued to professionals who are awaiting their licensure or are licensed in another state.

Continuing education requirements for renewal of a chiropractic examiner license appear to be sufficient when compared to other licensing jurisdictions. These requirements are reviewed by the Division of Occupational Licensing to ensure licensees met regulatory requirements intended to promote continued competence.

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

We did not find any evidence that the board was not complying with the state personnel practices, including affirmative action in qualifying applicants. In no instance has the board denied an applicant a license based on personal attributes.

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

As discussed in Recommendation No. 1, the legislature should consider specifically reestablishing the board's authority to license applicants by credential.



**IRELAND**  
Clinic of Chiropractic, LLC.  
541 WEST 36th AVENUE, ANCHORAGE, ALASKA 99503-5804  
(907) 561-1222 • FAX 561-1350

RECEIVED  
OCT 4 - 2001  
LEGISLATIVE AUDIT

October 1, 2001

Mr. Jim Griffin, Audit Manager  
Alaska State Legislature  
Legislative Budget and Audit Committee  
Division of Legislative Audit  
P. O. Box 113300  
Juneau, AK 99811-3300

RE: Management Letter No. 1  
Division of Occupational Licensing  
Board of Chiropractic Examiners

Dear Mr. Griffin:

Thank you for providing me with an opportunity to comment on your letter of the 13<sup>th</sup> ultimo.

Your letter reflects accuracy, sensitivity, fairness and balance; and I, therefore, see no need for change. It is indeed an honor to work with you and other members of your division. Thank you.

Sincerely yours,

IRELAND CLINIC OF CHIROPRACTIC, LLC.

A handwritten signature in black ink that reads "Trevor V. Ireland". The signature is written in a cursive, flowing style with a long, sweeping underline that extends to the right.

Trevor V. Ireland, D.C. (Hon) F.I.C.A., F.P.C.W., F.P.A.C., F.I.C.C.  
President

Member, Board of Trustees, Palmer Chiropractic University System  
President, Alaska Board of Chiropractic Examiners

TI:img

November 27, 2001

Pat Davidson, Legislative Auditor  
Legislative Budget and Audit Committee  
Division of Legislative Audit  
PO Box 113300  
Juneau, AK 99811

Dear Ms. Davidson:

Thank you for the opportunity to comment on the Board of Chiropractic Examiners preliminary audit.

The division agrees that the board is operating in an efficient and effective manner and should continue.

**Recommendation No. 1**

The legislature should consider legislation clarifying the Board of Chiropractic Examiners' authority to license by credential.

The board has asked the division to issue public notice of proposed regulations establishing the manner by which chiropractors licensed in other states could become licensed in Alaska. If the board's legal authority to adopt regulations for licensure by credentials is unclear, then the division supports amending the statute.

Sincerely,

Catherine Reardon, director

**SB**

**243**

SFIN

FILE

# SENATE FINANCE COMMITTEE REPORT

DATE: 2/1/02

REPORTED OUT  
MAR 5 2002  
SENATE FINANCE  
COMMITTEE

FURTHER:

DATE TURNED IN TO OFFICE: 03/06/02

Finance Committee considered

SENATE BILL NO. 243

SB 243 CHIROPRACTORS: SUNSET/LICENSING

"An Act extending the termination date of the Board of Chiropractic Examiners; and relating to chiropractors."

and recommends:

- be replaced with CS SB 243 (FIN)
- adopt previous CS FORTHCOMING
- attached amendment(s)
- adopt Letter of Intent by \_\_\_\_\_ Committee
- further referral to \_\_\_\_\_ Committee

**Senate Bill:**

- same title
- new title

**House Bill:**

- same title
- technical title
- new: SCR # \_\_\_\_\_

**NEW FISCAL NOTE(S):**

Department	Date	Fiscal	Zero	FN#

**PREVIOUS FISCAL NOTE(S):**

Department	Date	Fiscal	Zero	FN#
DCED	1/30/02	44.2		1

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
<i>Linda Green</i>	✓			
<i>John D. Flann</i>	✓			
<i>Tom Webb</i>	✓			
<i>Michael (Bob) ...</i>	✓			
<i>Jim Ward</i>	✓		✓	
<b>COCHAIR:</b> <i>[Signature]</i>	✓			
<b>COCHAIR:</b> <i>[Signature]</i>	✓			

# FISCAL NOTE

MAR 5 2002

**STATE OF ALASKA  
2002 LEGISLATIVE SESSION**

SENATE FINANCE  
COMMITTEE

Fiscal Note Number: 1  
Bill Version: SB 243  
(S) Publish Date: 2/1/02

Revision Date/Time (Note if correction): 1/30/2002 Dept. Affected: DCED  
Title: An Act extending the termination date of the BRU: Occupational Licensing (117)  
Board of Chiropractic Examiners Component: Occupational Licensing  
Sponsor: Senator Therriault  
Requester: Senate Labor & Commerce Component No.: 2360

**Expenditures/Revenues (Thousands of Dollars)**

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

OPERATING EXPENDITURES	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Personal Services	24.5	24.5	24.5	24.5	24.5	
Travel	10.8	10.8	10.8	10.8	10.8	
Contractual	8.9	8.9	8.9	8.9	8.9	
Supplies	0.0	0.0	0.0	0.0	0.0	
Equipment	0.0	0.0	0.0	0.0	0.0	
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>44.2</b>	<b>44.2</b>	<b>44.2</b>	<b>44.2</b>	<b>44.2</b>	<b>0.0</b>

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

CHANGE IN REVENUES ( )	44.2	44.2	44.2	44.2	44.2	
------------------------	------	------	------	------	------	--

**FUND SOURCE (Thousands of Dollars)**

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other 1156-Receipt Supported Services	44.2	44.2	44.2	44.2	44.2	
<b>TOTAL</b>	<b>44.2</b>	<b>44.2</b>	<b>44.2</b>	<b>44.2</b>	<b>44.2</b>	<b>0.0</b>

Estimate of any current year (FY2002) cost: 0.0  
Check this box (X) if funding for this bill is included in the Governor's FY 2003 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)

The bill extends the Board of Chiropractic Examiners to June 30, 2006. In accordance with AS 08.02.020, funding is extended one year following the termination date allowing the board to conclude its affairs. The information above identifies direct expenditure and revenue information included in the FY 2003 Operating Budget request. The bill also amends AS 08.20.180(a) to include license by credentials. New funds are not required to implement this amendment.

Prepared by: Jennifer Strickler, Administrative Manager  
Division: Occupational Licensing  
Approved by: Deborah B. Sedwick, Commissioner  
Agency: Department of Community & Economic Development

Phone: (907) 465-2144  
Date/Time: 1/30/02 10:58 AM  
Date: 1/30/2002

CS FOR SENATE BILL NO. 243( )  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
TWENTY-SECOND LEGISLATURE - SECOND SESSION

BY

Offered:  
Referred:

Sponsor(s): SENATORS THERRIAULT, Taylor, Austerman

A BILL  
FOR AN ACT ENTITLED

1 "An Act extending the termination date of the Board of Chiropractic Examiners; and  
2 relating to chiropractors."

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

4 \* Section 1. AS 08.03.010(c)(5) is amended to read:

5 (5) Board of Chiropractic Examiners (AS 08.20.010) - June 30, 2006  
6 [2002];

7 \* Sec. 2. AS 08.20 is amended by adding a new section to read:

8 Sec. 08.20.141. Licensure by credentials. The board may issue a license by  
9 credentials to an applicant who pays the appropriate fee and presents satisfactory proof  
10 that the applicant

11 (1) is a graduate of a school or college of chiropractic that

12 (A) is accredited by or a candidate for accreditation by the  
13 Council on Chiropractic Education or a successor accrediting agency  
14 recognized by the board; or

1 (B) if an accrediting agency under (A) of this paragraph does  
2 not exist, requires the completion of a minimum of 4,000 hours of formal  
3 education and training in order to graduate, including

4 (i) 150 hours of chiropractic philosophy or principles;

5 (ii) 1,200 hours of basic sciences, including anatomy,  
6 chemistry, physiology, and pathology;

7 (iii) 1,400 hours of preclinical technique, including  
8 diagnosis, chiropractic technique, and x-rays; and

9 (iv) 700 hours of clinical training;

10 (2) has held a license in good standing to practice chiropractic in  
11 another jurisdiction for the five years preceding the date of application; for purposes of  
12 this paragraph, "good standing" means that

13 (A) no action has been reported about the applicant in the  
14 national licensee database of the Federation of Chiropractic Licensing Boards;

15 (B) the applicant has not, within the five years preceding the  
16 date of application, been the subject of an unresolved review or an adverse  
17 decision based on a complaint, investigation, review procedure, or disciplinary  
18 proceeding undertaken by a foreign, state, territorial, local, or federal  
19 chiropractic licensing jurisdiction, chiropractic society, or law enforcement  
20 agency that relates to criminal or fraudulent activity, chiropractic malpractice,  
21 or negligent chiropractic care and that adversely reflects on the applicant's  
22 ability or competence to engage in the practice of chiropractic or on the safety  
23 or well-being of patients; and

24 (C) the applicant has not been convicted of a felony within the  
25 five years preceding the date of application;

26 (3) has been in active licensed clinical chiropractic practice for at least  
27 three of the five years immediately preceding the date of application;

28 (4) has passed, to the satisfaction of the board, the parts of the  
29 examination of the National Board of Chiropractic Examiners required by the board;

30 (5) has passed an examination approved by the board that is designed  
31 to test the applicant's knowledge of the laws of the state governing the practice of

1 chiropractic and the regulations adopted under those laws; and

2 (6) has completed 120 hours of formal training in physiological  
3 therapeutics or has passed, to the satisfaction of the board, a physiological therapeutics  
4 examination of the National Board of Chiropractic Examiners required by the board.

5 \* Sec. 3. AS 08.20.180(a) is amended to read:

6 (a) An applicant for an examination, reexamination, issuance of a temporary  
7 permit under AS 08.20.160, issuance of a locum tenens permit under AS 08.20.163,  
8 issuance of a license by credentials under AS 08.20.141, one-time issuance of a  
9 retired status license, or initial issuance or renewal of an active or inactive license shall  
10 pay a fee established under AS 08.01.065.

**CS FOR SENATE BILL NO. 243( )**  
**IN THE LEGISLATURE OF THE STATE OF ALASKA**  
**TWENTY-SECOND LEGISLATURE - SECOND SESSION**

**BY**

**Offered:**  
**Referred:**

**Sponsor(s): SENATORS THERRIAULT, Taylor, Austerman**

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act extending the termination date of the Board of Chiropractic Examiners; and  
2 relating to chiropractors."

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

4 \* Section 1. AS 08.03.010(c)(5) is amended to read:

5 (5) Board of Chiropractic Examiners (AS 08.20.010) - June 30, 2006  
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7 \* Sec. 2. AS 08.20 is amended by adding a new section to read:

8 **Sec. 08.20.141. Licensure by credentials.** The board may issue a license by  
9 credentials to an applicant who pays the appropriate fee and presents satisfactory proof  
10 that the applicant

11 (1) is a graduate of a school or college of chiropractic that

12 (A) is accredited by or a candidate for accreditation by the  
13 Council on Chiropractic Education or a successor accrediting agency  
14 recognized by the board; or

1 (B) if an accrediting agency under (A) of this paragraph does  
2 not exist, requires the completion of a minimum of 4,000 hours of formal  
3 education and training in order to graduate, including

4 (i) 150 hours of chiropractic philosophy or principles;

5 (ii) 1,200 hours of basic sciences, including anatomy,  
6 chemistry, physiology, and pathology;

7 (iii) 1,400 hours of preclinical technique, including  
8 diagnosis, chiropractic technique, and x-rays; and

9 (iv) 700 hours of clinical training;

10 (2) held a license in good standing to practice chiropractic in another  
11 jurisdiction on the day immediately preceding the date of application under this  
12 section; for purposes of this paragraph, "good standing" means that

13 (A) no action has been reported about the applicant in the  
14 national licensee database of the Federation of Chiropractic Licensing Boards;

15 (B) the applicant has not, within the five years preceding the  
16 date of application, been the subject of an unresolved review or an adverse  
17 decision based on a complaint, investigation, review procedure, or disciplinary  
18 proceeding undertaken by a foreign, state, territorial, local, or federal  
19 chiropractic licensing jurisdiction, chiropractic society, or law enforcement  
20 agency that relates to criminal or fraudulent activity, chiropractic malpractice,  
21 or negligent chiropractic care and that adversely reflects on the applicant's  
22 ability or competence to engage in the practice of chiropractic or on the safety  
23 or well-being of patients; and

24 (C) the applicant has not been convicted of a felony within the  
25 five years preceding the date of application;

26 (3) has passed, to the satisfaction of the board, the parts of the  
27 examination of the National Board of Chiropractic Examiners required by the board;

28 (4) has passed an examination approved by the board that is designed  
29 to test the applicant's knowledge of the laws of the state governing the practice of  
30 chiropractic and the regulations adopted under those laws; and

31 (5) has completed 120 hours of formal training in physiological

1           therapeutics or has passed, to the satisfaction of the board, a physiological therapeutics  
2           examination of the National Board of Chiropractic Examiners required by the board.

3       \* Sec. 3. AS 08.20.180(a) is amended to read:

4           (a) An applicant for an examination, reexamination, issuance of a temporary  
5           permit under AS 08.20.160, issuance of a locum tenens permit under AS 08.20.163,  
6           issuance of a license by credentials under AS 08.20.141, one-time issuance of a  
7           retired status license, or initial issuance or renewal of an active or inactive license shall  
8           pay a fee established under AS 08.01.065.

# Alaska State Legislature

SENATOR  
GENE THERRIAULT  
Chair



SESSION ADDRESS  
State Capitol  
Juneau, Alaska 99801-1182  
(907) 465-1797  
Fax: (907) 465-3884

## Legislative Budget and Audit Committee

Senate Bill 243

“An Act extending the termination date of the Board of Chiropractic Examiners.”

Sponsor:

Senator Gene Therriault

### Sponsor Statement

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Under AS 08.20.010 the State Board of Chiropractic Examiners regulates qualified professionals by ensuring that the requirements laid out for licensure are met and adhered to. The Board was established in 1949 and currently regulates 204 chiropractors in the State of Alaska.

The Board consists of five members appointed by the governor. Four members shall be licensed chiropractic physicians who have practiced in Alaska for no less than two years. The fifth member shall be a person with no direct financial interest in the health care industry.

The regulation and licensing of qualified chiropractors continues to safeguard the public by promoting competence and integrity of those individuals who represent themselves as chiropractors to the public. The Board continues to do this by establishing standards for licensed professionals and monitoring the manner in which they practice.

The State Board of Chiropractic Examiners is set to expire June 30, 2002 under AS 08.03.010, Termination of State Boards and Commissions. If the Legislature does not act to extend the Board, it will have one year, until June 30, 2003, to administratively conclude its affairs. Senate Bill 243 will extend the Board for another four years and restore the Board's statutory authority to license by credentials.

Contact: Heather Brakes, Legislative Budget and Audit Committee Aide, 465-6590

### INTERIM ADDRESS

119 N. Cushman Suite 101, Fairbanks, Alaska 99701 • (907) 488-0857 • Fax: (907) 488-4271

**CS SB 243**

**Sectional Analysis**

**Section 1.** This section extends the Board to June 30, 2006, the standard four-year extension as recommended by the audit report released on December 5, 2001 by the Legislative Budget and Audit Committee.

**Section 2.** This section addresses Recommendation No. 1 of the audit report implementing full licensure by credentials with requirements acceptable to the board, such as education, current licensure in good standing, evidence of active clinical practice, and formal training.

**Section 3.** This section helps to implement the new licensure by credentials by acknowledging it in the fee structure.

# Audit Report

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DEPARTMENT OF COMMUNITY  
AND ECONOMIC DEVELOPMENT  
BOARD OF CHIROPRACTIC EXAMINERS  
SUNSET REVIEW

September 13, 2001

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Audit Control Number:

08-20009-01

Division of Legislative Audit

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

# LEGISLATIVE BUDGET AND AUDIT COMMITTEE

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## 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 the Senate and two from the House. 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 \$6 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 as mandated by Alaska Statutes or 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 Juneau, Anchorage, or our web site <http://www.legis.state.ak.us/legaud/web/default.htm>.

### BUDGET AND AUDIT COMMITTEE

Senator Gene Therriault, Chair  
Senator Dave Donley  
Senator Lyman Hoffman  
Senator Randy Phillips  
Senator Jerry Ward  
Senator Gary Wilken (alternate)

Representative Hugh Fate, Vice Chair  
Representative John Harris  
Representative Reggie Joule  
Representative Ken Lancaster  
Representative Eldon Mulder  
Representative Bill Williams (alternate)  
Representative John Davies (alternate)

### DIVISION OF LEGISLATIVE AUDIT

Pat Davidson, CPA  
Legislative Auditor

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

(907)465-3830, Juneau  
(907)561-1445, Anchorage  
(907)465-2347, Juneau Fax  
(907)561-1452 Anchorage 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  
Internet e-mail address:  
legaudit@legis.state.ak.us

October 1, 2001

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 COMMUNITY  
AND ECONOMIC DEVELOPMENT  
BOARD OF CHIROPRACTIC EXAMINERS  
SUNSET REVIEW

September 13, 2001

Audit Control Number

08-20009-01

This audit was conducted as required by AS 44.66.050 and under the authority of AS 24.20.271(1). Alaska Statute 44.66.050(c) lists criteria to be used to assess the demonstrated public need for a given board, commission, agency, or program subject to the sunset review process. Currently under AS 08.03.010(c)(5), the Board of Chiropractic Examiners is scheduled to terminate on June 30, 2002. The board would be allowed one year in which to conclude its administrative operations.

In our opinion, the termination date for the Board of Chiropractic Examiners should be extended. The regulation and licensure of chiropractors contributes to the protection of the public's welfare. We recommend the legislature extend the termination date of the Board of Chiropractic Examiners to June 30, 2006.

This 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 Objective, Scope and Methodology section of this report.

A handwritten signature in cursive script that reads "Pat Davidson".

Pat Davidson, CPA  
Legislative Auditor

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## OBJECTIVES, SCOPE, AND METHODOLOGY

In accordance with the intent of Title 24 and 44 of the Alaska Statutes (sunset legislation), we have reviewed the activities of the Board of Chiropractic Examiners. Under AS 44.66.050(a), the legislative committee of reference is to consider this report during the legislative oversight process to determine whether the board should be reestablished. Currently, AS 08.03.010(c)(5) requires the board to terminate on June 30, 2002. If the legislature takes no action to extend the termination date, the board will have one year from that date to conclude its operations.

### Objectives

There are three central, interrelated objectives of our report. They are:

1. To determine if the termination date of the board should be extended.
2. To determine if the board is operating in the public's interest.
3. To determine if the board has exercised appropriate regulatory oversight of licensed chiropractors.

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

### Scope and Methodology

Under the direction and supervision of the Division of Legislative Audit, another auditor conducted the majority of this review. We followed professional standards to determine that the other auditor was independent and that their work was competent and sufficient.

Our audit reviewed the operations and activities of the Board of Chiropractic Examiners for the period of FY 99 through FY 01.

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

1. Applicable statutes and regulations
2. Tests of files and documentation of licensees
3. Investigation files
4. Minutes of board meetings and division correspondence files
5. Attorney general's opinions applicable to professional boards

We also conducted interviews with employees of the Department of Community and Economic Development, Division of Occupational Licensing.

## ORGANIZATION AND FUNCTION

The Board of Chiropractic Examiners was established under the provisions of Title 8, Chapter 20 of the Alaska Statutes. The board consists of five members appointed by the governor and subject to legislative confirmation. Four members must be chiropractors and one member must be appointed from the general public. Board members serve staggered terms of four years.

The board regulates chiropractic practice in the state by setting the following standards of practice:

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

### Board of Chiropractic Examiners

*(As of June 30, 2001)*

Trevor Ireland, Chiropractor, Chair  
LeRoy Nordstrom, Chiropractor  
Carol Davis, Chiropractor  
Steven Messerschmidt, Chiropractor  
Sean Siegel, Public Member

### Department of Community and Economic Development, Division of Occupational Licensing

The Department of Community and Economic Development, Division of Occupational Licensing provides administrative and investigative assistance to the Board of Chiropractic Examiners. Administrative assistance includes budgetary services, functions such as collecting fees, maintaining files, receiving and issuing application forms, and publishing notices of examinations and meetings.

Alaska Statute 08.01.065, mandates the Department of Community and Economic Development, with the concurrence of the board, adopt regulations to establish the amount and manner of payment of application fees, examination fees, license fees, registration fees, permit fees, investigation fees, and all other fees as appropriate for the occupations covered by the statute.

Alaska Statute 08.01.087 empowers the Division of Occupational Licensing with the authority to act on its own initiative or in response to a complaint. The division may:

1. Conduct an investigation if it appears a person engaged or is about to engage in a prohibited professional practice.
2. Bring an action in Superior Court to enjoin the act.
3. Examine the books and records of an individual.
4. Issue subpoenas for the attendance of witnesses and records.

## REPORT CONCLUSIONS

In our opinion, the Board of Chiropractic Examiners is operating in an efficient and effective manner and should continue to regulate and license chiropractors. We believe the board is serving the public interest by promoting competence and integrity of individuals holding themselves out to the public as chiropractors.

The Board of Chiropractic Examiners serves a public purpose by promoting the competent and safe practice of chiropractic therapy. The board does this through establishing standards for licensed professionals and monitoring the manner in which they practice. The board has carried out these responsibilities satisfactorily.

Alaska Statute 08.03.010(c)(5) requires that the Board of Chiropractic Examiners be terminated on June 30, 2002. Under AS 08.01.020, the board has a one-year period to administratively conclude its operations. Based upon our review, we recommend that the board's termination date be extended to June 30, 2006.

# CORRECTION

THE FOLLOWING DOCUMENT(S)  
HAVE BEEN REFILMED TO  
ASSURE LEGIBILITY OR PAGINATION



Rev. 6/98

Central Microfilm Services  
Department of Education & Early Development  
State of Alaska

## OBJECTIVES, SCOPE, AND METHODOLOGY

In accordance with the intent of Title 24 and 44 of the Alaska Statutes (sunset legislation), we have reviewed the activities of the Board of Chiropractic Examiners. Under AS 44.66.050(a), the legislative committee of reference is to consider this report during the legislative oversight process to determine whether the board should be reestablished. Currently, AS 08.03.010(c)(5) requires the board to terminate on June 30, 2002. If the legislature takes no action to extend the termination date, the board will have one year from that date to conclude its operations.

### Objectives

There are three central, interrelated objectives of our report. They are:

1. To determine if the termination date of the board should be extended.
2. To determine if the board is operating in the public's interest.
3. To determine if the board has exercised appropriate regulatory oversight of licensed chiropractors.

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

### Scope and Methodology

Under the direction and supervision of the Division of Legislative Audit, another auditor conducted the majority of this review. We followed professional standards to determine that the other auditor was independent and that their work was competent and sufficient.

Our audit reviewed the operations and activities of the Board of Chiropractic Examiners for the period of FY 99 through FY 01.

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

1. Applicable statutes and regulations
2. Tests of files and documentation of licensees
3. Investigation files
4. Minutes of board meetings and division correspondence files
5. Attorney general's opinions applicable to professional boards

We also conducted interviews with employees of the Department of Community and Economic Development, Division of Occupational Licensing.

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## ORGANIZATION AND FUNCTION

The Board of Chiropractic Examiners was established under the provisions of Title 8, Chapter 20 of the Alaska Statutes. The board consists of five members appointed by the governor and subject to legislative confirmation. Four members must be chiropractors and one member must be appointed from the general public. Board members serve staggered terms of four years.

The board regulates chiropractic practice in the state by setting the following standards of practice:

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

<b><u>Board of Chiropractic Examiners</u></b>
---

<i>(As of June 30, 2001)</i>
------------------------------

Trevor Ireland, Chiropractor, Chair LeRoy Nordstrom, Chiropractor Carol Davis, Chiropractor Steven Messerschmidt, Chiropractor Sean Siegel, Public Member
---

### Department of Community and Economic Development, Division of Occupational Licensing

The Department of Community and Economic Development, Division of Occupational Licensing provides administrative and investigative assistance to the Board of Chiropractic Examiners. Administrative assistance includes budgetary services, functions such as collecting fees, maintaining files, receiving and issuing application forms, and publishing notices of examinations and meetings.

Alaska Statute 08.01.065, mandates the Department of Community and Economic Development, with the concurrence of the board, adopt regulations to establish the amount and manner of payment of application fees, examination fees, license fees, registration fees, permit fees, investigation fees, and all other fees as appropriate for the occupations covered by the statute.

Alaska Statute 08.01.087 empowers the Division of Occupational Licensing with the authority to act on its own initiative or in response to a complaint. The division may:

1. Conduct an investigation if it appears a person engaged or is about to engage in a prohibited professional practice.
2. Bring an action in Superior Court to enjoin the act.
3. Examine the books and records of an individual.
4. Issue subpoenas for the attendance of witnesses and records.

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## REPORT CONCLUSIONS

In our opinion, the Board of Chiropractic Examiners is operating in an efficient and effective manner and should continue to regulate and license chiropractors. We believe the board is serving the public interest by promoting competence and integrity of individuals holding themselves out to the public as chiropractors.

The Board of Chiropractic Examiners serves a public purpose by promoting the competent and safe practice of chiropractic therapy. The board does this through establishing standards for licensed professionals and monitoring the manner in which they practice. The board has carried out these responsibilities satisfactorily.

Alaska Statute 08.03.010(c)(5) requires that the Board of Chiropractic Examiners be terminated on June 30, 2002. Under AS 08.01.020, the board has a one-year period to administratively conclude its operations. Based upon our review, we recommend that the board's termination date be extended to June 30, 2006.

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## FINDINGS AND RECOMMENDATIONS

### Recommendation No. 1

The legislature should consider legislation clarifying the Board of Chiropractic Examiners' authority to license by credential.

The board is currently considering developing regulations establishing the manner by which chiropractors licensed in other states could become licensed in Alaska. This process is referred to as licensure by credentials. Providing for licensure by credentials is, in our view, good public policy and should generally be promoted whenever it serves the broader interest of the public – licensure of competent professionals who will practice in an ethical manner.

The board's legal authority to adopt such regulations is somewhat clouded by legislative action taken in response to our agency's last sunset report on the board. In that report we recommended the legislature repeal the statutory provisions related to the Board of Chiropractic Examiners' authority to license by credentials. Section 2 of Chapter 96, SLA 96 repealed AS 08.20.140. This statute allowed the board to license chiropractors without taking the State of Alaska chiropractic practical examination.

In this report, we are recommending the legislature reestablish the board's authority in this area. We make this recommendation because the board has changed the manner in which it considers Alaska licensure for prospective applicants licensed in another jurisdiction. The explanation of our change in position is as follows:

Previously, board actions were inconsistent with the implications of the credentialing statute

The recommendation in our 1995 report (Department of Commerce and Economic Development Board of Chiropractic Examiners 08-1434-96) was prompted by our concern that board practices at the time were not consistent with the statutes related to licensure by credentials. At that time the board was requiring all candidates for licensure to pass a practical examination, in front of the board, in order for the candidate to demonstrate they could physically perform the requirements of the profession. This was required even if the individual seeking an Alaska chiropractor license was already licensed and practicing in good standing in another jurisdiction – as long as that jurisdiction had licensing requirements that were **equivalent** to those established by the board.

The implication of the credentialing statute was that a practicing chiropractor, licensed in another state, only had to meet the equivalency standard to receive their Alaska license. There was no suggestion that further testing or examination may be required. In reality, the board always required such an applicant to pass the practical exam demonstrating they were physically able to practice chiropractic therapy.

We were concerned this incongruity between statute and procedure exposed the board to potential legal liability. To reduce this potential liability we recommended repeal of the credentialing statute because of two factors:

1. It seemed a practical examination confirming an applicant's physical capacity to practice was reasonable.
2. We saw no evidence the board was using the practical exam to unfairly exclude applicants from being licensed.

Currently, the board is phasing out the state practical examination requirement

The Board of Chiropractic Examiners requires applicants to pass all sections of the National Board of Chiropractic Examiners Examination (NBCEE). In recent years the NBCEE examination has added a practical section similar to that utilized for many years by the state board. The state board has informally decided that an applicant licensed by another jurisdiction, who has passed all of the NBCEE examination, should be eligible for licensure by credential.

Discussion with the current chairman indicates the board is interested in both expanding the credentialing process and placing more reliability on the NBCEE examination as it is currently constructed. Toward this end, the board may be willing to explore licensure by credentials of individuals from other states, even if at the time the individual was licensed they did not pass a practical examination. That is, they were licensed in a manner not equivalent to that of Alaska. This would be done only if the individual could demonstrate they practiced for a specified period of time (at a minimum five years) and had done so in good standing with the board in their local jurisdiction.

The board's regulatory authority is uncertain due to the repeal of the credentialing statute

We have been advised by the Department of Law that the board may not have the authority to adopt regulations providing for licensure by credentials. The board's authority is made more uncertain due to the 1996 legislative action that specifically repealed the statute which gave the board the specific authority to grant licenses by credential. Accordingly, we recommend the legislature clarify the board's authority in this area by considering and adopting legislation that returns to the board the power to license applicants through a reasonable credential review process.

Recommendation No. 2

The Office of the Governor should expedite the appointment of vacant and expired board member positions. Additionally, the Office of the Governor should proactively recruit prospective board members from rural communities to attain broader representation.

During our review of board member terms and appointments, it was noted that a member had reached the end of the appointed term and a replacement member had not been appointed. We recommend that the Board of Chiropractic Examiners and the Governor's office actively recruit new board members on a continual basis, so that the time between term expiration and new appointments is minimized.

Additionally, we noted adequate board representation by all of the major population areas: Anchorage, Juneau and Fairbanks. However, there is a lack of board representation from smaller urban communities around the state. We recommend the board solicit and encourage their colleagues living in and around smaller rural areas of the state to apply for board positions as they become vacated.

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## ANALYSIS OF PUBLIC NEED

The following analysis of the Board of Chiropractic Examiners (board) activities relates to the public need factors defined in the "sunset" review law, AS 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.

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

The board has improved its accessibility to the public and prospective applicants. The board has increased the number of meetings to three times a year. Additionally, the board now offers examinations three times a year.

The board has formed a peer review committee that has been instrumental in the establishment of minimal professional standards and guidelines that will be requirements for licensed chiropractors in the course of their practice.

The board has committed itself to raising domestic violence awareness among chiropractors and encouraging reporting of suspected cases they may become aware of in the course of their practice. They developed and distributed a pamphlet to chiropractors which discusses domestic violence and provides points of contact for further information and voluntary reporting of suspected domestic violence and child abuse.

***Determine the extent to which the operations of the board 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 national licensing examination administered by the National Board of Chiropractic Examiners has in recent years adopted what is termed a "practical" section. Since the national examination now has such a section, the state board has determined it can reasonably rely on this examination when considering applicants for licensure. Accordingly, if individuals licensed in other states pass this examination as part of that jurisdiction's licensing requirements, the board wants to develop regulations to allow it to license such individuals by credential.

Due to past legislative actions, the board's current authority to adopt regulations permitting licensure by credentials is uncertain. As discussed in Recommendation No. 1, we suggest the legislature clarify the board's authority in this area by reestablishing the board's authority to license by credentials.

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

In recent years the board has supported the legislation concerning temporary and *locum tenens* permits to practice. The board has supported legislation that has served to clarify the statutes related to licensing by credential. In our view, these statutory changes have been in the best interest of the profession, and in the public's interest.

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

The location, date, and time of upcoming meetings and exams were advertised in Alaskan newspapers, as well as on the board's web page. Adequate time has been provided at public meetings for individuals to attend and testify or to submit written comment for review. The board's meeting agenda sets aside suitable time for public comment. Minutes from the meetings of the board reflect public participation at various meetings.

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

Public notices of proposed regulations are published in major newspapers. As noted above, meetings were adequately advertised, and time was set aside for public testimony.

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

For the period between July 1, 1998 and June 30, 2001 (FY 99 – FY 01), the Division of Occupational Licensing opened 45 cases related to chiropractors. The cases can be summarized as follows:

1. Malpractice, incompetence, unlicensed practice, or advertisement of services beyond the scope of chiropractic practice. Nineteen of the cases involved allegations of malpractice, incompetence, or licensees providing services beyond the scope of chiropractic practice. All ten of the complaints received from the public during the period under the review fall into this category. The other nine complaints were generated by either by the Division of Occupational Licensing staff or other license holders. None of the complaints to date have been found serious enough to warrant action against an individual's license. The primary sanction utilized for complaints found to be valid has been a letter of warning. At the time of fieldwork in August 2001, the status of the complaints and cases were as follows:

Source of complaint	Total	Complaint Valid Warning Letter Sent	Invalid No Action	Case open
Public	10	3	3	4
License Holders	5	4	1	-0-
Occupation Licensing Staff	4	3	-0-	1

2. Untimely renewal of licenses. Eighteen of the opened cases involved situations where the Division of Occupational Licensing formally followed up on chiropractors who did not renew their licenses on a timely basis. The Division wanted assurance that all individuals holding themselves out to the public as chiropractors were licensed appropriately. The division brought all of the chiropractors into compliance either by prompting them to obtain a license or by confirming that the license holder no longer practiced in the state.
3. Insurance settlements. When insurance companies pay out large malpractice settlements on chiropractors, they notify the Division of Occupational Licensing. The insurance companies notify the division so the agency can conduct an investigation into the full scope of the insured professional's practice.

While such settlements may not be related to the general competency of a given practitioner, they may be a key indicator of a chiropractor who is acting in an unethical, improper, or dangerous manner. During our scope period, four such cases were reported. The cases involved settlements ranging from \$5,000 to \$110,000. A division investigation of the chiropractor with the largest settlement payment found no violation. The other three cases were open as of August 2001 pending further investigation.

4. Background Checks at Licensure. Two of the cases were opened on individuals where criminal background checks conducted at the time of initial licensure indicated the applicants did not disclose previous criminal activity when seeking licensure as chiropractors.
5. License Actions. Two cases were opened on individuals where action was taken on their licenses for activities beyond strict chiropractic practice. The first individual had signed a Memorandum of Agreement (MOA) regarding his abuse of alcohol, since it had an adverse impact on his practice. When he was arrested and pleaded *nolo contendere* to the charge of driving while intoxicated, he was in violation of the MOA, which resulted in the board suspending his license to practice. After the local district attorney declined prosecution of an individual whose license had been suspended when he faced possible prosecution on sexual misconduct charges, he sought reinstatement. The board sustained its earlier suspension and the individual did not pursue a formal hearing.

We have reviewed the nature and extent of complaints filed involving licensed chiropractors. In our view, the Division of Occupational Licensing, in conjunction with the board, took appropriate investigative actions, prioritized complaints in a reasonable manner, and

proceeded in a manner consistent with the potential threat the complaints posed to the public welfare.

***Determine the extent to which the board regulates entry into an occupation or profession and whether it has presented qualified applicants to serve the public.***

New Licenses Issued (Exclusive of Renewals)	FY 99	FY 00	FY 01	Issued to Date
License	14	10	9	205
Temporary permit	2	1	2	6
<i>Locum Tenens</i> permit	—	—	-0-	-0-

The board has some of the most stringent licensing requirements of any state. These requirements ensure that only those candidates who meet these specific requirements are licensed as chiropractors.

The board has started to issue temporary and *locum tenens* permits. These permits are valid for limited practice (sixty days) and are issued to professionals who are awaiting their licensure or are licensed in another state.

Continuing education requirements for renewal of a chiropractic examiner license appear to be sufficient when compared to other licensing jurisdictions. These requirements are reviewed by the Division of Occupational Licensing to ensure licensees met regulatory requirements intended to promote continued competence.

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

We did not find any evidence that the board was not complying with the state personnel practices, including affirmative action in qualifying applicants. In no instance has the board denied an applicant a license based on personal attributes.

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

As discussed in Recommendation No. 1, the legislature should consider specifically reestablishing the board's authority to license applicants by credential.



**IRELAND**  
Clinic of Chiropractic, LLC.

541 WEST 36th AVENUE, ANCHORAGE, ALASKA 99503-5804  
(907) 561-1222 • FAX 561-1350

RECEIVED  
OCT 4 - 2001  
LEGISLATIVE AUDIT

October 1, 2001

Mr. Jim Griffin, Audit Manager  
Alaska State Legislature  
Legislative Budget and Audit Committee  
Division of Legislative Audit  
P. O. Box 113300  
Juneau, AK 99811-3300

RE: Management Letter No. 1  
Division of Occupational Licensing  
Board of Chiropractic Examiners

Dear Mr. Griffin:

Thank you for providing me with an opportunity to comment on your letter of the 13<sup>th</sup> ultimo.

Your letter reflects accuracy, sensitivity, fairness and balance; and I, therefore, see no need for change. It is indeed an honor to work with you and other members of your division. Thank you.

Sincerely yours,

IRELAND CLINIC OF CHIROPRACTIC, LLC.

Trevor V. Ireland, D.C., (Hon) F.I.C.A., F.P.C.W., F.P.A.C., F.I.C.C.  
President

Member, Board of Trustees, Palmer Chiropractic University System  
President, Alaska Board of Chiropractic Examiners

TI:lmg

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Alaska

Department of Community  
and Economic Development

Division of Occupational Licensing

P.O. Box 110806, Juneau, AK 99811-0806

Telephone: (907) 465-2534 • Fax: (907) 465-2974 • Text Telephone: (907) 465-5437

Email: license@dced.state.ak.us • Website: www.dced.state.ak.us/occ/

RECEIVED

NOV 28 2001

LEGISLATIVE AUDIT

November 27, 2001

Pat Davidson, Legislative Auditor  
Legislative Budget and Audit Committee  
Division of Legislative Audit  
PO Box 113300  
Juneau, AK 99811

Dear Ms. Davidson:

Thank you for the opportunity to comment on the Board of Chiropractic Examiners preliminary audit.

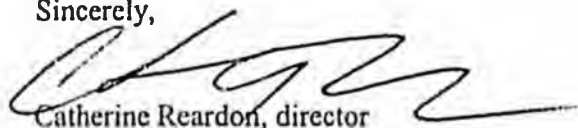
The division agrees that the board is operating in an efficient and effective manner and should continue.

**Recommendation No. 1**

The legislature should consider legislation clarifying the Board of Chiropractic Examiners' authority to license by credential.

The board has asked the division to issue public notice of proposed regulations establishing the manner by which chiropractors licensed in other states could become licensed in Alaska. If the board's legal authority to adopt regulations for licensure by credentials is unclear, then the division supports amending the statute.

Sincerely,



Catherine Reardon, director

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Tony Knowles, Governor

# Alaska

## Department of Community and Economic Development

### Division of Occupational Licensing

P.O. Box 110806, Juneau, AK 99811-0806

Telephone: (907) 465-2534 • Fax: (907) 465-2974 • Text Telephone: (907) 465-5437

Email: License@dced.state.ak.us • Website: www.dced.state.ak.us/occl

March 5, 2002

Dear Members of the Senate Finance Committee:

I am writing to explain the Board of Chiropractic Examiners' position on the requirements for licensure by credentials in the Board's sunset extension bill, SB 243.

The purpose of the licensure by credentials section of the bill is to expand opportunities for licensure for experienced chiropractors from other states. The current law requires all applicants for an Alaska chiropractic license to meet identical qualifications, including exam requirements. This can be a barrier for chiropractors that have been practicing in states with different exam requirements than Alaska currently requires. SB 243 creates a second option with modified exam requirements for chiropractors that have been practicing in other states.

Under the proposed CSSB 243 that the Senate Finance Committee has adopted for discussion, chiropractors who have been licensed in another jurisdiction for at least five years and have been in active, clinical practice for three of the past five years can obtain an Alaska license without taking all the national exams required of applicants who just graduated from chiropractic college.

The committee substitute states that the applicant for licensure by credentials must have passed, the parts of the examination of the National Board of Chiropractic Examiners required by the board..." It is the Board's intent to require passage of either Parts I and II of the national examination or the Special Purpose Examination for Chiropractic (SPEC). Both the national examination and the SPEC are written by the National Board of Chiropractic Examiners.

The Board would not require applicants for licensure by credentials to take Parts III and IV of the national examination, which are currently required for applicants using the standard route to licensure. Part III is the written clinical competency examination and Part IV is the practical clinical examination. These clinical exams would not be required because the credentials applicant would have proven their clinical competency through work experience in other jurisdictions. In other words, clinical experience is substituted for clinical examination.

The Board opposes eliminating the requirement that applicants for licensure by credentials have held a license for five years and practiced for three of the past five years because there would be no proof of their clinical competency. The Federation of Chiropractic Licensing Boards recommends five years of active practice for that very reason. Applicants who do not have recent work experience could still be licensed under the standard qualifications in existing law by taking the clinical exams.

I would be glad to answer any questions you may have on this topic.

Sincerely,

  
Catherine Reardon, Director

*"Promoting a healthy economy and strong communities"*

SB 243-CHIROPRACTORS: SUNSET/LICENSING  
SENATE FINANCE COMMITTEE

SIGN-IN

NAME: Deborah Beakes Subject/Bill No: \_\_\_\_\_  
Co./Dept./Title: Senator's Inquiries Phone: X 6590  
Address: Office Zip: \_\_\_\_\_  
Do you wish to testify?  Yes  No  Respond To Questions

NAME: Pat Davidson Subject/Bill No: \_\_\_\_\_  
Co./Dept./Title: Leg Audit Phone: 3830  
Address: \_\_\_\_\_ Zip: \_\_\_\_\_  
Do you wish to testify?  Yes  No  Respond To Questions

NAME: Catherine Reardon Subject/Bill No: SB 243  
Co./Dept./Title: Director, Div. of Phone: 465-2538  
Address: Occupational Licensing Zip: 99811  
DCED PO 110806 Juneau  
Do you wish to testify?  Yes  No  Respond To Questions

NAME: \_\_\_\_\_ Subject/Bill No: \_\_\_\_\_  
Co./Dept./Title: \_\_\_\_\_ Phone: \_\_\_\_\_  
Address: \_\_\_\_\_ Zip: \_\_\_\_\_  
Do you wish to testify?  Yes  No  Respond To Questions

**SB**

**244**

HFIN

FILE



# FISCAL NOTE

STATE OF ALASKA  
2002 LEGISLATIVE SESSION

Fiscal Note Number: 1  
Bill Version: SB 244  
(S) Publish Date: 2/8/02

Revision Date/Time (Note if correction): 01/30/2002 8:39 a.m. Dept. Affected: DCED  
Title: An Act extending the termination date of the BRU: Occupational Licensing (117)  
Board of Examiners in Optometry Component: Occupational Licensing  
Sponsor: Rules by Request  
Requester: Senate Labor & Commerce Component No.: 2360

**Expenditures/Revenues** (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Personal Services	8.4	8.4	8.4	8.4	8.4	
Travel	7.6	7.6	7.6	7.6	7.6	
Contractual	1.7	1.7	1.7	1.7	1.7	
Supplies	0.0	0.0	0.0	0.0	0.0	
Equipment	0.0	0.0	0.0	0.0	0.0	
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>17.7</b>	<b>17.7</b>	<b>17.7</b>	<b>17.7</b>	<b>17.7</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>	<b>17.7</b>	<b>17.7</b>	<b>17.7</b>	<b>17.7</b>	<b>17.7</b>	
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other 1156-Receipt Supported Services	17.7	17.7	17.7	17.7	17.7	
<b>TOTAL</b>	<b>17.7</b>	<b>17.7</b>	<b>17.7</b>	<b>17.7</b>	<b>17.7</b>	<b>0.0</b>

Estimate of any current year (FY2002) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2003 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)

The bill extends the Board of Examiners in Optometry to June 30, 2006. In accordance with AS 08.03.020, funding is extended one year following the termination date allowing the board to conclude its affairs. The information above identifies direct expenditure and revenue information included in the FY 2003 Operating Budget request. The bill also amends application for examination requirements; written exam content; and licensure by credentials. New funds are not required to implement these changes.

Prepared by: Jennifer Strickler, Administrative Manager  
Division: Occupational Licensing  
Approved by: Deborah B. Sedwick, Commissioner  
Agency: Department of Community & Economic Development

Phone: (907) 465-2144  
Date/Time: 01/30/2002 8:30 a.m.  
Date: 1/30/2002

# FISCAL NOTE

STATE OF ALASKA  
2002 LEGISLATIVE SESSION

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Contractual	1.7	1.7	1.7	1.7	1.7	
Supplies	0.0	0.0	0.0	0.0	0.0	
Equipment	0.0	0.0	0.0	0.0	0.0	
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>17.7</b>	<b>17.7</b>	<b>17.7</b>	<b>17.7</b>	<b>17.7</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>	<b>17.7</b>	<b>17.7</b>	<b>17.7</b>	<b>17.7</b>	<b>17.7</b>	
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
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1037 GF/Mental Health						
Other 1156-Receipt Supported Services	17.7	17.7	17.7	17.7	17.7	
<b>TOTAL</b>	<b>17.7</b>	<b>17.7</b>	<b>17.7</b>	<b>17.7</b>	<b>17.7</b>	<b>0.0</b>

Estimate of any current year (FY2002) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2003 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)

The bill extends the Board of Examiners in Optometry to June 30, 2006. In accordance with AS 08.03.020, funding is extended one year following the termination date allowing the board to conclude its affairs. The information above identifies direct expenditure and revenue information included in the FY 2003 Operating Budget request. The bill also amends application for examination requirements; written exam content; and licensure by credentials. New funds are not required to implement these changes.

Prepared by: Jennifer Strickler, Administrative Manager Phone (907) 465-2144  
Division: Occupational Licensing Date/Time 01/30/2002 8:30 a.m.  
Approved by: Deborah B. Sedwick, Commissioner Date 1/30/2002  
Agency: Department of Community & Economic Development

# Alaska State Legislature

SENATOR  
GENE THERRIAULT  
Chair



SESSION ADDRESS  
State Capitol  
Juneau, Alaska 99801-1182  
(907) 465-4797  
Fax: (907) 465-3884

## Legislative Budget and Audit Committee

Senate Bill 244

"An Act extending the termination date of the Board of Examiners in Optometry."

Sponsor:

Senate Rules Committee by Request of the  
Legislative Budget and Audit Committee

### Sponsor Statement

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Alaska Statute 08.72.010 established the State Board of Examiners in Optometry in 1949 to regulate and control the practice of optometry in Alaska. The Board is charged with protecting and promoting the public's health, welfare, and safety by ensuring the professionals it licenses have met and adhered to the requirements of licensure. The Board currently oversees 110 licensed optometrists.

The Board consists of five members appointed by the governor and are subject to legislative confirmation. Four board members shall be licensed, practicing optometrists who have been residents for at least three years. Statute requires one board member to be a member of the general public.

The Board regulates the practice of optometry in the state by setting education, training, and work experience standards necessary for an individual to be licensed. Such standards provide reasonable assurance that persons licensed as optometrists are qualified.

Under AS 08.03.010, Termination of State Boards and Commissions, the State Board of Examiners in Optometry is set to expire June 30, 2002. If the Legislature does not act to extend the Board, it will have one year, until June 30, 2003, to administratively conclude its affairs. Senate Bill 244 will extend the Board for another four years and make changes to its licensure requirements.

Contact: Heather Brakes, Legislative Budget and Audit Committee Aide

### INTERIM ADDRESS

119 N. Cushman Suite 101, Fairbanks, Alaska 99701 • (907) 488-0857 • Fax: (907) 488-4271

October 1, 2001

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 COMMUNITY  
AND ECONOMIC DEVELOPMENT  
BOARD OF EXAMINERS IN OPTOMETRY  
SUNSET REVIEW

September 12, 2001

Audit Control Number

08-20011-01

This audit was conducted as required by AS 44.66.050 and under the authority of AS 24.20.271(1). Alaska Statute 44.66.050(c) lists criteria to be used to assess the demonstrated public need for a given board, commission, agency, or program subject to the sunset review process. Currently under AS 08.03.010(c)(14), the Board of Examiners in Optometry is scheduled to terminate on June 30, 2002. The board would be allowed one year in which to conclude its administrative operations.

In our opinion, the termination date for the Board of Examiners in Optometry should be extended. The regulation and licensure of optometrists contributes to the protection of the public welfare. We recommend the legislature extend the termination date of the Board of Examiners in Optometry to June 30, 2006.

This 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.

Pat Davidson, CPA  
Legislative Auditor

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## OBJECTIVES, SCOPE, AND METHODOLOGY

In accordance with the intent of Title 24 and 44 of the Alaska Statutes (sunset legislation), we have reviewed the activities of the Board of Examiners in Optometry. Under AS 44.66.050(a), the legislative committee of reference is to consider this report during the legislative oversight process to determine whether the board should be reestablished. Currently, AS 08.03.010(c)(14) requires the board to terminate on June 30, 2002. If the legislature takes no action to extend the termination date, the board will have one year from that date to conclude its operations.

### Objectives

There are three central, interrelated, objectives of our report. They are:

1. To determine if the termination date of the board should be extended.
2. To determine if the board is operating in the public interest.
3. To determine if the board has exercised appropriate regulatory oversight of licensed optometrists.

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

### Scope and Methodology

Under the direction and supervision of the Division of Legislative Audit, another auditor conducted the majority of this review. We followed professional standards to determine that the other auditor was independent and that their work was competent and sufficient.

Our audit reviewed the operations and activities of the Board of Examiners in Optometry for the period of FY 99 through FY 01.

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

1. Compliance with statutes and regulations related to the licensing of optometrists. Our evaluation addressed consideration of applications, testing of candidates, and continuing education necessary for an individual to maintain his/her optometry license in good standing.
2. Minutes of meetings of the Board of Examiners in Optometry.
3. Annual reports issued by the board.
4. Complaints filed with the Division of Occupational Licensing.

We also conducted interviews with employees of the Department of Community and Economic Development, Division of Occupational Licensing.

## ORGANIZATION AND FUNCTION

The Board of Examiners in Optometry was established under the provisions of Title 8, Chapter 72 of the Alaska Statutes. The board consists of five members appointed by the Governor and subject to legislative confirmation. Four board members must be licensed, practicing optometrists who have been residents in the State for at least three years. The statute also requires one member of the general public to sit on the board.

The board regulates the practice of optometry in the state by setting education, training, and work experience standards necessary for an individual to be licensed as an optometrist.

Alaska Statute (AS 08.72) defines the practice of optometry as the examination, diagnosis, and treatment of conditions of the human eyes and visual system, other than by use of laser, x-rays, surgery, or pharmaceutical agents.<sup>1</sup>

Board of Examiners in Optometry  
*(As of June 30, 2001)*

Aharon Sternberg, Optometrist, Chairman  
Erik Christianson, Optometrist, Secretary  
John Cobbett, Optometrist  
William Faulkner, Optometrist  
Thomas Carter, Public Member

The board's duties and responsibilities under statute include:

1. Holding a minimum of one meeting per year.
2. Examining and issuing licenses to qualified applicants.
3. Holding hearings in order to impose disciplinary sanctions on persons who violate optometry licensing statutes and/or regulations.
4. Adopting regulations necessary to enforce the statutes relating to the Board.
5. Adopting a code of ethical practice for optometry.

Applicants must be a high school graduate or equivalent in addition to having graduated from a recognized college or school of optometry. Additionally, all applicants must pass all parts of the National Board of Examiners in Optometry (NBEO) examination, the Treatment and Management of Ocular Disease (TMOD) examination and all sections of the state board examination (written, practical and oral). Licensed optometrists are required to obtain various amounts of continuing education every year depending on the endorsements to their license.

To become licensed in Alaska, optometrists licensed in other states must provide the board with official documentation verifying Alaskan optometry educational requirements have been met. They must also apply for and pass all parts of the state optometry examination, pay all examination and application fees, and fulfill all other licensing requirements. Optometrists must submit completed applications and pay all the required fees to the Division of Occupational Licensing biennially.

<sup>1</sup> Optometrists practicing in the State of Alaska may apply for one of two types of endorsements. One type permits optometrists to administer topical pharmaceutical agents (DPA Endorsement) and the other permits optometrists to administer and prescribe pharmaceutical agents (TPA Endorsement.) Currently there is not an endorsement whereby an optometrist may use or prescribe internal pharmaceutical agents either by oral or injection; however, the Board has drafted legislation which is before the Alaska State Legislature which will allow them to use and prescribe either oral or injectable pharmaceutical agents.

The board grants license endorsements for optometrists to prescribe and use pharmaceutical agents. The board also grants endorsements for practitioners to only use pharmaceutical agents. Currently, all applicants graduating from optometry schools automatically qualify for pharmaceutical prescription and use license endorsement, after meeting all other licensing requirements.

Department of Community and Economic Development, Division of Occupational Licensing

The Department of Community and Economic Development, Division of Occupational Licensing provides administrative and investigative assistance to the Board of Examiners in Optometry. Administrative assistance includes budgetary services, functions such as collecting fees, maintaining files, receiving and issuing application forms, and publishing notices of examinations and meetings.

Alaska Statute 08.01.065 mandates the Department of Community and Economic Development, with the concurrence of the board, adopt regulations to establish the amount and manner of payment of application fees, examination fees, license fees, registration fees, permit fees, investigation fees, and all other fees as appropriate for the occupations covered by the statute.

Alaska Statute 08.01.087 empowers the Division of Occupational Licensing with the authority to act on its own initiative or in response to a complaint. The division may:

1. Conduct an investigation if it appears a person engaged or is about to engage in a prohibited professional practice.
2. Bring an action in Superior Court to enjoin the act.
3. Examine the books and records of an individual.
4. Issue subpoenas for the attendance of witnesses and records.

## REPORT CONCLUSIONS

In our opinion, the termination date for the Board of Examiners in Optometry should be extended. The regulation and licensing of qualified optometrists is necessary to protect the public's health, safety, and welfare. The board assists in providing this public benefit by establishing minimum educational and work experience standards for licensure. Such standards provide reasonable assurance that persons licensed as optometrists are qualified. Standards of practice are enforced through the active investigation of complaints and revocation or suspension of licenses when appropriate.

The Board of Examiners in Optometry has been found to satisfy a public purpose and has demonstrated its ability to conduct its business in a satisfactory manner. The board carries out its regulatory oversight function in a professional, competent, and efficient manner.

Alaska Statute 08.03.010(c)(14) requires the State Board of Examiners of Optometry be terminated on June 30, 2002. Under AS 08.03.020, the board has a one-year period to administratively conclude its operations. Based upon our review of the board's performance, we recommend the legislature extend the board's termination date to June 30, 2006.

## FINDINGS AND RECOMMENDATIONS

### Recommendation No. 1

The Division of Occupational Licensing should rescind the licensing application requirement that is unreasonable.

In the prior sunset audit of the Board of Examiners in Optometry (Department of Commerce and Economic Development Board of Examiners in Optometry 08-1436-96), we identified two application requirements that were unreasonable. These requirements were (1) a 3"x3" photograph of the applicant, and (2) submission of official transcripts from all colleges and universities that the applicant attended prior to graduating from an accredited school of optometry.

The Division of Occupational Licensing has dropped the requirement for the extraneous official transcripts from colleges and universities other than from the accredited school of optometry. However, the photograph is still required to accompany the application. It is our understanding the photo requirement grew out of a concern regarding examination security and verifying the identity of the applicants at the test site.

Identification with an individual's photograph such as a driver's license, passport, or state identification is currently required by examination candidates when entering the examination site, and should be sufficient to maintain examination security.

We continue to believe the application photograph is unnecessary and recommend the Division of Occupational Licensing eliminate that requirement from the application.

### Recommendation No. 2

The Board of Examiners in Optometry should develop statutory amendments for legislative consideration which will allow the board to license optometrists by credentials.

Issuing a license based on past performance and licensure in another jurisdiction, in place of licensure by examination, is termed licensure by credentials. The standards adopted by the board for licensure to practice optometry in the State of Alaska are equivalent to standards in the majority of states and territories of the United States and virtually identical to standards of the National Board of Examiners in Optometry (NBEO).

Currently under AS 08.72.170(a), the board may waive the written portion of the state examination for an individual who holds a current license (received by examination in another state or Canadian province), has been practicing for at least three years in good standing, and otherwise meets the educational requirements for licensure in Alaska. However, under AS 08.72.170(b) the board is prohibited from waiving the practical examination requirement. As a result, the state does not have full licensure by credential. In our view, this provides an unreasonable impediment to entry into the profession.

We recommend the board develop proposed specific statutory language related to allowing full licensure by credentials. As is done elsewhere in statute, we suggest a provision permitting licensing by credentials in instances where the applicant can provide satisfactory documentation that they are licensed in another jurisdiction where requirements and standards are essentially equivalent to those of Alaska. In our view, developing a proposed statutory amendment for consideration by the legislature would not negatively impact the

public's protection, and would allow less restrictive entry into the optometrist profession in the state.

### Recommendation No. 3

The Legislature should consider amending optometry licensing statutes related to continuing education requirements for optometrists licensed in Alaska.

Alaska Statute 08.72.181(d), which relates to license renewal, states that:

*Before a license may be renewed the licensee shall submit to the board evidence of 48 hours of postgraduate continuing education instruction as prescribed by regulations of the board. The board may specify by regulation those circumstances under which the requirements of this subsection may be waived. [emphasis added]*

The board adopted regulation 12AAC48.210(a) requires the following:

*An applicant for renewal of an optometry license is required to document an average of 12 contact hours for continuing education credit that meets the requirements of 12AAC48.200, for each complete calendar year that the applicant has been licensed in the concluding licensing period. [emphasis added]*

As is apparent, state law requires optometrists renewing their license to obtain 48 hours of continuing education, while the regulations only require 24 hours for each standard two year licensing period. From our discussions with the Division of Occupational Licensing staff, the statute was developed based on a previous four-year licensing cycle rather than the current two year-cycle. Accordingly, when the legislature considers extending the termination date of the board, it may want to consider amending this statute to come into agreement with current regulation and practice.

### Recommendation No. 4

The Board of Examiners in Optometry should revise regulation 12AAC48.015 to require the National Board of Examiners in Optometry (NBEO) examination and a State jurisprudence examination, eliminating the practical portion of the State examination.

State regulation (12 AAC 48.015) requires that applicants for licensure as an optometrist in the State of Alaska pass both the NBEO and the State examinations. The nationwide NBEO examination consists of four parts: 1) Basic Science, 2) Clinical Science, 3) Clinical Skills and 4) Treatment and Management of Ocular Diseases.

The State examination consists of eight parts: 1) Biomicroscopy, 2) Goldmann Applanation Tonometry, 3) Gonioscopy, 4) Contact Lenses and Spectacles, 5) Patient Examination, 6) Visual Fields, 7) Binocular Indirect Ophthalmoscopy and 8) Written Examination on Alaska Optometry Statutes and Regulations.

A current licensee wrote to the board in May 1999 stating that he believed the NBEO clinical skills examination was comparable to the State of Alaska's practical examination, and could be used in lieu of it. He noted that many state licensing boards accept the clinical skills portion of the NBEO examination in lieu of a separate state test.

From our review of the requirements of the NBEO examination compared with the state examination, it appears the NBEO examination mirrors the state examination with the exception of Part 6 (Visual Fields) and Part 8 (Written Examination on Alaska Optometry Statutes and Regulations).

Also, from research performed through the National Board of Examiners in Optometry (<http://www.optometry.org>), it was noted that the majority of states and licensing boards have decided to utilize the NBEO testing process and provide licenses based on certified scores received from that national organization.

From our review of all the US licensing jurisdictions utilizing the NBEO testing process in whole or part, 37 of them (70%) have dropped the requirement of a state optometry examination and are accepting the NBEO examination. Of those 37 jurisdictions, 14 are requiring only the NBEO examination with no further state examination and 23 are requiring a state jurisprudence examination.

We recommend the Board of Examiners in Optometry revise regulation 12AAC 48.015 requiring only the NBEO examination along with the State jurisprudence examination. This would remove redundancies in testing that currently require optometrists to pass two exams that are virtually identical.

## ANALYSIS OF PUBLIC NEED

The following analysis of the Board of Examiners in Optometry (board) activities relates to the public need factors defined in the "sunset" review law, AS 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.

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

The board has kept to a reasonable meeting schedule, has consistently considered ways to make the licensing process more efficient, and has continued licensing qualified applicants through the use of a valid and relevant examination process.

*Determine the extent to which the operations of the board 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.*

As discussed in Recommendation No. 2, the board has not been able to establish a process whereby individuals can be licensed solely by credentials. Such constraints serve to unduly restrict access into the profession.

The board has also been impeded in the licensing of qualified optometrists by the requirement to administer a state practical exam. The state practical exam is similar to the exam offered by the National Board of Examiners in Optometry. For further discussion see Recommendation No. 4.

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

The board has recommended statutory changes which would permit licensure by credential, licensure by endorsement, and substituting the use of recognized national examinations with an appropriate national board equivalent.

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

The location, date, and time of upcoming meetings and exams were advertised in Alaskan newspapers, as well as on the board's web page, with adequate time for interested individuals to attend or to submit written comment for review. The board's meeting agenda sets aside suitable time for public comment. Board minutes reflect public participation at various meetings.

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

Public notice was given for all proposed regulations in major Alaskan newspapers. The board meeting minutes document that unlimited time was allotted for the scheduled public comment period. All proposed regulation changes are submitted to the public participation process.

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

For the period between July 1, 1998 and June 30, 2001 (FY 99 – FY 01) the Division of Occupational Licensing opened six cases involving optometrists. The complaints involved:

1. Practice without a license. Two of the complaints were made by optometrists regarding the activities and alleged practice of optometry without a license carried out by representatives of Lasik Vision USA. The division sent out warning letters to the company, stating that any optometric work carried out in the future in conjunction with their commercial activities would have to be performed by individuals licensed in Alaska.
2. Inadequate supervision. In a shop visit conducted by the Division of Occupational Licensing investigators, unlicensed individuals were conducting or assisting in examinations without the appropriate supervision. The optometrist involved entered into a memorandum of agreement with the board and paid a fine.
3. Inappropriate and improper practice. Three complaints were received regarding the inappropriate practice or malpractice of optometry. In one instance no violation was found, the other two were pending further investigation as of August 2001.

We have reviewed the nature and extent of complaints filed involving examiners in optometry. In our view, the Division of Occupational Licensing, in conjunction with the board, took appropriate investigative actions, prioritized complaints in a reasonable manner, and proceeded in a manner consistent with the potential threat the complaints posed to the public welfare.

***Determine the extent to which the board regulates entry into an occupation or profession and whether it has presented qualified applicants to serve the public.***

<b>New Licenses Issued (Exclusive of Renewals)</b>	<b>FY 99</b>	<b>FY 00</b>	<b>FY 01</b>	<b>Total</b>	<b>Issued to Date</b>
Optometrists with No Endorsement	1	0	0	1	5
Optometrists with Therapeutic Endorsement	9	2	0	11	95
Optometrists with Diagnostic Endorsement	1	0	2	3	5

The Board of Examiners in Optometry has adequate procedures and policies in place regarding the examination process. Applicants for the practice of optometry in Alaska must take all parts of the written and practical examination administered by the NBEO. Board members administer, proctor and grade the state examination while national examinations are graded and proctored by separate organizations. We noted that there are some redundancies with the state practical examination and the practical examination administered by the NBEO. See Recommendation No. 4 for further discussion.

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

We did not find any evidence that the board was not complying with the state personnel practices, including affirmative action in qualifying applicants. In no instances has the board denied an applicant a license based on personal attributes.

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

There are four changes involving statutes, regulations or procedures that are necessary so the board can better operate in the public interest.

1. Eliminate the unnecessary element currently required in the licensing application. (See Recommendation No. 1.)
2. Develop statutes and regulations that provide for licensure by credentials. (See Recommendation No. 2.)
3. Eliminate the conflict between the board's statutes and regulations related to continuing education. (See Recommendation No. 3)
4. Revise regulations related to the practical portion of the state examination. (See Recommendation No. 4.)

November 27, 2001

Pat Davidson, Legislative Auditor  
Legislative Budget and Audit Committee  
Division of Legislative Audit  
PO Box 113300  
Juneau, AK 99811

Dear Ms. Davidson:

Thank you for the opportunity to comment on the Board of Examiners in Optometry preliminary audit.

The division agrees that the board is operating in an efficient and effective manner and should continue. The board will meet November 30 and will have an opportunity to comment on the preliminary audit recommendations. The following are department comments.

**Recommendation No. 1**

The Division of Occupational Licensing should rescind licensing application requirements that are unreasonable and have no basis in occupational licensing statutes or regulations.

The preliminary audit recommends elimination of the requirement that an applicant photograph be included in the application for licensure. The division will ask the board to review the need for the photograph during its meeting later this week. In Alaska and in other states individuals have assumed the identities of other professionals and attempted to obtain licensure. Photographs are useful in determining which individual submitted an application.

**Recommendation No. 2**

The Board of Examiners in Optometry should develop statutory amendments for legislative consideration which will allow the board to license optometrists by credentials.

The board sent a letter to its licensees on September 12, 2001 identifying licensure by credentials as a board goal. The letter stated that the board was soliciting input on statutory language from the American Optometric Association and the Alaska Optometric Physicians Association.

**Recommendation No. 3**

The Alaska State Legislature should consider amending optometry licensing statutes related to continuing education requirements for optometrists licensed in the State of Alaska.

The division agrees that it would be helpful to amend this statute to conform to current regulation and practice.

**Recommendation No. 4**

The Board of Examiners in Optometry should revise regulation 12 AAC 48.015 to require the NBEO examination and a State jurisprudence examination, eliminating the practical portion of the State examination.

The division supports this recommendation. The board has asked the division to issue public notice of the proposal to revise the examination regulations. The board announced its desire to eliminate the practical exam in its September 12, 2001 letter to licensees.

Sincerely,

Catherine Reardon, director