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SELF-REGULATION MATERIALS

- 1) Alaska Statutes
- 2) Professional Regulations
- 3) Letter: 12/22/1989 To: David Rogers From: Gary Dodson
- 4) FY 89 Stat. Information
- 5) Memo: 01/22/1990 To: David Rogers From: Linda Gohl
- 6) Annual Report Board of Registration
- 7) Procedures Manual
- 8) Circular of Information No. 189-90

Doctors, Etc.

- 1) Alaska Statutes
- 2) Professional Regulations
- 3) Health and Safety
- 4) Letter: 10/16/1989 To: David Rogers From: Pam Ventgen, enclosures
- 5) Letter: 12/21/1989 To: David Rogers From: Pam Ventgen
- 6) Letter: 10/16/1989 To: David Rogers From: Pam Ventgen
- 7) Letter: 01/16/1990 To: David Rogers From: Pam Ventgen
- 8) Alaska State Medical Board Report
- 9) Addendum A
- 10) Addendum B
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- 12) Avoiding Liabilities for In-Office Laboratories
- 13) Avoiding Medical Record Decencies
- 14) How to Report Possible Claim

- 15) Preventing Patient Injuries
- 16) Preventing Medication Related Malpractice Claims
- 17) Report: Risk Prevention

Lawyers

- 1) Alaska Statutes
- 2) Letter: 10/29/1989 To: Sam Cotten From: Jerry Feldman, enclosures
- 3) Letter: 10/05/1989 To: Justice Matthews From: Stephen VanGoor, enclosures
- 4) Letter: 01/16/1990 To: David Rogers From: Deborah O'Regan, enclosures

Nurses, Etc.

- 1) Alaska Statutes
- 2) Professional Regulations
- 3) Letter: 01/18/1990 To: David Rogers From: Gail McGuill
- 4) CSSB 156

Dentists, Etc.

- 1) Alaska Statutes
- 2) Professional Regulations
- 3) Alaska Statutes
- 4) Fax: 01/16/1990 To: David Rogers From: Frank Thomas-Mears
- 5) Fax: 01/18/1990 To: David Rogers From: Frank Thomas-Mears
- 6) Alaska State Board of Dental Examiners Annual Report

SELF-REGULATION MATERIALS

Architects, Engineers and Land Surveyors

**CHAPTER 48.
ARCHITECTS, ENGINEERS AND LAND SURVEYORS.**

Article

1. Board of Registration (§§ 08.48.011—08.48.141)
2. Registration and Practice (§§ 08.48.171—08.48.261)
3. Unlawful Acts (§§ 08.48.281—08.48.291)
4. General Provisions (§§ 08.48.311—08.48.351)

**ARTICLE 1.
BOARD OF REGISTRATION.**

Section

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41. Removal of members
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Sec. 08.48.011. Board created. (a) There is created the State Board of Registration for Architects, Engineers and Land Surveyors. The board shall administer the provisions of this chapter and comply with the Administrative Procedure Act (AS 44.62).

(b) The board consists of nine members appointed by the governor having the qualifications as set out in AS 08.48.031. The board consists of two civil engineers, one land surveyor, one mining engineer, two engineers from other branches of the profession of engineering, two architects, and one public member.

Sec. 08.48.021. Appointments and terms. (a) The governor shall give each member of the board a certificate of appointment, and the member shall file with the lieutenant governor a written oath or affirmation for faithful discharge of the member's official duty.

(b) Repealed by § 49 ch 94 SLA 1987.

Sec. 08.48.031. Qualifications. Each member of the board must have been a resident in the state for three consecutive years immediately preceding appointment and, except for the public member, must be registered and have a minimum of five years of professional practice in the member's respective field.

Sec. 08.48.041. Removal of members. The governor may remove a member of the board for misconduct, incompetency or neglect of duty.

Sec. 08.48.051. Organization and meetings. The board shall hold at least four regular meetings each year. Special meetings may be held as the bylaws of the board provide. The board shall elect or appoint annually from its members the following officers: president, vice president and secretary. A quorum of the board consists of not less than five members.

Sec. 08.48.061. Finances. (a) All money derived under the provisions of this chapter shall be deposited in the general fund.

(b) Each member of the board is entitled to receive per diem and travel expenses as authorized by law for other boards and commissions.

(c) The board may make expenditures from appropriated funds for any purpose which is reasonably necessary for the proper performance of its duties under this chapter. This may include the expenses of the board delegates to meetings of councils of architect examiners, engineering examiners, or land surveyor examiners, or any of their subdivisions. The total amount of warrants issued in payment of the expenses incurred under this chapter may not exceed the amount of money appropriated by the legislature.

Sec. 08.48.071. Records and reports. (a) The following record of the board's proceedings and of all applications for registration or authorization shall be kept by the Department of Commerce and Economic Development under AS 08.01.050:

- (1) the name, age and last known address of each applicant;
- (2) the date of application;
- (3) the place of business of the applicant;
- (4) the education, experience and other qualifications;
- (5) the type of examination required;
- (6) whether or not the applicant was rejected;
- (7) whether or not a certificate of registration or authorization was granted or endorsed;
- (8) the date of the action of the board;
- (9) other action taken by the board;
- (10) other information which may be considered necessary by the board.

(b) The record of the board is prima facie evidence of the proceedings of the board, and a transcript, certified by the secretary, is admissible as evidence with the same effect as if the original were produced.

(c) Annually, at the end of the fiscal year, the board shall submit to the governor and the legislature

- (1) a report of its transactions of the preceding year;
- (2) a complete statement of the receipts and expenditures of the board, attested by affidavits of its president and its secretary;

(3) a report of attendance of members of the board at meetings of the board;

(4) a list of the regulations adopted, amended or repealed since the last report;

(5) a report of the current purposes and goals of the board; and

(6) a report of significant developments in the field of architecture, engineering, or land surveying of concern to the board.

(d) Board records and papers of the following class are of a confidential nature and are not public records: examination material for examinations not yet given, file records of examination problems, solutions, letters of inquiry and reference concerning applicants, board inquiry forms concerning applicants, investigation files if an investigation is still pending, and all other matters of a like confidential nature.

(e) The Department of Commerce and Economic Development shall, under AS 08.01.050, preserve the records under (a) of this section for the previous five years.

(f) The Department of Commerce and Economic Development shall assemble statistics relating to the performance of its staff and the performance of the board, including but not limited to

(1) the number of architects, engineers and land surveyors registered over a five-year period;

(2) the rate of passage of examinations administered by the board;

(3) the number of persons making application for registration as a professional architect, engineer, or land surveyor over a five-year period;

(4) an account of registration fees collected under AS 08.48.201(b);

(5) a measure of the correspondence workload of any licensing examiner employed by the department to carry out this chapter.

Sec. 08.48.081. Roster. A complete roster showing the names and last known addresses of all architects, engineers and land surveyors, based on the register prepared under AS 08.01.050(12), shall be published by the secretary of the board once each year, or at lesser intervals as established by board regulations, and shall include the registrants' authorization numbers if applicable. Copies of this roster shall be mailed to each person registered, placed on file with the lieutenant governor and borough and city officials, and, upon request, may be distributed or sold to the public.

Sec. 08.48.091. Written examinations and examination fees. Written examinations must be held at least twice each year at places determined by the board unless the examination administered by the board is a national examination prepared only once each year, in which case the examination must be held at least once each year. A candidate failing an examination may apply for reexamination.

Sec. 08.48.101. Regulations; bylaws; code of ethics. (a) The board may adopt regulations to carry out the purpose of this chapter, including, but not limited to

- (1) describing the contents of an examination;
- (2) establishing the conduct of an examination;
- (3) establishing a minimum score for passing an examination;
- (4) establishing bylaws governing its meetings and activities;
- (5) publishing a code of ethics or professional conduct for those persons regulated by this chapter, including corporations under AS 08.48.241.

(b) The regulations, bylaws, and code of ethics or professional conduct promulgated by the board shall be published in the annual report to the governor.

Sec. 08.48.111. Power to revoke, suspend or reissue certificate. The board may suspend, refuse to renew, or revoke the certificate of or reprimand a registrant or corporation who is found guilty of (1) fraud or deceit in obtaining a certificate; (2) gross negligence, incompetence, or misconduct in the practice of architecture, engineering, or land surveying; or (3) a violation of this chapter, a regulation adopted under it, or the code of ethics or professional conduct as adopted by the board. The code of ethics or professional conduct shall be made known in writing to every registrant and applicant for registration under this chapter, and shall be published with the roster provided for in AS 08.48.081. This publication constitutes due notice to all registrants. The board may revise and amend this code and, upon doing so, shall immediately notify each registrant in writing of the revisions or amendments. The board may, upon petition of the registrant or corporation, reissue a certificate if a majority of the members of the board vote in favor of the reissuance.

Sec. 08.48.121. Disciplinary action and procedure. Any person may file with the secretary of the board a charge of fraud, deceit, gross negligence, incompetence, misconduct or violation of this chapter, a regulation adopted under it, or the code of ethics of the board. Such a charge, constituting an accusation under the Administrative Procedure Act (AS 44.62), shall be in writing and sworn to by the person making it. A charge may be dismissed by the board as unfounded or trivial.

Sec. 08.48.131. Injunction. The board may bring an action in the superior court to enforce compliance with this chapter or an order of the board, or to enjoin a person from doing an act that violates this chapter.

Sec. 08.48.141. Legal counsel. The attorney general of the state shall act as legal advisor to the board and render legal assistance upon request of its president.

ARTICLE 2. REGISTRATION AND PRACTICE.

Section

171. General requirements and qualifications for registration
181. Registration upon examination
191. Registration by comity or endorsement
201. Application and fees for registration
211. Certificate of registration
221. Seals
231. Expirations and renewals
241. Corporations
251. Partnerships
261. State employees
265. Fees

Sec. 08.48.171. General requirements and qualifications for registration. An applicant for registration as an architect, engineer or land surveyor must be of good character and reputation and must submit evidence satisfactory to the board of the applicant's education, training and experience. However, an applicant for registration as a land surveyor may not be required to submit evidence of more than eight years of any combination of education, experience or training.

Sec. 08.48.181. Registration upon examination. Except as provided in AS 08.48.191, for registration as a professional architect, professional engineer or professional land surveyor, a person shall be examined in this state in accordance with the regulations of procedure and standards adopted by the board in accordance with the Administrative Procedure Act (AS 44.62), which procedure and standards shall at least meet the requirements adopted by recognized national examining councils for these professions.

Sec. 08.48.191. Registration by comity or endorsement. (a) A person holding a certificate of registration authorizing the person to practice architecture in a state, territory or possession of the United States, the District of Columbia, or a foreign country, or holding a certificate of qualification issued by the National Council of Architectural Registration Board, which, in the opinion of the board, meets the requirements of this chapter, based on verified evidence, may, upon application, be registered in accordance with the regulations of the board.

(b) A person holding a certificate of registration authorizing the person to practice engineering in a state, territory or possession

of the United States, the District of Columbia, or a foreign country, which, in the opinion of the board meets the requirements of this chapter, based on verified evidence, may, upon application, be registered in accordance with regulations of the board. A person holding a certificate of qualification issued by the National Council of Engineering Examiners Committee on National Engineering Certification may, upon application, be registered in accordance with the regulations of the board.

(c) A person holding a certificate of registration authorizing the person to practice land surveying in a state, territory or possession of the United States, the District of Columbia, or a foreign country, may, upon application, be registered in accordance with the regulations of the board if the person's certificate was issued under requirements comparable to those in this state.

Sec. 08.48.201. Application and fees for registration. (a) Application for registration as a professional architect, a professional engineer or a professional land surveyor shall (1) be on a form prescribed and furnished by the board; (2) contain statements made under oath, showing the applicant's education and a detailed summary of the applicant's technical experience; and (3) contain five references, three of whom must be architects for architectural registration, engineers for engineering registration, and land surveyors for land surveying registration, having personal knowledge of the applicant's architectural, engineering or land surveying education, training or experience.

(b) Repealed by § 54 ch 37 SLA 1985.

Sec. 08.48.211. Certificate of registration. (a) An applicant who fulfills the requirements set out by the board shall be awarded a certificate of registration as a professional architect, engineer or land surveyor, authorizing the holder to offer or perform architectural, engineering or land surveying services or work for the public, or to certify or sign architectural, engineering or land surveying documents. Certificates of registration issued under this section shall be inscribed on their face in a manner determined by the board.

(b) The certificate of registration sealed by the board is prima facie evidence that the person named in it is entitled to all rights and privileges as a professional architect, professional engineer or professional land surveyor, while the certificate remains unrevoked or unexpired.

Sec. 08.48.221. Seals. Each registrant may obtain a seal of the design authorized by the board, bearing the registrant's name, registration number, and the legend, "Registered Professional Architect," "Registered Professional Engineer," or "Registered

Professional Land Surveyor," as appropriate. Final drawings, specifications, surveys, plats, plates, reports and other similar documents shall, when issued, be signed and stamped with the seal. The board shall adopt regulations governing the use of seals by the registrant. It is unlawful for an architect, engineer or land surveyor to affix or permit a seal and signature to be affixed to an instrument after the expiration of a certificate or for the purpose of aiding or abetting another person to evade or attempt to evade a provision of this chapter. The registrant, by affixing the registrant's seal to final drawings, specifications, surveys, plats, plates, reports and other similar documents and signing them, certifies that these documents were prepared by or under the registrant's direct supervision, unless the registrant certifies on the face of the document to the extent of the registrant's responsibility.

Sec. 08.48.231. Expirations and renewals. (a) To remain valid, certificates shall be renewed in accordance with AS 08.01.100. Notice of renewal dates, given under AS 08.01.050(11), shall be mailed to the registrant or corporation at the registrant's or corporation's last known address at least one month in advance of the date of the expiration of the certificate. If the certificate has been suspended or revoked, the board may take action independent of this section.

(b) The renewal of a certificate does not require reapplication if the certificate has not expired or has not been suspended or revoked.

(c) An expired certificate may be renewed under regulations adopted by the board establishing requirements for reexamination.

Sec. 08.48.241. Corporations. (a) This chapter does not prevent a corporation from offering architectural, engineering or land surveying services; however, the corporation shall file with the board

(1) an application for a certificate of authorization upon a form to be prescribed by the board and containing information required to enable the board to determine whether the corporation is qualified in accordance with the provisions of this chapter to offer to practice architecture, engineering or land surveying in this state;

(2) a certified copy of a resolution of the board of directors of the corporation designating persons holding certificates of registration under this chapter as responsible for the practice of architecture, engineering or land surveying by the corporation in this state and providing that full authority to make all final architectural, engineering or land surveying decisions on behalf of the corporation with respect to work performed by the corporation in this state is granted by the board of directors to the persons designated in the resolution; however, the filing of this resolution does not relieve the corporation of any responsibility or liability imposed upon it by law or by contract;

(3) a designation in writing setting out the name of one or more persons holding certificates of registration under this chapter who are in responsible charge of each major branch of the architectural, engineering or land surveying activities in which the corporation specializes in this state; if a change is made in the person in responsible charge of a major branch of the architectural, engineering or land surveying activities, the change shall be designated in writing and filed with the board within 30 days after the effective date of the change.

(b) upon filing with the board the application for certificate of authorization, certified copy of resolution, affidavit, and designation of persons specified in this section, the board shall, subject to (c) of this section, issue to the corporation a certificate of authorization to practice architecture, engineering or land surveying in this state upon a determination by the board that

(1) the bylaws of the corporation contain provisions that all architectural, engineering or land surveying decisions pertaining to architectural, engineering or land surveying activities in this state will be made by the specified architect, engineer or land surveyor in responsible charge, or other registered architects, engineers or land surveyors under the direction or supervision of the architect, engineer or land surveyor in responsible charge;

(2) the application for certificate of authorization states the type of architecture, engineering or land surveying practiced or to be practiced by the corporation;

(3) the applicant corporation has the ability to provide architectural, engineering or land surveying services;

(4) the application for certificate of authorization states the professional records of the designated person who is in responsible charge of each major branch of architectural, engineering or land surveying activities in which the corporation specializes;

(5) the application for certificate of authorization states the experience of the corporation, if any, in furnishing architectural, engineering or land surveying services during the preceding five-year period;

(6) the applicant corporation meets other requirements related to professional competence in the furnishing of architectural, engineering or land surveying services as may be established and promulgated by the board in furtherance of the objectives and provisions of this chapter.

(c) The board may, in the exercise of its discretion, refuse to issue, or may suspend or revoke a certificate of authorization to a corporation if the board finds that any of the officers, directors, incorporators or the stockholders holding a majority of the stock of the corporation has committed misconduct or malpractice, or has been found personally responsible for misconduct or malpractice under the provisions of this chapter.

(d) The certificate of authorization shall specify the major branches of architecture, engineering or land surveying of which the corporation has designated a person in responsible charge as provided in this section. The certificate of authorization shall be conspicuously displayed in the place of business of the corporation, together with the names of persons designated as being in responsible charge of the professional activities.

(e) If a corporation, organized solely by either a group of architects, a groups of engineers, or a group of land surveyors, each holding a certificate of registration under this chapter, applies for a certificate of authorization, the board may, in its discretion, grant a certificate of authorization to the corporation based on a review of the professional records of the incorporators, in place of the required qualifications set out in this section. If the ownership of the corporation is altered, the corporation shall apply for a revised certificate of authorization, based upon the professional records of the owners, if exclusively architects, engineers or land surveyors or otherwise under the qualifications required by (b)(1)—(4) of this section.

(f) A corporation authorized to offer architectural, engineering or land surveying services under this chapter, together with its directors and officers for their own individual acts, is responsible to the same degree as the designated individual registered architect, engineer or land surveyor, and must conduct its business without misconduct or malpractice in the practice of architecture, engineering or land surveying as defined in this chapter.

(g) If the board, after a proper hearing, finds that a corporation holding a certificate of authorization has committed misconduct or malpractice, the board shall suspend or revoke the certificate of authorization. The board shall also suspend or revoke the certificate of registration of any registered individual architect, engineer or land surveyor who, after a proper hearing, is found by the board to have participated in committing the misconduct or malpractice.

(h) Plans, specifications, designs and reports, when issued in connection with work performed by a corporation under its certificate of authorization, shall be prepared by or under the responsible charge of and shall be signed by and shall be stamped with the official seal of a person holding a certificate of registration under this chapter.

(i) Repealed by § 54 ch 37 SLA 1985.

Sec. 08.48.251. Partnerships. This chapter does not prevent the practice of architecture, engineering or land surveying by partnership if all the members of the partnership are architects, engineers or land surveyors legally registered under this chapter.

Sec. 08.48.261. State employees. The head of each principal department in which there are positions necessitating use of architectural, engineering or land surveying knowledge or skills shall specify, in the job descriptions, the positions for which registration under this chapter is required. This requirement for any position in a department may be waived by the head of the department. When the requirement is waived, the head of the department shall transmit to the division of personnel a written statement to the effect that the person filling the position is qualified to perform the duties of that position and a statement of the reasons for waiving the requirement, explaining why the employee was hired or was retained as an employee even though not registered under this chapter. The head of the department shall send a copy of the statement to the board.

Sec. 08.48.265. Fees. The Department of Commerce and Economic Development shall set fees under AS 08.01.065 for examinations, registrations, certificates of authorization, and renewals of a certificate.

ARTICLE 3. UNLAWFUL ACTS.

Section

281. Prohibited practice
291. Violations and penalties

Sec. 08.48.281. Prohibited practice. A person may not practice or offer to practice the profession of architecture, engineering or land surveying in Alaska, as defined in this chapter, or use in connection with the person's name or otherwise assume or advertise a title or description tending to convey the impression that the person is a registered architect, engineer or land surveyor unless the person has been registered under the provisions of this chapter or is a person to whom these provisions do not apply, or, in the case of a corporation, unless it has been authorized under this chapter.

Sec. 08.48.291. Violations and penalties. A person who practices or offers to practice architecture, engineering or land surveying in Alaska without being registered or authorized to practice in accordance with the provisions of this chapter, or a person presenting or attempting to use the certificate or the seal of another, or a person who gives false or forged evidence of any kind to the board or to a member of the board in obtaining or attempting to obtain a certificate, or a person who impersonates a registrant, or a person who uses or attempts to use an expired or revoked or nonexistent certificate, knowing of the certificate's status, or a person who falsely claims to be registered and authorized to practice under this chapter, or a person who violates any of the provisions of this

chapter, is guilty of a misdemeanor and upon conviction is punishable by a fine of not more than \$10,000 or by imprisonment for not more than one year, or by both.

ARTICLE 4. GENERAL PROVISIONS.

Section

311. Individual right
321. Evidence of practice
331. Exemptions
341. Definitions
351. Short title

Sec. 08.48.311. Individual right. The right to engage in the practice of architecture, engineering or land surveying is considered a personal and individual right, based on the qualifications of the individual as evidenced by the individual's certificate of registration, which is not transferable.

Sec. 08.48.321. Evidence of practice. A person practices or offers to practice architecture, engineering or land surveying who

- (1) practices a branch of the profession of architecture, engineering or land surveying as defined in AS 08.48.341;

- (2) by verbal claim, sign, advertisement, letterhead, card, or other means represents to be an architect, engineer or land surveyor, or through the use of some other title implies that the person is an architect, engineer or land surveyor;

- (3) holds out as able to perform or who does perform an architectural, engineering or land surveying service recognized by the professions covered by this chapter, and specified in regulations of the board, as architectural, engineering or land surveying.

Sec. 08.48.331. Exemptions. This chapter does not apply to

- (1) the execution as a contractor of work designed by a professional architect, or engineer, or the supervision of the construction of this work as a foreman or superintendent for a contractor;

- (2) superintendents, foremen, inspectors, or building trades craftsmen in the performance of their customary duties;

- (3) an officer or employee of the United States government practicing architecture, engineering or land surveying as required by that person's official capacity;

- (4) an officer or employee of the state practicing architecture, engineering or land surveying as required by that person's official capacity if registration is not required by that person's job description or by AS 38.95.150 or 38.95.160;

- (5) the work of an employee or a subordinate of a person legally registered under this chapter, if the work or service does not

include final designs or decisions or surveys, and is done under the direct supervision of and verified by a person legally registered under this chapter;

(6) the services ordinarily performed by locomotive, stationary and marine engine men, power plant operators, and manufacturers who supervise the operation of or operate machinery or equipment, or supervise construction within their own plant which affects only the property or interest of the manufacturer, unless the public health or safety is involved;

(7) the practice of any other lawfully recognized profession;

(8) associates, consultants or specialists retained by an individual, a partnership of legally registered individuals, or a corporation authorized under this chapter, in the performance of the professional services offered by the legally registered individual, partnership, or authorized corporation if responsible charge of the work remains with the individual, partnership or designated representative of the corporation;

(9) a person preparing plans, drawings, or specifications for

(A) a building for that person's own use and occupancy unless the public health, safety, or welfare is substantially involved;

(B) farm or ranch buildings unless the public health, safety, or welfare is substantially involved;

(C) a building intended to be used only as a residence by not more than four families and not more than two stories high;

(D) a building with a total of not more than 500 square feet of floor space;

(10) a specialty contractor licensed under appropriate Alaska Statutes, while engaged in the business of contracting, designing systems or facilities as otherwise permitted by law for work within the specialty for which the specialty contractor's license was issued to be performed or supervised by the contractor, or any licensed contractor preparing shop or field drawings for work which the specialty contractor has contracted to perform;

(11) a person furnishing, either alone or with subcontractors, labor and materials, with or without plans, drawings, specifications, instruments of service, or other data covering the labor and materials to be used for any of the following:

(A) storefronts (facades), interior alterations or additions, fixtures, cabinetwork, furniture, or other appliances or equipment;

(B) work necessary to provide for installation of an item listed in (A) of this paragraph;

(C) alterations or additions to a building necessary to or attendant upon installation of an item listed in (A) of this paragraph if the alteration or addition does not change or affect the structural system or safety of the building;

(12) an officer or employee of an individual, firm, partnership, association or corporation which officer or employee practices architecture, engineering or land surveying when required by that

person's official capacity or work duties connected with that person's employment if the individual firm, partnership, association or corporation is not engaged in the business of offering architectural, engineering or land surveying services to the public.

Sec. 08.48.341. Definitions. In this chapter

(1) "architect" means a professional architect;

(2) "board" means the State Board of Registration for Architects, Engineers and Land Surveyors;

(3) "certificate of authorization" means a certificate issued by the board authorizing a corporation to provide professional services in architecture, engineering or land surveying through individuals legally registered by the board;

(4) "certificate of registration" means a certificate issued by the board recognizing the individual named in the certificate as meeting the requirements for registration under this chapter;

(5) "engineer" means a professional engineer;

(6) "land surveyor" means a professional land surveyor;

(7) "practice of architecture" means professional service or creative work in the functional and aesthetic design of structures, the teaching of advanced architectural courses in institutions of higher learning, consultation, investigation, evaluation, planning, design and professional observation of construction of public or private structures, buildings, works or projects, and architectural review of plans and specifications by regulatory agencies; it may by regulation of the board include mechanical, electrical or structural design of relatively minor importance to the project as a whole;

(8) "practice of engineering" means professional or creative work, the adequate performance of which requires the application of specialized knowledge of mathematics and sciences, dealing with the functional and economic design of buildings, structures, machines, equipment, utilities systems, materials, processes, works or projects, public or private; the teaching of advanced engineering courses in institutions of higher learning, the direction of or the performance of engineering surveys, consultation, investigation, evaluation, planning, design, and professional observation of construction of public and private structures, buildings, works or projects and engineering review of plans and specifications by regulatory agencies; it may by regulation of the board include architectural design of relatively minor importance to the project as a whole, but it does not include comprehensive architectural services;

(9) "practice of land surveying" means any service or work the adequate performance of which involves the application of special knowledge of the principles of mathematics, the related sciences, and the relevant requirements of law for adequate evidence of the act of measuring and locating land, geodetic and cadastral surveys for the location and monumentation of property boundaries, for the

platting and planning of land and subdivisions, and for the preparation and perpetuation of maps, record plats, field note records and property descriptions that represent these surveys;

(10) "professional architect" means a person who has been legally registered as a professional architect by the board;

(11) "professional engineer" means a person who has been legally registered as a professional engineer by the board;

(12) "professional land surveyor" means a person who has been legally registered as a professional land surveyor by the board;

(13) "responsible charge" means the direct control and personal supervision of work.

Sec. 08.48.351. Short title. This chapter may be cited as the Architects, Engineers and Land Surveyors Registration Act.

**CHAPTER 36.
STATE BOARD OF REGISTRATION FOR ARCHITECTS,
ENGINEERS AND LAND SURVEYORS**

Article

1. Registration and Licensing
(12 AAC 36.010—12 AAC 36.190)
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(12 AAC 36.200—12 AAC 36.245)
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(12 AAC 36.300—12 AAC 36.330)
4. General Provisions (12 AAC 36.900—12 AAC 36.990)

**ARTICLE 1.
REGISTRATION AND LICENSING**

Section

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40. Reexamination application
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62. Eligibility for fundamentals of engineering examination
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65. Eligibility for professional land surveyor examination
67. Date of experience
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105. Engineer registration by comity
107. Land Surveyor registration by comity
110. Treatise required for registration
160. Duplicate certificate
165. Expired certificates
170. Fees
180. Seal
185. Use of seals
190. Testing laboratory reports

12 AAC 36.010. APPLICATIONS (a) An application for registration or examination for registration must be typewritten and filed with the board on a form prescribed by the board, accompanied by the required fee and a recent, frontal photograph, two inches by two and one-half inches in size.

(b) A candidate will not be admitted to an examination or approved for registration until the candidate's qualifications are accepted by the board.

12 AAC 36.020. ABANDONED APPLICATIONS. (a) In the absence of special circumstances, the board will consider an examination application abandoned if

(1) the applicant fails to appear for examination at the time fixed without obtaining a postponement as set out in 12 AAC 36.070;

(2) the applicant, after two postponements, fails to appear for examination at the time fixed.

(b) An applicant whose application is considered abandoned will have that application denied without prejudice and the application fee will be forfeited.

(c) An application is considered abandoned if 18 months have elapsed since correspondence was last received from the applicant.

12 AAC 36.040. REEXAMINATION APPLICATION. An applicant who has failed the examination may, within 18 months of notification of the failed examination, reapply for examination. Another examination fee is required.

12 AAC 36.050. FINAL FILING DATES. (a) Except as provided in (e) of this section, the final filing date for applications for examination is 60 days before the examination and will be advertised as such by the board at least 30 days before that date.

(b) Repealed 9/30/78.

(c) Whenever the final filing date for an examination falls upon a Saturday, Sunday or holiday, it will be extended to the next business day.

(d) If an application is filed with the board through the United States mail, it will be considered filed on the date of receipt by the department.

(e) For the fall administration of the fundamentals of engineering (EIT) examination only, an applicant who qualifies under 12 AAC 36.062(1) may submit a complete application up to 30 days after the published application deadline, upon payment of double the application fee set in 12 AAC 02.110.

12 AAC 36.060. ELIGIBILITY FOR ARCHITECT REGISTRATION EXAMINATION. (a) To be eligible for the architect registration examination an applicant must meet the education and experience requirements set out in the NCARB Circulars of Information Nos. 1 and 3. This subsection is repealed effective January 1, 1990.

(b) Effective January 1, 1990, all applicants for the architect registration examination must complete the NCARB Intern—Architect Development Program (IDP) and submit an NCARB IDP council record with the examination application.

(c) An applicant for examination may receive a description of the requirements mentioned in this section upon submission of a written request to department.

12 AAC 36.062. ELIGIBILITY FOR FUNDAMENTALS OF ENGINEERING EXAMINATION. To be eligible for the fundamentals of engineering examination, an applicant must

(1) have successfully completed at least 75 percent of the required credit hours leading to an undergraduate degree in an engineering curriculum accredited by ABET as documented by the applicant's educational institution; or

(2) submit to the board satisfactory evidence that the applicant's education or work experience or both are equivalent to the requirements set out in the following engineer in training (EIT) table of equivalent experience:

ENGINEER IN TRAINING
TABLE OF EQUIVALENT EXPERIENCE

Description of Training	Equivalent Education In Years	Minimum Work Experience In Years	Total Years of Education and Experience
ABET accredited B.S. degree in engineering	4	0	4
ABET accredited B.S. degree in engineering technology in a branch of engineering listed in 12 AAC 36.990(17)	3	1	4
Non-ABET accredited B.S. degree in engineering	3	1	4
Course work in ABET accredited engineering degree curriculum—no degree	0.3	2.5	5
All other B.S. degrees in engineering technology	0.2	3.5	5
Course work in ABET accredited engineering technology degree program—no degree	0.2	3.5	5
Course work in Non-ABET engineering technology degree curriculum—no degree	0.1	5.6	6
No engineering education	0	6	6

12 AAC 36.063. ENGINEER EDUCATION AND EXPERIENCE REQUIREMENTS. (a) To be eligible for a professional engineering examination, an applicant must

(1) have been approved for or have passed the fundamentals of engineering examination or had these requirements waived under 12 AAC 36.090(a);

(2) apply for examination in a branch of engineering recognized by 12 AAC 36.990(17); and

(3) submit to the board satisfactory evidence that the applicant's education or work experience or both are equivalent to the requirements set out in the following professional engineering (PE) table of equivalent experience:

**PROFESSIONAL ENGINEER
TABLE OF EQUIVALENT EXPERIENCE**

Description of Training	Equivalent Education In Years	Minimum Work Experience In Years	Total Years of Education and Experience
ABET accredited B.S. degree in engineering and an M.S. or Ph.D. in engineering	5	3	8
ABET accredited B.S. degree in engineering in the branch of engineering applied for listed in 12 AAC 36.990(17)	4	4	8
ABET accredited B.S. degree in engineering technology	3	5	8
ABET accredited B.S. degree in engineering not in the branch applied for or a Non-ABET accredited B.S. degree in engineering in the branch applied for	3	5	8
Course work in ABET accredited engineering degree curriculum—no degree	0.3	7-10	10
Non-ABET accredited B.S. degree in engineering technology	0.2	8-10	10
Course work in an ABET accredited engineering technology degree program—no degree	0.2	8-10	10
Course work in Non-ABET accredited engineering technology program—no degree	0.1	11-12	12
No engineering education	0	12	12
	18		

(b) Education and work experience for initial registration must be in the branch in which the applicant seeks registration for full credit to be given. If the education or work experience is not in the branch in which the applicant seeks registration, any credit given in excess of one-half will be determined by the board.

(c) The minimum work experience required for registration must include two years of responsible charge experience, as defined in 12 AAC 36.990, which is gained while under the direct supervision of a professional engineer registered in the branch of engineering for which the applicant has applied.

(d) For registration in more than one branch of engineering listed in 12 AAC 36.990(17), professional work experience used to qualify for registration in one branch of engineering will be evaluated by the board in considering an application for registration in another branch of engineering. Responsible charge experience must be entirely in the branch of engineering applied for and cannot be counted as responsible charge experience in another branch of engineering or in land surveying.

(e) Education and work experience cannot be accumulated concurrently. A maximum of 12 months' credit may be claimed for any calendar year.

(f) A maximum of two years credit for professional work experience used in securing registration in land surveying will, in the board's discretion, be accepted as experience in securing registration in civil or mining engineering.

12 AAC 36.064. ELIGIBILITY FOR FUNDAMENTALS OF LAND SURVEYING EXAMINATION. To be eligible for the fundamentals of land surveying examination, an applicant must have four years of experience. The required experience may be any combination of the experience credit set forth in the professional land surveyor table of equivalent experience in 12 AAC 36.065(a)(2).

12 AAC 36.065. ELIGIBILITY FOR PROFESSIONAL LAND SURVEYOR EXAMINATION. (a) To be eligible for the professional land surveyor examination, an applicant must

(1) have been approved for or have passed the fundamentals of land surveying examination; and

(2) submit to the board satisfactory evidence that his education or experience or both are equivalent to the requirements set out in the following professional land surveyor table of equivalent experience:

PROFESSIONAL LAND SURVEYORS
TABLE OF EQUIVALENT EXPERIENCE

Classification	Education Credit Allowed In Years	Experience Credit Allowed In Years	Responsible Charge Under RLS In a Land Surveying Capacity	Total Education and Experience Required
Graduate of a board approved surveying curriculum 4-year course	4	4	3	8
Graduate of a board approved surveying curriculum 2-year course	2	6	3	8
Graduate of an ABET curriculum in civil engineering or related engineering sciences	2	6	3	8
No formal education	0	8	3	8

(b) Responsible charge of professional land surveying means work as a supervisor under the direct supervision of a registered land surveyor, and working in a land surveying capacity. The remainder of the required experience must be derived from office or field work involving the activities listed in AS 08.48.341(9). Partial completion of a curriculum leading to a degree in land surveying, civil engineering, or a related engineering science will be considered by the board in determining applicable experience.

(c) A maximum of two years of credit for professional work experience used in securing registration in the branches of civil or mining engineering will, in the board's discretion, be accepted as experience in securing registration in land surveying.

12 AAC 36.067. DATE OF EXPERIENCE. Computation of qualifying experience for admission to the examination as an architect, engineer, or land surveyor is up to the date of the examination.

12 AAC 36.070. POSTPONEMENTS. The board will, in its discretion, grant postponements, not to exceed two postponements for each type of examination given, to any applicant who, for reasonable cause, is prevented from appearing for the examination at the time fixed, if the applicant's request for postponement and the reason for it are filed with the board not later than 10 days immediately following the date of the examination.

12 AAC 36.080. AUTHORIZATION TO TAKE EXAMINATION. Notification of the applicant's authorization to take the examination will be made at least 30 days before the examination.

12 AAC 36.090. WAIVER OF FUNDAMENTALS OF ENGINEERING EXAMINATION. (a) An applicant for registration as a professional engineer who has not passed the fundamentals of engineering examination need not take that examination if satisfactory evidence is submitted to the board to verify 20 years of professional experience.

(b) An applicant for registration in any branch of engineering who holds a valid registration in another branch of engineering meeting this state's requirements will not be required to take the fundamentals of engineering examination.

12 AAC 36.100. CONTENT OF EXAMINATIONS. (a) Unless an applicant is registered by comity under AS 08.48.191, an applicant for registration is required to pass the appropriate examination designated in this section.

(b) An applicant for architect registration must pass the NCARB Architect Registration Examination (ARE).

(c) An applicant for registration as an engineer must pass the NCEE Principles and Practices of Engineering Examination for the branch of engineering for which the applicant has applied.

(d) An applicant for registration as a land surveyor must pass the professional land surveyor examination which includes

(1) the NCEE Principles and Practices of Land Surveying, Part I;

(2) the NCEE Principles and Practices of Land Surveying, Part IIA, public domain portion; and

(3) a state examination covering laws, procedures and practices concerning land surveying in Alaska.

12 AAC 36.103. ARCHITECT REGISTRATION BY COMITY.

(a) A person holding a valid out of state certificate of registration to practice architecture, based on requirements that are equivalent with the NCARB education, experience, and examination requirements at the time the out-of-state certificate was issued, will upon application and compliance with 12 AAC 36.110, be registered without further examination. This subsection is repealed effective January 1, 1990.

(b) In addition to complying with 12 AAC 36.110, effective January 1, 1990, an applicant for architect registration by comity must verify his or her education and experience by submitting

(1) an NCARB council record;

(2) a completed application; and

(3) verification of a valid registration in another licensing jurisdiction.

12 AAC 36.105. ENGINEER REGISTRATION BY COMITY.

(a) A person holding a valid out-of-state certificate of registration to practice engineering based on education, experience, and examination requirements that are equivalent with current AS 08.48, will, upon application and compliance with (c) of this section and 12 AAC 36.110, be registered without further examination.

(b) A person holding a valid certificate issued by the Committee on National Engineering Certification of the NCEE, whose qualifications as evidenced by the person's council record meet the requirements of AS 08.48, will, upon application and compliance with (c) of this section and 12 AAC 36.110 be registered without further examination.

(c) An applicant for engineering registration by comity

(1) must have at least 24 months of responsible charge experience in the branch of engineering listed in 12 AAC 36.990(17) for which the applicant has applied, as verified by an engineer who has supervised the applicant and who is registered in that branch of engineering or is registered as a professional engineer in a licensing jurisdiction that does not register engineers in specific branches of engineering; or

(2) must, if the applicant is registered and has been practicing engineering for five years or more, provide two current letters of reference from engineers registered in the specific branch of engineering for which the applicant has applied.

12 AAC 36.107. LAND SURVEYOR REGISTRATION BY COMITY.

(a) A person holding a valid out-of-state certificate of registration to practice land surveying, based on education, experience, and examination requirements that are comparable to current AS 08.48, will, upon application and compliance with (b) of this section, be licensed after passing the professional land surveyor examination identified in 12 AAC 36.100(d)(2) and (3), be registered without further examination.

(b) An applicant for land surveyor registration by comity

(1) must have at least 36 months of responsible charge experience verified by a registered land surveyor who has supervised the applicant; or

(2) must, if the applicant is registered and has been practicing land surveying for five years or more, provide two current letters of reference from registered land surveyors.

12 AAC 36.110. ARCTIC AND SEISMIC REQUIREMENT.

(a) An applicant for registration as an architect or engineer must have successfully completed a board approved university-level course in arctic engineering or its equivalent.

(b) In addition to (a) of this section, an applicant for architectural registration by comity shall pass the NCARB examination on

seismic forces unless the applicant was registered by examination in

- (1) California in 1936 or later;
- (2) Alaska, Hawaii, Idaho, Montana, Nevada, or Washington state in June 1963 or later;
- (3) Utah or Arizona in December 1963 or later;
- (4) Colorado in June 1964 or later;
- (5) Guam in June 1965 or later;
- (6) New Mexico in June 1966 or later; or
- (7) any other NCARB jurisdiction in June 1968 or later.

12 AAC 36.160. DUPLICATE CERTIFICATE. A duplicate certificate will be issued by the department upon written request and payment of the fee established in 12 AAC 02.105(8).

12 AAC 36.165. EXPIRED CERTIFICATES. (a) A certificate which is not renewed for a period of five years or more expires at the end of that period.

(b) An expired certificate may be reinstated by

(1) passing the professional portion of the architect, engineer or land surveyor examination as prescribed by the board and paying the appropriate fee; or

(2) reapplying to the board for issuance of a certificate by comity as prescribed in 12 AAC 36.105 and paying the appropriate fee.

12 AAC 36.170. FEES. All fees under AS 08.48 and this chapter, including application, examination, registration and renewal fees are established in 12 AAC 02.105 and 12 AAC 02.110.

12 AAC 36.180. SEAL. (a) The seal authorized for use by professional architects is of the following design:



(b) The seal authorized for use by professional engineers is of the following design:



and must reflect the branch of engineering authorized by the board. This identification is to be placed below the registrant's number on the seal as noted:

- EC — Chemical Engineer
- CE — Civil Engineer
- EE — Electrical Engineer
- ME — Mechanical Engineer
- EM — Mining Engineer
- EP — Petroleum Engineer

(c) The seal authorized for use by professional land surveyors is of the following design:



12 AAC 36.185. USE OF SEALS. (a) A registrant may

- (1) not sign or seal a plan or document dealing with professional services in which the registrant is not qualified to sign or seal by virtue of education, experience, and registration;
- (2) approve and seal only design documents and surveys which

are safe for public health, property and welfare in conformity with accepted architecture, engineering and land surveying standards in Alaska;

(3) seal only final plans, surveys, reports, and required construction documents for which the registrant is qualified to seal and for which the registrant claims responsibility;

(4) not knowingly allow the use of his or her seal by another person on a document that the registrant has neither prepared nor reviewed personally;

(5) not use the seal or a reproduction of the seal of another registrant on a document, regardless of the intended use of the document;

(6) not sign a name other than his or her own name over a seal and may not forge the signature of the individual to whom the seal was issued by the board; and

(7) not sign or seal plans, documents or other professional work for which he or she does not have direct professional knowledge and direct supervisory control.

(b) If portions of plans, documents or other professional work are prepared by other registered professionals, a registrant may seal only that portion of the work for which he or she has direct professional knowledge and direct supervisory control.

(c) Each office maintained for the preparation of drawings, specifications, reports, or other professional work that will require a professional seal must have a registrant assigned to and regularly employed in that office who has direct knowledge and supervisory control of that work.

12 AAC 36.190. TESTING LABORATORY REPORTS.

Reports issued by testing laboratories shall be prepared by or under the supervision of a registered engineer and signed or sealed by him whenever such reports go beyond the tabulation of test data (compositions of material, breaking stress, etc.) by

(1) interpreting data to draw conclusions as to the characteristics of a civil engineering structure or parts of one;

(2) expressing engineering judgment in the form of recommendations derived from the results of the test; or

(3) performing design work in the preparation of plans, specifications and other instruments requiring registration as an engineer.

ARTICLE 2.

CODE OF PROFESSIONAL CONDUCT

Section

- 200. Ethical standards
- 210. Professional conduct
- 220. Conflict of interest
- 230. Solicitation of employment

- 232. Offer to practice
- 235. Advertising
- 245. Full disclosure

12 AAC 36.200. ETHICAL STANDARDS. (a) In order to establish and maintain a high standard of integrity, skill, and practice in the professions of architecture, engineering and land surveying, and to safeguard the life, health, property and welfare of the public, 12 AAC 36.200—12 AAC 36.245 are binding upon every individual holding a certificate of registration as an architect, engineer, or land surveyor and upon all partnerships, corporations, or other legal entities authorized to offer or perform architectural, engineering, or land surveying services in this state.

(b) A registrant shall act with complete integrity in professional matters.

(c) A registrant may not practice architecture, engineering or land surveying if his or her professional competence is substantially impaired.

12 AAC 36.210. PROFESSIONAL CONDUCT. (a) A registrant

(1) must at all times recognize that a registrant's primary obligation is to protect the safety, health, property, and welfare of the public in the performance of his or her professional duties;

(2) must, if the registrant's professional judgment is overruled creating circumstances in which the safety, health, property, and welfare of the public are endangered, notify his or her employer, client, and other proper authority of the situation and possible consequences as may be appropriate;

(3) may perform assignments only if the registrant's associates, consultants, and employees are qualified by education, training, or experience and, if required, registered in the specific technical branches or fields involved;

(4) shall be completely truthful in all professional reports, statements, or testimony and shall include in them all relevant and pertinent information known to the registrant;

(5) may not knowingly associate with, or permit the use of his or her name or firm name in a business venture by a person or firm that the registrant knows or has reason to believe is engaging in business or professional practices in a fraudulent or dishonest manner;

(6) shall inform the board if he or she has knowledge or reason to believe that another person or firm might be in violation of AS 08.48, or a regulation adopted under it, and shall cooperate with the board by furnishing all further information or assistance required;

(7) may not offer or make a payment or gift to a government official, whether elected or appointed, with the intent of influencing

the official's judgment in connection with a prospective or existing project in which the registrant is interested;

(8) shall take into account applicable state and municipal building laws in designing and completing a project, and may not knowingly design a project in violation of those laws;

(9) may not deliberately make a materially false statement or deliberately fail to disclose a material fact requested in connection with an application for registration or renewal of a registration issued under AS 08.48;

(10) shall make every reasonable effort to provide professional services in a complete and efficient manner so as not to unduly delay a project.

(b) If, in the course of a registrant's work on a project, the registrant becomes aware of a decision made by his or her employer or client, against the registrant's advice, which violates applicable state or municipal building laws and as a result of which the finished project will, in the registrant's judgment, materially and adversely affect the safety of the public the registrant shall

(1) report the decision to the local building inspector or other public official charged with the enforcement of the applicable state or municipal building laws; and

(2) refuse to consent to the decision.

12 AAC 36.220. CONFLICT OF INTEREST. (a) A registrant

(1) shall attempt to avoid all conflicts of interest with his or her employer or client but, if some conflict is unavoidable, a registrant shall promptly inform his or her employer or client of the registrant's business association, interests, or circumstances that could influence the registrant's judgment or the quality of the registrant's service to the employer or client;

(2) may not accept financial or other compensation from more than one party for services on or pertaining to the same project, unless the circumstances are fully disclosed to and agreed to by all interested parties or their authorized agents;

(3) may not solicit or accept financial or other valuable consideration from a supplier for specifying a supplier's product, unless the registrant is the vendor or supplier of the specified product and has fully disclosed that fact to the client; and

(4) may not solicit or accept gratuities from other parties dealing with the registrant's client or employer in connection with the work for which the registrant is responsible.

(b) If a registrant is in public service as a member, advisor, or employee of a government body, the registrant may not review work previously performed by the registrant or the registrant's former private sector employer.

12 AAC 36.230. SOLICITATION OF EMPLOYMENT. (a) A registrant may not pay, solicit nor offer, directly or indirectly, a bribe or commission for professional employment except for payment of the usual commission for securing a salaried position through a licensed employment agency.

(b) Deleted 11/18/83.

(c) A registrant may not falsify or permit misrepresentation of his or her associates' academic or professional qualifications. A registrant may not misrepresent or exaggerate his or her degree of responsibility in or for the subject matter of prior assignments. A registrant shall accurately represent his or her qualifications as required by 12 AAC 36.245(2).

(d) Brochures or other presentations incident to a registrant's solicitation of employment may not, with the intent and purpose of enhancing the registrant's qualifications and work, misrepresent pertinent facts concerning employers, employees, associates, joint ventures, or the registrant's past accomplishments.

[Editor's Note: As of Register 88, Jan. 1984, 12 AAC 36.230(b) was deleted by the regulations attorney under AS 44.62.125(b)(6) and in accordance with a Stipulation and proposed Final Judgment filed on November 18, 1983 by the Board of Architects, Engineers and Land Surveyors and the United States Department of Justice in the United States District Court for the District of Alaska in United States v. Alaska Board of Registration for Architects, Engineers and Land Surveyors, Civil Action No. A82-423 CIV. This Stipulation and proposed Judgment were filed because 12 AAC 36.230(b) was in violation of section 1 of the Sherman Antitrust Act (15 U.S.C. § 1 1977). The Proposed final Judgment became final on May 17, 1984 and also prohibits further enforcement of any ban or board policy against competitive bidding.]

12 AAC 36.232. OFFER TO PRACTICE. For the purpose of AS 08.48.281, AS 08.48.291 and AS 08.48.321, an "offer to practice" architecture, engineering, or land surveying includes:

(1) a response to a request for proposals or RFP which contains information that could be used to qualify as a potential provider of services; or

(2) a proposal in which a monetary value is suggested as the acceptable payment for services offered; or

(3) an acceptance of employment for the purpose of providing service or work described in AS 08.48.341(7), (8) or (9).

12 AAC 36.235. ADVERTISING. A registrant may not advertise his or her services in a deceptive or untruthful manner.

12 AAC 36.245. FULL DISCLOSURE. A registrant

(1) may not issue a statement, criticism, or argument on professional matters connected with the public interest which are inspired or paid for by an interested party, unless the registrant has prefaced the comment by disclosing the identity of the party and the existence of any pecuniary interest;

(2) shall accurately represent to a prospective or existing client or employer his or her qualifications and scope of responsibility in connection with work for which the registrant is claiming credit; and

(3) may not solicit or accept a professional contract from a governmental body on which a principal or officer of the registrant's organization serves as a member, except upon public disclosure of all pertinent facts and circumstances, consent of appropriate public authority, and compliance with all other applicable laws.

ARTICLE 3. DISCIPLINARY GUIDELINES

Section

300. Purpose of disciplinary guidelines

310. Violations

320. Disciplinary guidelines

330. Definitions for disciplinary guidelines

12 AAC 36.300. PURPOSE OF DISCIPLINARY GUIDELINES. To ensure that the board's disciplinary policies are known and are administered consistently and fairly, the disciplinary guidelines in 12 AAC 36.310—12 AAC 36.330 are established.

12 AAC 36.310. VIOLATIONS. A person who, after a hearing under the Administrative Procedure Act (AS 44.62), is found to have violated a provision of AS 08.48 or this chapter is subject to the disciplinary penalties listed in AS 08.01.075, including public notice of the violation and penalty in appropriate publications.

12 AAC 36.320. DISCIPLINARY GUIDELINES. (a) Nothing in this section prohibits the board from imposing greater or lesser penalties than those described, depending on the circumstances of a particular case.

(b) The board will, in its discretion, issue a public reprimand in connection with a disciplinary action taken under AS 08.48 and this chapter.

(c) The board will, in its discretion, revoke a registration or certificate in cases of

(1) gross negligence;

(2) incompetence that caused the life, health, or safety of a member of the public to be placed in jeopardy of death or injury;

(3) fraud or deceit in obtaining or attempting to obtain a registration or certificate.

(d) The board will, in its discretion, suspend a registration or certificate for up to three years, followed by probation if the board considers it appropriate in cases of

(1) incompetence that caused property to be placed in jeopardy of loss or injury;

(2) incompetence that caused the design or engineering of a project to be unusable or unsafe;

(3) incompetence that caused a land survey to be unusable;

(4) incompetence that caused undue harm.

(e) The board, in its discretion, will suspend a registration or certificate for up to two years in cases of

(1) incompetence involving violation of AS 08.48 and 12 AAC 36; or

(2) misconduct that caused undue harm by action or nonaction.

(f) The board will, in its discretion, suspend a registration or certificate for up to one year in cases of misconduct which caused no undue harm.

12 AAC 36.330. DEFINITIONS FOR DISCIPLINARY GUIDELINES. In 12 AAC 36.320

(1) "Fraud or deceit in obtaining a registration or certificate" includes

(A) giving false statements or facts or forging letters of work experience or letters of reference related to an application form or renewal notice; or

(B) intentional misrepresentation of the number of hours, months, or years of employment on an application or renewal notice;

(2) "Gross negligence" means the intentional or reckless failure to perform the registrant's duties and responsibilities according to AS 08.48 or this chapter, resulting in

(A) the life, health, or safety of a member of the public being placed in jeopardy of death or injury; or

(B) a person's property being placed in jeopardy of loss or injury;

(3) "Incompetence" means lacking the ability, knowledge, skills, or professional judgment to discharge the professional duties of a registrant as required by law;

(4) "Misconduct" means the failure to perform a registrant's responsibilities according to AS 08.48 and this chapter, if the failure does not constitute gross negligence.

ARTICLE 4. GENERAL PROVISIONS

Section

900. Current address;

990. Definitions

12 AAC 36.900. CURRENT ADDRESS. A registrant shall maintain a current, valid mailing address on file with the division at all times. The latest mailing address on file for an active, inactive or lapsed registration or certificate is the appropriate address for official communications, notifications, and service of legal process.

12 AAC 36.990. DEFINITIONS. For the purposes of this chapter and AS 08.48, unless the context requires otherwise

(1) "advanced courses" means courses in institutes of higher learning beyond the second academic year;

(2) "board" means the State Board of Registration for Architects, Engineers and Land Surveyors;

(3) "chemical engineering" means that branch of professional engineering which embraces studies and activities relating to applied chemistry, both industrial and nonindustrial, concerned with chemical materials, their composition, locations, transportation, and storage; chemical and physical-chemical processes naturally occurring or artificially operated, their matter and energy changes, the conditions of temperature, concentration and media for those changes including apparatus and analytical control; chemical products, their quality, quantity, applications, uses, and values; preparation of materials for public or industrial use including water supply, waste abatement, and pollution control;

(4) "civil engineering" means that branch of professional engineering which embraces studies and activities in connection with research, design, and construction of fixed works for irrigation, drainage, waterpower, water supply and treatment, flood control, inland waterways, harbors, municipal improvements, railroads, highways, tunnels, airports and airways, sewerage, refuse disposal, foundations, structures, or bridges;

(5) "design" means the original and unique application of basic aesthetic, mathematical and physical and chemical principles to provide an acceptable solution of a problem or project;

(6) "direct supervision" means personal control, at the working level, of the preparation of professional documents;

(7) "ABET" means Accreditation Board for Engineering and Technology;

(8) "electrical engineering" means that branch of professional engineering which embraces studies and activities relating to generation, transmission and utilization of electrical energy and to telecommunications systems and facilities, including the design of electrical, electronic and magnetic circuits and components, and the technical control of their operation and of the design of electrical and telecommunications gear; it is concerned with the research, organizational and economic aspects of these studies and activities;

(9) "mechanical engineering" means that branch of professional engineering which deals with engineering problems relating to generation, transmission and utilization of energy in the thermal or mechanical form, and also with engineering problems relating to the production of tools, machinery and their products and to mechanical processes, heating, air conditioning, refrigeration and plumbing; it is concerned with the research, design, production, operational, organizational and economic aspects of these studies and activities;

(10) "mining engineering" means that branch of professional engineering which embraces studies or activities relating to the exploration, location, and recovery of mineral commodities; it is concerned with research, design, construction, and development of structures, devices, and facilities of production and the economic aspects related to these studies and activities;

(11) "NAAB" means the National Architectural Accrediting Board;

(12) "NCARB" means the National Council of Architectural Registration Boards;

(13) "NCEE" means the National Council of Engineering Examiners;

(14) "petroleum engineering" means that branch of professional engineering which embraces studies or activities relating to the exploration, location, and recovery of natural fluid hydrocarbons; it is concerned with research, design, production, and operations of devices, and the economic aspects of these studies and activities;

(15) repealed 9/30/78;

(16) repealed 9/30/78;

(17) "professional engineering" includes the branches of

(A) chemical engineering;

(B) civil engineering;

(C) electrical engineering;

(D) mechanical engineering;

(E) mining engineering;

(F) petroleum engineering;

(18) "professional work" means the time the applicant has been occupied in architecture, engineering or land surveying work of higher grade and responsibility than that of subprofessional work;

(19) "responsible charge of work in the field" means the direction of work, the successful accomplishment of which rested upon the applicant, where the applicant has to decide questions of methods of execution and suitability of materials without relying upon advice or instruction from his superiors and where the

applicant has to supply solutions to deficiencies in plans or has to correct errors in designs without first referring them to higher authority for approval, except where the approval is a matter of form;

(20) "responsible charge" as it pertains to "work in the office" means undertaking investigations or carrying out assignments, which demand resourcefulness and originality, or making plans, writing specifications, and directing drafting and computations for the design of architectural, engineering or land surveying work with only rough sketches, general information and field measurements for reference;

(21) "state" means the State of Alaska;

(22) "subprofessional work" means time spent working as rodman, chainman, recorder, draftsman, clerk of works, instrument man, inspector, or similar work where personal responsibility and technical knowledge are slight;

(23) "specialty contractor" means a contractor registered to offer not more than two labor trades;

(24) "registration by comity" means registration by recognition of the applicant's credentials accepted by another jurisdiction;

(25) "registrant" means an individual architect, engineer, land surveyor, or corporation, registered or issued a certificate of authorization under this chapter.

STATE OF ALASKA

DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

DIVISION OF OCCUPATIONAL LICENSING

STEVE COWPER, GOVERNOR

7TH FLOOR FRONTIER BLDG.
3001 C STREET, SUITE 722
ANCHORAGE, ALASKA 99503
PHONE: (907) 561-2878

December 22, 1989

Mr. David E. Rogers
P.O. Box 33932
Juneau, AK 99803

Dear Mr. Rogers,

In your letter dated October 24, 1989, you requested this division provide you with disciplinary statistics for architects, engineers and land surveyors over the last fifteen years, specifically the type, frequency and results of these disciplinary actions. Unfortunately, as I discussed with you by telephone on November 14, 1989, our litigation information can only be traced to 1981; even this information is rather sketchy from 1981 to 1986. However, with the recent purchase of a new computer program, appropriately named "The Enforcer", beginning in September 1989, the division started an investigative tracking system which will, among other capabilities, provide a data base of statistical information to handle requests such as yours.

Listed below are the disciplinary actions taken by the Board of Registration for Architects, Engineers and Land Surveyors (AELS Board) from 1981 to the present:

<u>Fiscal Year</u>	<u>Name, Profession and Case No.</u>	<u>Type of Action:</u> <u>Accusation, Cease & Desist</u> <u>Order, Statement of Issues,</u> <u>Memorandum of Agreement</u>	<u>Disciplinary Action</u> <u>Imposed by AELS Board</u>
1981	Unknown Land Surveyor	Accusation	Three year suspension 2 1/2 years stayed
1982	Nothing to report		
1983	Nothing to report		
1984	Unknown Profession AELS 84-25	Accusation	Unknown

	Land Surveyor	Accusation	No disposition given
		Accusation	Dismissed
	AELS 84-553	Cease and Desist Order Unlicensed activity	Unknown
	AELS 84-552	Cease and Desist Order Unlicensed activity	Unknown
	AELS 84-178	Cease and Desist Order Unlicensed activity	Unknown
	AELS 84-180	Cease and Desist Order Unlicensed activity	Unknown
1985	Architect AELS 85-44	Cease and Desist Order Unlicensed activity	Cancelled
1986	Architects AELS 86-73	Cease and Desist Order	Cancelled Complied
1987	Architects AELS 87L-51	Cease and Desist Order Failure to register corporation	Permanent - Upheld
1988	Engineer AELS 88L-14	Accusation False soil report	Stipulation: Letter of reprimand, required education
	Land Surveyor AELS 88L-25	Accusation Failure to complete survey	License suspended for one (1) year & \$1500 fine **Under Superior Court appeal
	Land Surveyor AELS 88L-27	Accusation Failure to conform to minimum professional standard	License suspended for two (2) years and \$1000 fine
	& Engineering AELS 88L-39	Cease and Desist Order Failure to register corporation	Permanent - Upheld
1989	AELS 89L-04	Cease and Desist Order Unlicensed practice of Engineering	Permanent - Upheld

Land Surveyor AELS 89L-12	Accusation Misconduct	License suspended for two (2) years, must retake and pass examination
Land Surveyor AE 89L-31	Statement of Issues Cease and Desist Order Unlicensed activity	Cease & Desist Order upheld, Letter of Reprimand, \$500 fine
Engineer Applicant AE 89L-36	Denial of Application Lacked professional work experience	Must complete four (4) years of professional engineering experience, the exam scores, which are sealed, will be opened, if passed, granted a license
Land Surveyor AE 89L-37	Memorandum of Agreement Falsification of a survey report	Letter of Reprimand and \$1000 fine
Land Surveyor AE 89L-38	Memorandum of Agreement Failure to complete surveys	License revocation
1990 Civil Engineer AE 90L-05	Memorandum of Agreement Unlicensed practice of Mechanical and Electrical Engineering	Letter of reprimand and \$1000 fine
Land Surveyor AE 90L-10	Accusation Failure to complete survey	Pending further litigation
Land Surveyor 0104-89-2	Memorandum of Agreement Failure to complete survey	Six (6) month suspension - followed by one (1) year probation
Land Surveyor AE 90L-12	Accusation Failure to complete survey	License revocation on 12-1-89, pending Reconsideration by Kaiser
Land Surveyor 0104-89-9	Accusation Failure to pay \$500 fine in Case No. AE 89L-31	\$500 fine, compliance, case dismissed

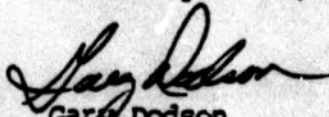
Additionally, the figures below represent the architects, engineers and land surveyors licensed in the State of Alaska from 1981 through 1989. Approximately 75% of each year's figures are engineers, 20% land surveyors and 5% architects:

<u>Year</u>	<u>Licensees</u>
1981	262
1982	364
1983	610
1984	489
1985	376

<u>Year</u>	<u>Licensees</u>
1986	252
1987	203
1988	182
1989	203

I hope this information will be helpful to you and the Task Force in better understanding the disciplinary actions taken by the AELS Board over the past nine years. If I can be of any further assistance to you, please do not hesitate to contact me.

Sincerely Yours,


Gary Dodson
Chief Investigator

0297d/tb

FY 89 STATISTICAL INFORMATION
(Please Type)

Date: August 1, 1989

Method: Check the appropriate method in which licenses are issued (not including Examination), and cite the specific statutory authority.

<u> </u> Credentials	AS 08. <u> </u>
<u> </u> Reciprocity	AS 08. <u> </u>
<u> X </u> Comity	AS 08. <u>48.191</u>
<u> X </u> Endorsement	AS 08. <u>48.191</u>

New Licenses: List each category and the number of licenses issued within each category for the first time in FY 89.

CATEGORY:

NUMBER OF LICENSES:

(1) <u>Architects</u>	<u>30</u>
(2) <u>Engineers</u>	<u>157</u>
(3) <u>Land Surveyors</u>	<u>25</u>
(4) <u>Corporate Authorizations</u>	<u>18</u>
(5) <u> </u>	<u> </u>
Total:	<u>230</u>

Number of **CURRENT** licensees: 4,789
 Number of **LAPSED** licensees: 839
 Number of **INACTIVE** licensees: n/a

Expiration Date: If the expiration date is different for each category, indicate the category after each date.

Expire: December 31, 1989

Examination: List each examination separately indicating the licensure category (such as RN, LPN, Dentist, Dental Hygienist), the total number of examinees, number passed and failed.

Exam Statute Authority: AS 08.48.181, AS 08.48.191

(1) Category:	Total Candidates	# Passed	# Failed
<u>Architects</u>	<u>31</u>	<u>Results</u>	<u>not available</u>
Date and City: <u>June 12-15, 1989 Anchorage, Fairbanks, Juneau</u>			
(2) Category:	Total Candidates	# Passed	# Failed
<u>Professional Engineers</u>	<u>138</u>	<u>96</u>	<u>42</u>
Date and City: <u>10/30/88 & 4/16/89 Anchorage, Fairbanks, Juneau</u>			
(3) Category:	Total Candidates	# Passed	# Failed
<u>Land Surveyor PLS am</u>	<u>30</u>	<u>17</u>	<u>13</u>
<u>Land Surveyor PLS ILa</u>	<u>25</u>	<u>20</u>	<u>5</u>
Date and City: <u>10/30/88 & 4/16/89 Anchorage, Fairbanks, Juneau</u>			
(4) Category:	Total Candidates	# Passed	# Failed
<u>Land Surveyor AKLS</u>	<u>42</u>	<u>26</u>	<u>16</u>
Date and City: <u>10/30/88 & 4/16/89 Anchorage, Fairbanks, Juneau</u>			

Total Licensed by Exam: 120

Meetings: List Date(s) and Location(s)

- | | |
|--------------------------|-----------|
| 1. September 15-16, 1988 | Fairbanks |
| 2. December 1-2, 1988 | Anchorage |
| 3. March 2-3, 1989 | Juneau |
| 4. May 17-18, 1989 | Fairbanks |

Teleconferences: List Date(s) and Site(s)

- | | |
|---------------------|--------|
| 1. November 1, 1988 | Juneau |
| 2. | |
| 3. | |
| 4. | |

Regulation Projects: List Topic(s)

12 AAC 36.010-107, Effective June 3, 1989

Eligibility for Fundamentals of Engineering Exam

Eligibility for Professional Engineering Exam

Eligibility for Professional Land Surveyor Exam

Content of Examinations

Comity Registration Requirements for Architects, Engineers and Land
Surveyor:

Investigations: (Attach Case Summary)

MEMORANDUM

State of Alaska

TO: David Rogers, Attorney
Legislative Tort Reform
Task Force

DATE: January 22, 1990

FILE NO:

TELEPHONE NO: 465-2540

FROM: Linda Gohl, Licensing *LG*
Examiner
Board of Registration for Architects,
Engineers and Land Surveyors
DCED, Division of Occupational Licensing

SUBJECT: Continuing Education
and AEELS laws, AS 08.48

Hello. Just wanted to let you know that Legislative Audit is mailing a copy of the 12/87 Sunset review/audit for the Board of ARchitects, Engineers and Land Surveyors. Legislative Audit recommended that the legislature change the AEELS laws to require continuing education requirements for licensing renewals for the three professions. The last page of the audit has a letter from Tony Smith, then Commissioner of the Department of Commerce and Economic Development, who was in favor of CE for the AEELS professions. Presently, there is not a requirement for CE for architects, engineers or land surveyors.

ANNUAL REPORT
FOR
THE BOARD OF REGISTRATION
FOR
ARCHITECTS, ENGINEERS, LAND SURVEYORS
AND CORPORATE AUTHORIZATIONS

August 1988

BOARD OF REGISTRATION FOR ARCHITECTS
ENGINEERS AND LAND SURVEYORS

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THE BOARD OF REGISTRATION FOR ARCHITECTS,
ENGINEERS AND LAND SURVEYORS

BOARD MEMBERS

Sandra Sampson-Jones (Secretary) Anchorage	Architect	July 1, 1989
Alan E. Rogers Juneau	Architect	July 1, 1992
Malcolm A. Menzies (President) Juneau	Civil Engineer/ Land Surveyor	July 1, 1990
Roy Peratrovich, Jr. Anchorage	Civil Engineer	July 1, 1989
Rajeev Bhargava Anchorage	Other Engineer (Mechanical)	July 1, 1992
Robert B. Boswell (Vice President) Fairbanks	Other Engineer (Electrical)	July 1, 1991
Phil R. Holdsworth Juneau	Mining Engineer	July 1, 1991
Patrick H. Kalen Fairbanks	Land Surveyor	July 1, 1992
Jacquelyn Luke, (Attorney, Public Member) Anchorage		July 1, 1990

The board registers architects; civil, mechanical, electrical, petroleum, and chemical, and mining engineers; and land surveyors.

NARRATIVE STATEMENT

Discipline and Enforcement

A major accomplishment by the board this past year includes the adoption of disciplinary guidelines and the formation of the Enforcement Advisory Committee (EAC). At present, enforcement continues to be a serious problem for the board. The board has found that the present discipline system, from complaint and investigation through accusation, hearing and the imposition of appropriate discipline, if any, is a very formal, lengthy and an expensive process for all concerned. An extremely small number of complaints are brought to prosecution by the Attorney General. Alaska architects, engineers and land surveyors, as well as the public, have complained that the board appears to be "powerless" with regard to enforcement. The present complaint procedure is cumbersome and frequently benefits neither the complainant nor the respondent, and the public interest is not well-served.

The board has, therefore, adopted procedures which it believes will both considerably simplify and speed up the hearing process on complaints filed, thereby increasing the credibility of the complaint process. These procedures involve and require the participation of a respondent, a complainant and a newly created, community-based "Enforcement Advisory Committee" in a system of voluntary discipline. Committees are comprised of architects, engineers, land surveyors and public members who are presently located in Anchorage, Fairbanks and Juneau. There are fifty-three (53) professional members and twelve (12) public members in the EAC pool. We have yet to determine whether the peer review procedure will improve the complaint and enforcement process, but the board, the Division of Occupational Licensing and the Attorney General's office have a high expectation of that occurring. Similar "peer review committees" have been established and proven successful in other Western states.

NCEE and NCARB

The availability of travel funds this fiscal year allowed members to actively and effectively participate in national registration board organizations. The National Council of Engineering Examiners (NCEE) and the National Council of Architectural Registration Boards (NCARB) are organizations comprised of board members from all states and territories in the country. These organizations prepare, grade and upgrade national exams; provide technical and administrative assistance to the boards; establish standardized guidelines for registration qualifications for reciprocity among states; and provide a council record for licensees which expedites the application and qualifying process for state boards. The Alaska board needs to maintain an active role in these organizations.

In the spring of 1987, the present board president, Malcolm A. Menzies, attended the NCEE Western Zone Conference held in Hawaii. At that meeting, Alaska was selected to be the host state for the spring 1989 NCEE Western Zone Conference to be held in Fairbanks. The Fairbanks board members and the board's licensing examiner are actively planning and preparing for that conference and anticipate having 80 delegates to attend.

Robert B. Boswell, Board Vice President, attended NCEE's annual meeting in Baltimore, Maryland during the summer of 1987 to participate on the International Relations Committee. Robert A. Perkins, Robert B. Boswell and the Licensing Examiner, Linda Gohl, attended the NCEE Western Zone Conference in April 1988 held in Coeur d'Alene, Idaho. At that meeting, Mr. Boswell was appointed to also serve on the Nominations Committee; Mr. Perkins presented the Land Surveying Committee Report on behalf of Mr. Menzies, and the Licensing Examiner was able to attend the Executive Secretaries' Committee Meeting where investigation and administrative problems were discussed.

Other board participation on national committees include Mr. Menzies serving on the National Land Survey Committee where the model law for land surveyors was rewritten; Gordan (Sam) Best served on the Land Survey Examination Committee where NCEE established exam standards and wrote exam questions for the Professional Land Surveyor exam; Raj Bhargava serves on the Fundamentals of Engineering Exam Committee where delegates write exam questions and establish qualification guidelines.

The Western Council of Architectural Registration Boards' 1988 annual meeting was attended by Wayne K. Jensen, past Chairman of the Board, and Sandra L. Sampson-Jones, present Secretary of the Board, in Las Vegas, Nevada. Mr. Jensen also serves on the Executive Committee and the A.R.E. Grading Committee for the Graphics and Design Divisions of the Architectural Registration Examination. The Annual NCARB meeting held in Chicago the last week of June 1988, was attended by Mr. Jensen and Mr. Bhargava.

The "new" involvement by board members in NCEE's activities and the continuing involvement by board members at NCARB and WCARB conferences allows Alaska to be represented and actively participate in the national organizations' preparation and upgrading of examinations, to obtain technical and administrative assistance, and shares in the knowledge gained by all states in the registration process. In addition to state sponsored attendance, several of these same board members attend NCEE and NCARB committee meetings at the council's expense, and obtain valuable information and expertise pertaining to national or western states' issues.

Funding

There is an approximate 13% decrease in license renewals for FY 88 from FY 87, which is probably due to Alaska's weakened economy which has resulted in a decline in the construction and professional services industries of the state. However, the board is able to generate sufficient revenue to offset the expenses attributed to the board's operations. We expect that this balance will continue as the board does review the budget periodically with the Division of Occupational Licensing at scheduled board meetings.

STATISTICAL OVERVIEW

I. Licenses

A. Total Licenses Renewed - FY 88

<u>Type</u>	<u>Total</u>	<u>Alaska Only</u>
Architects	543 (100%)	220 (41%)
Engineers	2,945 (100%)	1,242 (42%)
Land Surveyors	720 (100%)	521 (72%)
Corporate	227 (100%)	137 (60%)
TOTAL	4,435	2,120

B. New Licenses Issued - FY 88

<u>Type</u>	<u>Total</u>	<u>By Exam</u>	<u>By Comity</u>
Architects	30 (100%)	14 (47%)	16 (53%)
Engineers	130 (100%)	84 (65%)	46 (35%)
Land Surveyors	33 (100%)	32 (97%)	1 (3%)
Corporate	20 (100%)	N/A	N/A
Total	213	130 (61%)	63 (30%)

Note: Registration by comity or endorsement by authority of AS 08.48.191. Registration by examination by authority of AS 08.48.181.

Expiration date of all current licenses: December 31, 1989.

II. Examinations Administered

A. Engineer-In-Training, Professional Engineering, Land Surveyor-In-Training, Professional Land Surveyor and Alaska Land Surveyor Exams are given twice a year in Anchorage, Fairbanks and Juneau.

<u>Date</u>	<u>Category</u>	<u>Candidates</u>	<u>Passed</u>	<u>Failed</u>
October 29, 1987	EIT	51 (100%)	27 (53%)	24 (47%)
	LSIT	12 (100%)	7 (58%)	5 (42%)

October 30, 1987	PE	60 (100%)	34 (50%)	34 (50%)
	PLS	13 (100%)	11 (85%)	2 (15%)
	PLS IIa	19 (100%)	16 (84%)	3 (16%)
	AKLS	19 (100%)	9 (47%)	10 (53%)
April 16, 1988	EIT	92 (100%)	72 (78%)	20 (22%)
	LSIT	12 (100%)	9 (75%)	3 (25%)
April 17, 1988	PE	75 (100%)	37 (49%)	38 (51%)
	PLS	18 (100%)	10 (56%)	8 (44%)
	PLS IIa	22 (100%)	20 (91%)	2 (9%)
	AKLS	33 (100%)	22 (66%)	11 (33%)

- B. The Architectural Registration Exam (A.R.E.) consists of nine divisions and is given once a year in Anchorage, Fairbanks and Juneau.

<u>Date</u>	<u>Division</u>	<u>Candidates</u>	<u>Passed</u>		<u>Failed</u>	
			#	%	#	%
June 13, 14, 15, and 16, 1988	A	19	12	63	7	37
	B-W	21	21	100	0	0
	B-G	21	10	48	11	52
	C	36	15	42	21	58
	D/F	19	8	42	11	58
	E	16	9	56	7	44
	G	13	11	85	2	15
	H	15	14	93	1	7
	I	15	11	73	4	27

A total of 47 candidates took one or more division(s) of the June 1988 A.R.E.

III. Board Meetings and Teleconferences held in FY 88.

<u>Date</u>	<u>Place</u>
September 9-11, 1987	- Fairbanks, Alaska
December 3-4, 1987	- Anchorage, Alaska
February 25-26, 1988	- Juneau, Alaska
April 21-22, 1988	- Anchorage, Alaska
May 19, 1988	- Teleconference

1988 SUNSET AUDIT RECOMMENDATION
AND LEGISLATIVE ACTION

Sunset Review

SB 365 and HB 425 were introduced during the second session of the Fifteenth Legislature to extend the termination date of the board and provide for an effective date. Wayne Jensen and Malcolm Menzies appeared before the House Labor and Commerce Committee, and Wayne Jensen testified on behalf of the board at the Senate Finance Committee. Representative Koponen sponsored and introduced a House Labor and Commerce Committee Substitute to HB 425 (CS HB 425) which includes the board's proposed changes to Sec. 08.48.111, POWER TO REVOKE, SUSPEND, OR REISSUE CERTIFICATE, which included minor housekeeping changes to existing law; repeal and reenact Sec. 08.48.331, EXEMPTIONS, to include housekeeping changes which clarify unclear or ambiguous language and to strengthen the original intent of the law, to protect the safety, health, property, and welfare of the public; amend Sec. 4. 08.48.341, DEFINITIONS, updating language consistent with current definitions as defined and recommended by professional societies.

A committee substitute to SB 365 was introduced late in the session changing the extended termination date of the board from four to three years. CS SB 365 was enacted 6/08/88, Chapter 124, SLA. The Senate adopted a Senate Finance Committee letter of intent for this bill and refers to the recommendation made by the Division of Legislative Audit in its July 1, 1983-June 30, 1987 Performance Report on the Board. The report recommends that legislation be introduced requiring continuing education or continued competency requirement for license renewals. The letter of intent also asks the board to consider the benefits of a ten-year residency requirement for board membership and a five-year license renewal cycle. The board is required to report its recommendations on these issues to the Legislature by January 15, 1989.

The board has been researching the continuing education issue by contacting other state boards for legislative guidelines. At present, Iowa has a continuing education requirement for renewal of architects, engineers and land surveyors licenses, and Montana has a continuing competency requirement for engineers and land surveyors. An estimated 13 other states have some type of continuing education requirement for land surveyor license renewals. The land surveyors on the board are supportive of some type of continued competency or education requirement for their discipline only and have the support of state professional land surveyor societies.

The board's architects and engineers believe that a continuing education requirement for license renewal in their professions will cause an undue burden and hardship upon the licensees. Due to the remoteness of Alaska and limited continuing education courses, compliance will be difficult for all of the disciplines. The architects and engineers maintain that they must meet daily demands of staying abreast of current changes in their professions, lest they would not be able to compete or survive in the marketplace.

REVIEW OF PRIOR YEAR'S GOALS AND OBJECTIVES

1. Continue to monitor the board's statutes and regulations and investigate changes where necessary. Specific areas of concern are the "exemptions" statutes, AS 08.48.331, and the definitions of architect and civil engineer, AS 08.48.341(7)(8).

This has been and will continue to be one of the goals of the board. With the failure of House Bill 425 during 1988, this becomes a priority issue.

2. Continue to express the importance of budget funding to allow the board to fulfill its statutory requirements.

During the last fiscal year, the board was able to work within its budget and many of its members become appointed to and attended national functions.

3. Continue to improve the board's complaint investigation procedure to the point where it will provide speedy and satisfactory results. Activate the "peer" review" (Enforcement Advisory Committee) process to handle complaints more economically and efficiently.

Enforcement advisory committees have been named. Their effectiveness will be tested during FY 88-89.

4. Maintain good communications between administrative staff of the Department of Commerce and Economic Development and improve communications with the Department of Law.

Great strides have been made on this matter.

5. Evaluate the corporate registration system to determine if the intent of the original legislation is being served.

This item was not completed.

6. Evaluate the application process procedures to try to decrease the time and paperwork currently required.

This has been accomplished, both through new application forms and review process recommended by the licensing examiner.

7. Reevaluate the recently adopted disciplinary guidelines in reference to conformance to NCEE and NCARB guidelines.

This has not been completed.

8. Investigate requiring engineer comity applicants to submit NCEE "council records" instead of current required information.

This has been investigated and found not to completely satisfy Alaska at this point in time.

9. Reevaluate the acceptable methods of satisfying the "Subarctic Construction" requirement for Alaska registration.

The discontinued allowance of treatise papers as an alternate to Arctic 603 course instruction. We continued to monitor this new procedure.

10. Obtain a "pool" of questions to be used in the Alaska portion of the land surveyors examination.

This is ongoing.

11. Recommend that an executive secretary be assigned to the board and investigate increasing fees to provide for this position.

The board has looked into this item somewhat. Also, the design professional has looked into this. A more positive approach would be made during FY 89-90.

12. Increase board member involvement in NCARB and NCEE activities.

This has been accomplished.

NEW GOALS AND OBJECTIVES

The new goals and objectives of the board for FY 89/90 are;

1. The exemption and definition statutes.

Continue to work toward getting House Bill 425 passed or one similar that will address the housekeeping measures that the board desires. Members have suggested that the board draft regulations to tighten the State employees exemption status (AS 08.48.261.) A subcommittee of the board has chosen to undertake this task.

2. Funding.

The board continues to work on the ongoing basis with the Division of Occupational Licensing for adequate funding to maintain the statutory required number of meetings and active involvement with national organizations.

3. Investigation Process.

Activate the Enforcement Advisory Committee and utilize same in the process of complaint review.

4. Communication.

Although the board has improved its communication level with the Division of Occupational Licensing and the Attorney General's office, the "new communication" is not enough. Strides must be continued to be made to open better channels.

5. Corporate Authorization.

Ongoing review is required to evaluate corporate application processes and the statutes relating to corporate authorization to determine if the intent of the original legislation is being served.

6. NCEE and NCARB Discipline Guidelines.

The board needs to continue working on these guidelines.

7. NCEE Council Records.

This item remains on our list. The board will not adopt as a sole guideline for engineering registration and application process the NCEE Council Record. It just does not seem to fit with the Alaskan application at this time.

8. Subarctic and Arctic Engineering Requirements.

The board needs to work with the University of Alaska to place at a more economic level the video correspondence course for subarctic and arctic engineering.

9. The Alaska Land Surveyors Pool of Exam Questions.

This is an ongoing process. Currently, the Division of Occupational Licensing is soliciting proposals from the universities and individuals to aid in preparing the one-hour Alaska examination. It is hoped that a pool of questions will be gathered so we can simply computer generate questions when tests are due.

10. Executive Secretary.

Continuing to investigate costs and evaluate possibilities of the board having their own executive secretary. We are to do this by comparison to our board and other state's boards and their positions of executive secretary.

11. NCARB and NCEE.

Continue to serve nationally on various committee assignments so as to pursue adequate funding through the State of Alaska to attend western zone conferences, annual meetings and special committee tasks.

12. Investigations.

Research the qualifying criteria and job description of investigators. Research and discuss possibilities of the AELS investigators by contacting a board member when a complaint is filed. The board members could act on behalf of the profession to assist the AELS investigator: Aid the investigator in the duties and functions of the professional architect, engineer and land surveyor, and request of the investigator to aid the board in understanding of investigation processes.

13. Legal Counsel.

Research evidence for the board to pursue legal representation when the Department of Law elects not to proceed with legal action on items the board feels very strongly about.

14. New Disciplines.

Investigate adding other disciplines for purposes of registration in the AELS professions. Compile a list of disciplines and contact other states for licensing requirements and processes. These disciplines could include, but are not limited to, structural engineer, sanitary engineer, environmental engineer, landscape architect, survey engineer, etc.

15. Disciplinary Actions.

It is the board's recommendation that results of investigations be published in the local design journals and/or the board's own newsletter. These investigations should include cease and desist orders, the types and kinds of complaints, and the action taken by the board.

16. Continuing Competency.

Examine, per the Legislature's request, issues of possible requirements for registration renewal to comply with legislative intent.

17. Abandon Application Regulations.

The board will review the regulations with regard to abandoned applications.

BUDGET RECOMMENDATIONS

Budget requests should be prepared by the division to cover the following specific expenses, in addition to regular administrative expenses required by the division for the Board of Architects, Engineers and Land Surveyors:

A. Travel and Per Diem.

1. There shall be four board meetings: one to be held in Southeastern Alaska (hopefully, during the legislative session); two to be held in Southcentral Alaska; and one to be held in Interior Alaska.
2. Attendance at regional and national meetings of NCEE and NCARB. The meeting locations vary within the region and the nation for the purpose of budgeting assuming that the following travel will be a minimum;
 - a. Two board members and the licensing examiner will attend two regional meetings: one in Los Angeles and one in Albuquerque, New Mexico, for a total of four days each.
 - b. Two board members and the licensing examiner will attend two national meetings in Washington, D.C., for a total of six days each.

B. Executive Secretary.

We recommend that a new position be created.

LEGISLATIVE RECOMMENDATIONS

New legislation is proposed to review the definition of "architect" and "civil engineer." In conjunction with this, the definition will revise the exemptions for each of these disciplines. Legislation is also recommended to add an executive secretary for the AELS Board.

Past legislation gave the AELS Board three more years. We are to work with the Legislature and, in particular, the Senate to continue the board for an additional year. Senator Zharoff from Kodiak has "promised" to sponsor the bill.

During the last Legislature, it was proposed to transfer the AELS Board from the Department of Commerce and Economic Development to the Department of Labor. If this legislation reappears, the board and its membership should strongly oppose it.

REGULATION RECOMMENDATIONS

Regulation changes are recommended to tighten the state employees' exemption status to AS 08.48.261., with regard to professionally licensed state employees.

CLOSURE

It should be pointed out that the Board of Registration for Architects, Engineers and Land Surveyors is losing three key members. By statute, Board Members Wayne Jensen (past president), G. Sam Best (past vice president), and E. Odin Strandberg cannot continue to serve.

Mr. Strandberg has continued to serve his peers even though his appointment officially terminated July 1, 1987. For this continuation, Mr. Strandberg is highly commended.

G. Sam Best has been the first land surveyor appointed to the board. His actions on the board on behalf of the land surveying profession, his national committee work with NCEE, and his unselfish volunteering for exam preparation, reviews, proctoring, etc., are highly commendable.

Finally, Wayne Jensen, the board president for the past six years, is also leaving our presence. Wayne has served on the board for over ten years and he will surely be missed. His expertise on regulations, action, and board history is irreplaceable.

ENFORCEMENT ADVISORY COMMITTEE

*** * * PROCEDURES MANUAL * * ***

**A SYSTEM OF VOLUNTARY DISCIPLINE
FOR ALASKA-LICENSED
ARCHITECTS, ENGINEERS & LAND SURVEYORS**

**Adopted by the State Board of Registration for
Architects, Engineers and Land Surveyors**

**Wayne K. Jensen (Architect), President
Gordon S. Best (Land Surveyor)
Rajeev Bhargava (Mechanical Engineer)
Robert B. Boswell (Electrical Engineer)
Jacquelyn Luke (Public Member)
Malcolm A. Menzies (Civil Engineer & Land Surveyor)
Robert A. Perkins (Civil Engineer)
Sandra L. Sampson-Jones (Architect)
E. Odin Strandberg (Mining Engineer)**

**Published February, 1988
in Juneau, Alaska
By the Division of Occupational Licensing,
Department of Commerce and Economic Development**

**J. Anthony Smith, Commissioner
Randall P. Burns, Director**

**P. O. Box D-LIC
Juneau, Alaska 99811**

907-465-2540

THE ENFORCEMENT ADVISORY COMMITTEE PROCEDURES

AN INTRODUCTION

Background

In the State of Alaska there are approximately 3,800 registered architects, engineers and land surveyors (AELS). These professionals are regulated by the state through the Board of Registration for Architects, Engineers, and Land Surveyors (hereinafter "Board") in conjunction with the Division of Occupational Licensing (hereinafter "Division") in the Department of Commerce and Economic Development. It is the responsibility of the Board to set minimum qualifications for persons applying to be registered in the profession and to discipline practitioners in order to safeguard the life, property, and welfare of the public.

Each year the Investigations Section of the Division receives approximately fifty complaints from consumers or members of the AELS profession itself concerning the work or conduct of Alaska's licensed AELS professionals. Each complaint is investigated to determine whether the allegations can be substantiated. The status of these investigations is reported to the Board at each of its meetings.

If an investigation provides the Division with sufficient evidence to substantiate the allegations contained in the complaint, the case is referred to the Attorney General's Office for its review. If the Attorney General's Office concurs with the findings of the Division, an accusation is filed against the AELS licensee, listing the allegations of illegal or unethical conduct.

If the licensee contests the charges, a hearing is scheduled at which the Division (represented by the Attorney General's Office) and the licensee (with or without counsel) appear before a hearing officer and present their cases. A decision in the matter is then written by the hearing officer and the officer's findings, conclusions, and recommendations are presented to the Board for its final determination.

The procedures governing the filing of an accusation and any subsequent administrative hearing or other related legal proceeding are found in AS 44.62, the Alaska Administrative Procedure Act (APA).

Findings of the Board

The Board finds that the present discipline system, from complaint and investigation through accusation, hearing, and the imposition of appropriate discipline, if any, is a very formal, lengthy, and expensive process for all concerned.

Currently, the person who files a complaint (hereinafter "Complainant") is not likely to see final action on the complaint for at least six months to a year, often even longer. Equally, the complaint and allegations against the AELS professional (hereinafter "Respondent") must be investigated, often resulting in protracted, expensive litigation. The Board finds that the present administrative procedures frequently benefit neither the Complainant nor the Respondent and that the public interest is not well-served by such a cumbersome and time-consuming disciplinary process.

Purpose of the Enforcement Advisory Committee System

The Board has therefore adopted the procedures detailed in this manual, which it believes will both considerably simplify and speed-up the hearing process on complaints filed, thereby increasing the credibility of the complaint process. These procedures involve and require the participation of a Respondent, a Complainant, and a newly created, community-based "Enforcement Advisory Committee" in a system of voluntary discipline.

The purpose of a voluntary discipline program is to provide for an expeditious handling of complaints involving less serious offenses by AELS professionals. If both the Complainant and the Respondent in a particular case agree to submit to these procedures, the Board believes that justice will no longer be delayed or denied.

GENERAL PRINCIPLES AND JURISDICTION

The license to practice architecture, engineering, or land surveying in Alaska is a continuing proclamation by the State of Alaska that the holder is fit to be entrusted with matters involving the practice of architecture, engineering, or land surveying. A certificate of registration sealed by the Board entitles the holder to all rights and privileges of a professional architect, professional engineer, or professional land surveyor, so long as the certificate remains unrevoked, unexpired, or unsuspended.

As a condition of the privilege to practice, it is the duty of every person duly registered under AS 08.48 to act at all times in conformity with the law and with the standards imposed by the Architects, Engineers, and Land Surveyors Registration Act in AS 08.48; the Code of Professional Conduct in 12 AAC 36.200 through 12 AAC 36.245; and the Disciplinary Guidelines in 12 AAC 36.300 through 12 AAC 36.330.

VOLUNTARY DISCIPLINE PROCEDURES

A. Complaint/Investigation/Referral to EAC

Complaints against architects, engineers, and land surveyors are made to the Investigations Section of the Division. If an investigation by the Division substantiates the allegations contained in the complaint, the Division will evaluate whether the matter should be referred to the Attorney General's Office or the Enforcement Advisory Committee (EAC). In making this determination, the division will evaluate the seriousness of the allegations contained in the complaint. Generally, the Division will not recommend a matter to the EAC if the conduct of a Respondent appears serious enough to justify revocation or a lengthy suspension of the Respondent's registration.

If, after review, the Division Director (hereinafter "Director") determines that the matter could appropriately and efficiently be handled by the Enforcement Advisory Committee, then the Director shall, with the concurrence of the Complainant, recommend to the Board that the case be referred to a local Enforcement Advisory Committee for its review and recommendation to the Board. (If a Complainant insists that the matter be referred to the Attorney General's Office, it will not be submitted to an EAC.)

On an annual basis, a member of the Board (hereinafter "designated Board member") shall be assigned by the full Board the responsibility of evaluating the cases recommended by the Director for referral to a local EAC. If the designated Board member agrees with the Director's recommendation that the case should be referred to the profession's voluntary discipline system, the Respondent will be notified of the complaint by the designated Board member and of the Board's desire to refer the matter to a local Enforcement Advisory Committee. Upon receipt of this notice, the architect, engineer, or land surveyor against whom the complaint has been filed must then decide whether he or she shall agree to participate in the Board's voluntary discipline procedures.

B. Consent to Participation

If, after due consideration, the Respondent consents to participate in the Board's voluntary discipline program, the Respondent shall so notify the designated Board member of his or her decision to participate. The Respondent must also complete a formal agreement provided by the designated Board member, consenting to the voluntary procedures, and stating his/her willingness to abide by the final decision of the Board in this matter.

C. Participation Declined

If the Respondent declines to participate in the voluntary discipline, the designated Board member shall return the case to the Division, where it will be referred to the Attorney General's Office for its review and appropriate action (including the possibility of a formal hearing under the Administrative Procedure Act).

D. Local Enforcement Advisory Committees

Upon receipt of a signed consent agreement, the designated Board member shall assign the case to the appropriate local Enforcement Advisory Committee. Committees are presently located in three communities: Fairbanks, Anchorage, and Juneau.

Appointed by the Board President (but with the concurrence of the full Board), each local EAC is made up of licensed architects, engineers, and land surveyors from the community, as well as members of the public who reside in the area. At least three engineers, architects, land surveyors, and public members serve on the Fairbanks and Juneau committees; at least four licensees from each profession and four public members serve on the committee in the Anchorage area. The term of appointment is three years.

E. EAC Hearing Panels

The members of these local EAC's serve as a "pool" from which the designated Board member will appoint a three-person panel to hear the referred complaint.

Two of the three EAC panelists appointed to hear a matter may come from the same professional discipline as the Respondent. The third member will be a public member. The designated Board member will name one of the three appointed panelists to serve as chair of the panel. The panel chair will contact the Respondent and the Complainant (or the Division) to set a mutually agreeable time and place for the hearing, but not later than thirty days from the date on which the Respondent signed the agreement to participate. The Complainant or Respondent may challenge for cause any panelist appointed to hear his or her matter; the designated Board member will rule on such challenges. If a panelist is removed for cause, the designated Board member will appoint another local EAC member to serve on the panel.

F. The Hearing

The hearing need not be conducted according to technical rules relating to evidence and witnesses. Any relevant evidence will be admitted if it is the sort of evidence on which reasonable persons are accustomed to rely in the conduct of serious affairs. Irrelevant and unduly repetitious evidence will be excluded. The panel chair will preside at the hearing, and will rule on all matters related to procedure or evidence.

The Respondent may be represented by counsel. The Complainant may appear on his or her own behalf, or may request to be represented by the Division.

During the hearing, the Complainant (or the Division on behalf of the Complainant) and the Respondent, are entitled to:

- (1) present and examine witnesses;
- (2) cross-examine opposing witnesses;
- (3) present documentary evidence; and
- (4) rebut the evidence presented.

If the panel itself finds it needs additional expertise in order to render a proper judgment in a particular case, the panel, through its chair, may seek the testimony or review of such other professionals as it considers necessary.

G. Record of Proceedings

A complete electronic record of the hearing and any additional proceedings held before the hearing panel will be made and preserved for one year following the hearing. Either the Respondent or the Complainant may ask for a copy of the tape recording, which will be duplicated at their expense.

H. The Report of the Hearing Panel

The panel will make its report within 30 days of the close of the hearing. The findings and recommendations contained in the report will be based upon the standards imposed by the Architects, Engineers and Land Surveyors Registration Act (AS 08.48), the administrative regulations adopted under the Act, the Code of Professional Conduct (12 AAC 36.200 through 12 AAC 36.245), and the Disciplinary Guidelines (12 AAC 36.300 through 12 AAC 36.330).

The report of the hearing panel is the responsibility of the panel chair. The report must be in writing and need not be in any particular form; however, the report will include:

- (1) a brief statement of the dispute;
- (2) a statement indicating that the hearing was held with proper notice to all parties and that the parties were given the opportunity to testify, cross-examine witnesses, and present evidence;
- (3) the findings of the panel on all issues and questions which are necessary to resolve the dispute; and

- (4) a recommendation for appropriate discipline, if any, or a recommendation that the matter be returned to the Division for referral to the Attorney General's Office for its review and action.

The report must be signed by the members of the hearing panel. The panel chair will forward the report to the Director, together with the file, tapes, and any documents presented in evidence, who will then serve a copy of the signed report on the Complainant, the Respondent, and the Board. A separate dissent may be filed by a panel member and should be included with the majority report when it is forwarded to the Director.

I. Appropriate Discipline

A hearing panel may recommend to the Board any of the following disciplinary actions, singly or in combination:

- (1) dismissal of the complaint;
- (2) submission to peer review, in accordance with AS 08.01.075(a)(5);
- (3) the imposition of remedial professional education requirements, in accordance with AS 08.01.075(a)(6);
- (4) the imposition of a fine, in accordance with AS 08.01.075(a)(8);
- (5) the imposition of limitations or conditions on a licensee's practice, in accordance with AS 08.01.075(a)(4);
- (6) censure or a reprimand, in accordance with AS 08.01.075(a)(3);
- (7) the imposition of probation, in accordance with AS 08.01.075(a)(7) and (b); or
- (8) the suspension of a license, in accordance with AS 08.01.75(a)(2).

J. Confidentiality

Except for the Board's final decision in this matter, which shall be made public, the investigatory file and all records, tapes, documents, and files, as well as the proceedings, hearings, and deliberations pertaining to a voluntary discipline matter heard by an Enforcement Advisory Panel will be confidential and closed to the public.

K. Board Action

After receipt of the hearing panel's report, the Board shall consider imposition of the appropriate discipline in the case at its next regularly scheduled meeting. The designated board member is disqualified from the deliberations and vote on any case before the Board in which he or she concurred in a referral to voluntary discipline and appointed the hearing panel which heard the case. The panel's confidential report will be discussed by the Board in executive session, unless the Respondent requests that the deliberations be open to the public.

The Board may either accept or modify the panel's recommendation. The Board, in open session, must formally adopt its decision in the case. The Board's reported decision, in accordance with the consent agreement signed by the Respondent, is final and binding upon the Respondent. The decision must be in writing and include:

- (1) a brief statement of the dispute;
- (2) the findings of the Board; and
- (3) the decision of the Board as to the appropriate discipline, if any.

The Board's decision is a public document and will be kept in the Respondent's permanent file. The Respondent may petition the Board after one year to remove the report from his or her permanent file.

QUESTIONS AND INFORMATION

Persons seeking information regarding these voluntary discipline procedures or who have questions about any matter discussed above should address their requests to:

Division of Occupational Licensing
Department of Commerce and Economic Development
P.O. Box D-LIC
Juneau, AK 99811
Attention: AELS Board Licensing Examiner
(907) 465-2540

Please note: these procedures were adopted December 4, 1987.
Revision dates, as applicable, are listed below:

(None to-date)

State of Alaska
Department of Commerce and Economic Development
Division of Occupational Licensing
Board of Registration for Architects, Engineers and Land Surveyors
P.O. Box D-LIC, Juneau, Alaska 99811
(907) 465-2540

APPLICANT INSTRUCTIONS FOR ARCHITECTS, ENGINEERS AND LAND SURVEYORS

GENERAL INFORMATION

PLEASE READ the application, statutes, regulations and these instructions will be processed according to the date received by the licensing examination verification forms and other supporting documents received to date, prior to a year, usually in February, April, September and December. Written notification approximately two weeks after the board meeting. All documents received to one year and matched with an application upon receipt.

*Basic info
for new
applicants*

tion. Application of s four times ll be mailed be held up

ALASKA LICENSES BY EXAMINATION AND BY COMITY for the following professions: Civil, Chemical, Electrical, Mechanical, Mining, and Petroleum Engineering. Applicants with licenses in other branches of engineering must apply for the branch cited above which is most closely associated with their specialty.

ALASKA DOES NOT HAVE RECIPROCITY (WRITTEN AGREEMENT) WITH ANY OTHER STATE OR COUNTRY. Comity MAY be granted to professional registrants from other states, territories and foreign countries at the discretion of the board and in compliance with statutes and regulations. (12 AAC 36.103, .105, .107 by authority of AS 08.48)

COMITY IS NOT GRANTED to applicants who have not been registered by fundamental and professional examination regardless of registration(s) held in another licensing jurisdiction or years of professional work experience. However, the Fundamentals of Engineering Exam may be waived by verified work experience. See 12 AAC 36.090.

EXAM and COMITY APPLICANTS are required to have all education, examinations and the minimum required work experience verified by a third party using Alaska forms, and mailed directly to the Alaska board registration office. NCARB and NCEE Council Records will be accepted for portions of Comity applications, but applicants must still complete Sections 1, 5, 7, 8 and 9 of the Alaska application form. COPIES of college transcripts, another states' application, work experience or any other types of verification forms will NOT be accepted.

SECTION 2. REFERENCES

List five (5) references, three of which should be professionals with some knowledge of your professional abilities and NOT the same persons who will be verifying your work experience. Reference letters do not need to be provided, but references may be contacted by the board for additional information.

SECTION 3. PREVIOUS REGISTRATION AND EXAMINATION

ALL PROFESSIONAL EXAMINATIONS MUST BE VERIFIED BY A REGISTRATION BOARD OR BY NCARB OR NCEE COUNCIL RECORD: Architectural Registration Examination, Fundamentals of Engineering and Land Surveying, and Professional Engineering and Land Surveying Examination. Please forward enclosed registration and examination request form(s) to the state in which your original license was issued or where you took examinations, and to a state board where you hold a current license. Some boards require a fee for this service and most boards require that you enclose a stamped, pre-addressed envelope (use the Alaska board address) along with your verification form(s) and request. If the fundamentals exams were taken in Alaska, you do not need to complete or send the verification form, but do need to list the name and year of exam.

08-0600 (Rev. 6/89)

(DETACH AND RETURN WITH APPLICATION)

State of Alaska
Department of Commerce &
Economic Development
Division of Occupational Licensing
Board of Architects, Engineers & Land Surveyors
P.O. Box D-LIC
Juneau, Alaska 99811

Place
Stamp
Here

EXAMINATION SCHEDULE 1989, 1990 and 1991
Alaska Board of Architects, Engineers and Land Surveyors

ENGINEERING/SURVEYING EXAMINATIONS	APPLICATION DEADLINE	EXAMINATION DATES
Fund. of Engineering (EIT)	August 28, 1989 February 21, 1990 To Be Announced	October 28, 1989 April 21, 1990 October 25, 1990
Fund. of Land Surveying (LSIT)	August 28, 1989 February 21, 1990 To Be Announced	October 28, 1989 April 21, 1990 October 25, 1990
Prin. and Practice of Engineering (PE)	August 27, 1989 February 20, 1990 To Be Announced	October 27, 1989 April 20, 1990 October 26, 1990
Prin. and Prac. of Land Survey. (PLS)	August 27, 1989 February 20, 1990 To Be Announced	October 27, 1989 April 20, 1990 October 26, 1990
Alaska Land Surveying Exam (AKLS)	August 27, 1989 February 20, 1990 To Be Announced	October 27, 1989 April 20, 1990 October 26, 1990
ARCHITECTURAL REGISTRATION EXAM (ARE)	Div. B-Gr and C only April 18, 1990 Div. B-Gr and C only To Be Announced	Dec. 11-12, 1989 June 18-21, 1990 Dec. 10-11, 1990 June 17-20, 1991

POSTPONING EXAM: If you have received notice of approval to sit for an exam, you must submit a written request for postponement and a \$20.00 postponement fee no later than 10 days immediately following the date of examination (See 12 AAC 36.070).

APPLICATION DEADLINE: This means your application must be complete by this date and ready for board review. All necessary Work Verifications, Verification of Registration and Examination, and transcripts must be in your application file by the deadline date. Applications must be received by the Division of Occupational Licensing office by the deadline date (See 12 AAC 36.050(d)). This deadline does not apply to verification of the arctic engineering requirement.

RETAKING A FAILED EXAM: If you have failed a previous examination you usually are not required to complete a new application as long as 18 months have not elapsed, but will be required to pay for the examination fees by the deadline listed on your notification of exam scores (See 12 AAC 36.040 and 12 AAC 36.020).

ENGINEERS AND LAND SURVEYORS: Alaska will be administering the national exams on the same option dates as they are given in all other states. Effective with the fall 1989 exams, professional exams and fundamentals exams will be administered on Friday and Saturday, respectively.

ARTICLE 2 OCCUPATIONAL LICENSING FEES

Section

100. Fees established by department
105. Administrative fees
110. Board of registration for architects,
engineers and land surveyors

12 AAC 02.100. FEES ESTABLISHED BY DEPARTMENT. The fees established in this chapter have been adopted by the department with the concurrence of the applicable board or commission listed in AS 08.01.010. (Eff. 3/6/86, Reg. 97)

Authority: AS 08.01.065

12 AAC 02.105. ADMINISTRATIVE FEES. Except as otherwise provided in this chapter for a particular board or occupation, the following fees apply to all boards and professions listed in AS 08.01.010.

- (1) duplicate license fee, \$5;
- (2) fee for verification or certification to another state of Alaska license, registration, or examination, \$5;
- (3) name change, except for construction contractors, \$5;
- (4) photocopy fee, \$.25 per page;
- (5) returned check fee, \$20;
- (6) penalty for reinstatement of a registration, license, permit or certificate which remains lapsed for more than 60 days, \$20;
- (7) exam postponement fee, \$20; and
- (8) wall certificate fee, \$20. (Eff. 9/27/86, Reg. 99; am 11/20/86, Reg. 100; am 4/3/88, Reg. 105)

Authority: AS 08.01.065
AS 08.01.100

12 AAC 02.110. BOARD OF REGISTRATION FOR ARCHITECTS, ENGINEERS AND LAND SURVEYORS. (a) The following application, registration, and certification fees are established for architects, engineers and land surveyors:

- (1) application fee for all examination and corporate certification applications, \$30;
- (2) application fee for license by comity, \$130;
- (3) registration fee for all or part of the initial

biennial registration period, \$100;

- (4) biennial registration renewal fee, \$100;
- (5) corporation certification fee, for all or part of the biennial certification period, \$400;
- (6) biennial corporation certification renewal fee, \$400;
- (7) amendment to corporate certification, \$50; and
- (8) fee for having examination proctored out of state, \$50.

(b) The following examination fees are established for engineers and land surveyors:

- (1) Fundamentals of Engineering or Engineer in Training (EIT), \$50;
- (2) Principles and Practices of Engineering (PE), \$100;
- (3) Fundamentals of Land Surveying or Land Surveyor in Training (LSIT), \$50; and
- (4) Professional Land Surveyor
 - (A) Principles and Practices of Land Surveying (PPLS) section, \$50; and
 - (B) NCEE Principles and Practices of Land Surveying, Part IIA, \$40; and
 - (C) Alaska Land Surveying Exam (AKLS) section, \$35.

(c) The following fees are established for the Architect Registration Examination (ARE):

- (1) Division A, \$30;
Division B-Gr, \$50;
Division B-Wr, \$15;
Division C, \$80;
Division D/F, \$25;
Division E, \$10;
Division G, \$30;
Division H, \$30;
Division I, \$30; or
- (2) a total of \$300 for the entire examination, all divisions.

(d) The examination fees established in this section are due each time an applicant applies for an examination or examination division. (Eff. 11/20/86, Reg. 100)

Authority: AS 08.01.065
AS 08.48.265



ABOUT THE COUNCIL

The purpose of the National Council of Engineering Examiners is to provide an organization through which State Boards may act and counsel together to better discharge their responsibilities in regulating the practice of engineering and land surveying as it relates to the welfare of the public in safe guarding life, health and property.

Some of the objective of the Council are:

- Improvements in engineering and land surveying registration laws, their administration and effectiveness.

- Uniformity of standards and practices in engineering and land surveying registration.

- General acceptance of inter-board recognition of registration of engineers and land surveyors.

- Definition and maintenance of nationally recognized qualifications for professional engineering and land surveying registration.

- Identification and monitoring of international professional engineering registration procedures and maintenance of liaison with international registration agencies.

FEES PREPARATION OF A COUNCIL RECORD

A discount applies for newly Licensed Professional Engineers. If application is made during:

The first calendar year after licensure \$50

The second calendar year after licensure \$75

Subsequent years, full fee applies ... \$95

TRANSMITTAL OF COUNCIL RECORD

Transmittal of an active Council Record \$35

RENEWAL OF COUNCIL RECORD

Renewal of an active Council Record \$15

Reinstatement and reactivation of a Council Record \$15 per year of inactivity; not to exceed \$75.



NATIONAL COUNCIL OF ENGINEERING EXAMINERS
P.O. Box 1686 • Clemson, South Carolina 29633-1686

ENGINEERS



Your NCEE
Record is
the key
to mobility.



NATIONAL COUNCIL OF ENGINEERING EXAMINERS
P.O. Box 1686 • Clemson, South Carolina 29633-1686

ATTENTION PROFESSIONAL ENGINEERS!

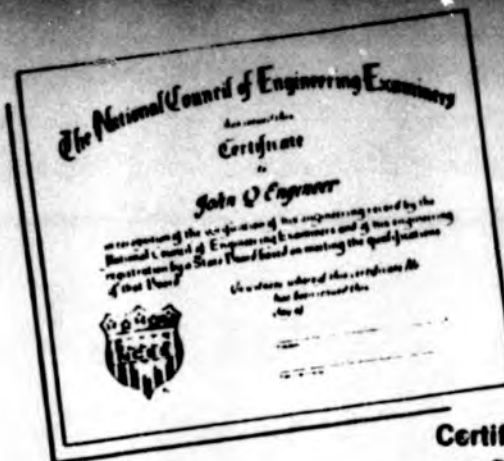
Now that you have your Professional Engineer license, you may be considering registration in a neighboring state. Many engineers find that having an NCEE Council Record will simplify and expedite registration via comity/reciprocity in a majority of states. All jurisdictions will require that the applicant complete at least part of their standard application, and a few may require additional information to supplement the NCEE Council Record. Any Professional Engineer is eligible for the NCEE Records Program.

WHAT BENEFITS WILL THE RECORD PROVIDE?

An NCEE Record will, in most cases, reduce the paperwork required by a registration board. Since the NCEE Record contains verified transcripts, registration, Professional Engineer references and work experience, you will not have to duplicate this information. Most states will accept the Council Record without further duplication of the paperwork.

Also, since the Record contains your concise work experience, this information will be available for future use (i.e. registration)—be it 10 to 20 years from now.

When you need registration in additional states, a copy of your NCEE Council Record



Certificate
of
Verification

can be transmitted to other registration authorities with your written release. Special forms are provided for this purpose. Your Council Record cannot be released without your consent and cannot be released to any other agency or person.

WHAT IS REQUIRED?

When completing your NCEE Record application forms, please provide NCEE with your complete record, including education, engineering and/or non-engineering experience, five Professional Engineer references with knowledge of your engineering reputation and registration information.

WHAT DOES THE RECORD CONTAIN?

When the NCEE Council Record is complete it will contain a concise report of your education, experience, references, examination results and registration which have been verified by NCEE. Yearly you will receive renewal forms for reporting the current information as to the year's activities and a current engineer reference.

BONUS

Each engineer maintaining an NCEE Council Record will receive a free subscription to the *Registration Bulletin*. This newsletter is published five times a year and contains information of interest to Professional Engineers.

NCEE
Records
Application

Mail to:

NCEE Records Program
National Council of
Engineering Examiners
P.O. Box 1686
Clemson, South Carolina 29633-1686

(Tear off page and send with fee)

To obtain application forms, information and instructions, fill out form and mail to address below.

Name _____ First _____ Middle _____ Last _____
Address _____

N C A R B

O R G A N I Z A T I O N
S E R V I C E S P R O C E D U R E S
R E C O R D S C E R T I F I C A T I O N S
A N D E X A M I N A T I O N S

CIRCULAR
OF INFORMATION
No. 1

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1989-90 CIRCULAR OF INFORMATION No. 1

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Circular of Information No. 1

National Council of Architectural Registration Boards

1735 New York Avenue, N.W. Suite 700

Washington, DC 20006

(202) 783-6500

This Circular dated July 1, 1989 and supersedes all previous Circulars of Information No. 1

1989-90 CIRCULAR OF INFORMATION

No. 1

INTRODUCTION

In 1919 fifteen architects representing fourteen states, met and discussed the feasibility of effecting an organization of the examining committees in states which had architect licensing or registration laws. At this conference, a tentative organization was established and a chairman and secretary were elected. These first officers were requested to take steps to bring all of the various examining officials into a national organization. Its purpose would be to consider development and implementation of uniform examination procedures, reciprocal registration, higher educational standards, interchange of information, and other matters of common interest. It was determined that one important function of the organization would be to provide certification for architects, indicating that the holder thereof had met all requirements for certification and, therefore, was recommended to all registration authorities for registration as an architect.

As a result of the activities of this developing committee, a meeting was held in Washington, D.C., in May 1920 and by action of the group present, a council was formally organized. Later, in 1920, the current name of the "National Council of Architectural Registration Boards" (NCARB) was adopted. The first annual meeting was held in 1921.

The NCARB (The Council) has devoted its energies to assisting its member boards in carrying out their duties, developing examinations, establishing standards for certification requirements in education and training, and perfecting its procedures for verifying the qualifications of applicants and determining eligibility for certification.

In recent years, the Council has also been active in developing standards of professional conduct and a structured internship program. The Council is vitally concerned with the content and quality of architectural education, and in this context, appoints members to the National Architectural Accrediting Board as well as members to serve on accreditation teams. Council officers and staff maintain effective liaison with the American Institute of Architects (AIA), the

National Architectural Accrediting Board (NAAB), the Association of Collegiate Schools of Architecture (ACSA), the American Institute of Architecture Students (AIAS) and other segments of the architectural community. The Council maintains relationships with the National Council of Engineering Examiners and Surveyors (NCEES) and the Council of Landscape Architectural Registration Boards (CLARB) through the Interprofessional Council on Registration (ICOR) and with the Council of Licensing Enforcement and Regulation (CLEAR) and the Federation of Associations of Regulatory Boards (FARB).

The Council is a nonprofit corporation, having incorporated under the provisions of the Iowa Nonprofit Corporation Act. All legally constituted architectural registration boards of the fifty states, The District of Columbia, Guam, the Northern Mariana Islands, Puerto Rico and the Virgin Islands are its members. As such, they formulate the policies, rules and regulations of the Council and elect its officers and directors. All of its officers and directors serve without pay.

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SECTION A. ORGANIZATION

1. OBJECTIVE

The mission of the Council is to work together as a council of member boards to safeguard the health, safety, and welfare of the public and to assist member boards in carrying out their duties. Pursuant thereto, the Council develops and recommends standards to be required of an applicant for architectural registration, develops and recommends standards regulating the practice of architecture, provides a process for certifying to member boards the qualifications of an architect for registration, and represents the interests of member boards before public and private agencies.

2. BYLAWS

The organization, function, and procedures of the Council are governed by bylaws. That document is printed each year in the Annual Report of the NCARB.

3. REGIONAL CONFERENCES

Each individual board is required to be a member of a regional conference in order to be a member of the Council. Each of the six regional conferences is responsible for its own method of organization, objectives, meetings, finance, and officers.

The Council bylaws provide for the election of one director from each regional conference.

4. MEETINGS AND REPORTS

Provisions with regard to meetings of the Council are contained in the bylaws. Each member board is entitled to be represented at meetings of the Council by one or more official delegates who must be members of that member board. However, each member board represented at the meeting is entitled to only one vote regardless of the number of representatives present.

Decisions with regard to Council policies are made at meetings of the Council by a majority

vote of member boards, except decisions resulting in bylaw changes require a vote of two-thirds of the member boards.

The Council Board of Directors meets several times each year. One meeting is held immediately before and one immediately after the Council annual meeting.

Prior to the Council annual meeting, a Pre-Annual Meeting Report setting forth all resolutions to be considered at the Annual Meeting and containing reports of the secretary, treasurer, executive director and all committees is mailed to the board administrator and members of each member board. Following the annual meeting, a complete report of the meeting, titled Annual Report is mailed to the board administrator and members of each member board. Several times each year, bulletins or newsletters are distributed to the board administrator and members of each member board and to certificate holders.

5. OFFICERS AND COMMITTEES

The officers and directors of the Council are elected each year at the annual meeting to serve for the following year. Nominations for officer positions are made at the meeting. Election is by majority vote of the member boards present and voting.

Only current members of member boards are eligible for initial election to the Council board as officers or directors. Once elected to the Council Board of Directors, subsequent election is not predicated upon member board membership. Permanent committees are listed in the Council bylaws. Special committees may be appointed by the president with the approval of the Board of Directors. In general, Council committees are composed of members of member boards. Consultants may be appointed to assist in committee work.

6. BUDGET

A budget is adopted annually by the Board of Directors and the Council's audited financial statement is published in the Annual Report. Funds to operate the Council are received from

the following sources:

- a. Member board membership dues;
- b. Examinations;
- c. Fees from certificate and record holders;
- d. Publications;
- e. Investments.

7. ELIGIBILITY

The legally constituted registration authorities of all States, The District of Columbia and Territories of the U.S. are eligible for membership in the Council. Membership is obtained by taking the following action:

- a. Submitting an application for membership;
- b. Filing copies of the jurisdictional statutes, bylaws and board rules and regulations;
- c. Paying the annual membership dues.

8. RESPONSIBILITIES OF MEMBER BOARDS

Each member board furnishes the Council with the following:

- a. On July 1 of each year—the names and addresses of all of its current members and officers;
- b. At the time of election or appointment—the names and addresses of newly elected or appointed members and officers;
- c. By March 15 of each year—confirmation or correction of its requirements for examination and registration;
- d. At the time of adoption—two copies of revisions and additions to the statutes, bylaws and board rules and regulations of the member board;
- e. Timely payment of annual dues;
- f. A report of disciplinary actions taken by the board;
- g. Roster of resident registered architects.

Member board dues are established by the bylaws. Statements for annual dues are sent to the member boards for the ensuing calendar year. A member board is considered to be in good standing if, on the date of the annual meeting, its dues for the current calendar year have been paid.

SECTION B. SERVICES TO ARCHITECTS & INTERNS

1. NATIONAL

The Council verifies and maintains a record of an applicant's education, training, experience, examinations and registrations. This data, when compiled, becomes a Council record.

When a Council record has been completed, the Council will examine the applicant's qualifications and determine the applicant's eligibility for certification. If NCARB standards are met, a Council certificate will be issued.

As long as a Council certificate is in effect, the Council will, upon application of the holder thereof, transmit a certified copy of the individual's certificate record to any member board or to any foreign registration authority. The certificate record is the individual's Council record together with the Council certification that the individual has complied with the Council's standards of eligibility for certification and the Council's recommendation that the individual be registered as an architect without further examination.

With this certification, registration can be obtained from most NCARB member boards without further examination and without the certificate holder being required to make a personal appearance. A few boards may require that the certificate holder's qualifications be supplemented by a personal interview, and/or by additional examination on seismic forces, cold weather construction or local law.

2. IDP

The Intern-architect Development Program (IDP) was established to serve the following objectives:

- a. To provide a formal means of evaluating training;
- b. To enable intern-architects to better prepare themselves for their careers as registered architects;
- c. To recognize intern-architects' professional development by compiling a continuing comprehensive record of their internship activities;
- d. To present intern-architects with a definition

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of the range of internship activities and information on the training experience required to help them qualify for registration.

For further information, see *IDP Guidelines*.

3. INTERNATIONAL

The Council has an agreement of interrecognition with the Architects Registration Council of the United Kingdom (ARCUK). This agreement provides for qualified architects with ARCUK qualifications to apply for Council certification. This agreement terminates on February 1, 1990 after which, applications from United Kingdom architects will not be accepted for certification under these procedures. All requirements, including the oral examination, must be completed by February 1, 1991 to be considered for certification under the terms of the agreement. All other foreign applicants for Council certification must comply with the Council standards of eligibility for certification.

SECTION C. EXPLANATION OF TERMS AND PROCEDURES

1. STANDARDS OF ELIGIBILITY FOR COUNCIL CERTIFICATION

Not all architects who are currently registered by individual member boards are eligible for Council certification. Issuance of the Council certificate is based upon standards established for the Council by its member boards. In order to be eligible for Council certification, architects must submit evidence satisfactory to the Council that they:

- a. Comply with the standards for education, training, examination, and character set forth in the latest edition of Appendix "A" or "B" to this Circular, and
- b. Have been registered by a member board, and registration in that jurisdiction is in effect at the time of application and issuance of Council certification unless duly transferred to the current state of residence or practice (See Section C-9).

The Council may find an architect ineligible for certification if any of the grounds for revocation set forth in Section C-11 are found to exist or if, through references or otherwise, there is evidence of incompetence, dishonesty or fraud relating to the practice of architecture, which is not adequately refuted.

2. THE COUNCIL RECORD

The Council record is a detailed, authenticated record of an applicant's education, training, examination, registration and character.

The applicant will record such information on forms supplied by the Council office. When the completed application form together with the established fee is returned to the Council, the application is reviewed, and if the applicant is found eligible for certification, based on the unsubstantiated information provided by the applicant, processing will begin. Council standards may change as a result of action by its member boards at an Annual Meeting. These standards become effective at the close of the Annual Meeting (late June each year) and apply both to applications in process and newly filed applications.

If, after preliminary review, the applicant is found ineligible for certification, the application form and fee will be returned unless the applicant has requested that the Council proceed with record compilation and evaluation. Application fees are not refundable after record compilation has begun.

During processing, a copy of the application form is returned to the applicant with a supply of reference reply forms and return envelopes. These forms are distributed by the applicant to the selected references. When completed and returned to the Council, they substantiate information supplied by the applicant.

The Council record, when completed, consists of the application and all the properly executed reply forms. The time required to complete a Council record will depend largely upon the promptness with which reference replies are received. The applicant will be notified of any delays which occur in receipt of such replies. The Council will monitor the compilation

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progress and, when the record has been completed and evaluated for compliance with Council standards, the Council will notify the applicant of the results of the evaluation.

Council records are confidential documents containing communications from employers, clients, and other architects which will be made available to no one other than member boards or foreign registration authorities to whom the holder may apply for registration.

The Council will not make the record available to the record holder.

IDP periodic assessment report forms become a part of the IDP applicant's Council record and will be transmitted to a member board upon request of the applicant.

The Council record is required by some member boards to determine an applicant's eligibility for admission to examination and registration.

The Council record is transmitted to member boards in one of three different colored covers. These covers and their functions are as follows:

- a. **GREEN COVER** indicates that the individual is applying to a member board for examination and registration and has fulfilled the Council's education and training standards. It is used to transmit an individual's record to a member board in support of an application for examination. The record of an applicant who has not fulfilled the Council standards may be transmitted without Cover.
- b. **BUFF COVER** indicates that the individual has been registered by a member board but has not yet acquired the Council certificate. It is used to transmit an individual's record in support of an application for reciprocal registration in certain jurisdictions.
- c. **BLUE COVER** indicates that the individual has been certified by the Council. It is used to transmit an individual's record to a member board or foreign registration authority in recommendation and support of an application for registration.

3. COUNCIL CERTIFICATION

Council certification recommends to all registration authorities that registration be granted the

holder without further examination. Most member boards accept Council certification as conclusive evidence of an architect's eligibility for registration.

Council certification does not constitute national registration. It does not qualify its holder to practice in any jurisdiction prior to being registered (licensed) by that jurisdiction.

4. CONCURRENT APPLICATION FOR COUNCIL RECORD AND EXAMINATION

This procedure allows the applicant to start compilation of a Council record at the same time application is made for examination before a member board. IDP applicants are considered to be a part of this concurrent application procedure.

Applicants who are simultaneously applying for a Council record and admission to the examination are urged to contact their state registration board immediately to request that board's application form. Applicants should return the form and any appropriate fees promptly to their board office. IDP applicants will be advised by the Council when they meet Council standards for admission to the examination and to request their state registration board's application form.

In this concurrent application process, the Council will conduct all verifications and will, upon the request of the applicant, transmit the completed record to the member board. (If the applicant has satisfied all Council requirements for admission to the examination the record will be transmitted under Green Cover. If Council requirements are not yet satisfied, the record may be transmitted to the member board without a Council recommendation.) The member board will evaluate the applicant's Record for compliance with their standards for admission to the examination. Some boards require candidates to be residents of or work in the jurisdiction in which they take the examination.

Upon passing the examination, receiving registration, and fulfilling all other Council certification standards and fee requirements, the applicant will be granted Council certification.

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5. DURATION OF VALIDITY

The Council record is valid for one year from the date an acceptable application form is received at the Council office. The Council certificate is valid for one year from the date of initial certification and must be renewed annually thereafter.

IDP Council records are also valid for one year from the date an acceptable application form is received at the Council office. To maintain their records, IDP applicants must periodically file the appropriate assessment forms and pay the required annual maintenance fee (see Section D, Item 2.b).

6. RENEWAL OF COUNCIL RECORD

A Council record that has not been renewed annually may be made current by filing the required forms and paying supplemental fees. (See Section D-l.f)

7. RENEWAL OF COUNCIL CERTIFICATION

Council certification may be renewed annually by submission of an annual renewal fee and an annual report of professional activities during the preceding year, and by maintaining registration in the jurisdiction of initial (base) registration. Prior to the renewal date each year, the Council will send to each certificate holder a statement for the renewal fee and an annual report form. These are due on or before the indicated date. The annual report is added to the Record of the certificate holder. Failure to meet these requirements will cause the certification to become inactive.

8. TRANSMITTAL OF COUNCIL RECORDS AND CERTIFICATES

Member boards are required to examine and maintain a record of the qualifications of each applicant for registration. To satisfy this requirement, a complete copy of an applicant's Council record must be transmitted to a member board in support of an application for registration. The boards' requirements cannot be satisfied by a

reproduction of the announcement which is furnished to certificate holders.

Most member boards prefer the Council certificate record as a basis for reciprocal registration. Some will not consider applicants without certification. Others may deny registration even though the application is supported by certification if the applicant has not satisfied the particular requirements of that board. As long as a record or certification is current and valid, a certified copy will be sent to any member board or to the registration authority of a foreign country upon request of the applicant and payment of the transmittal fee. Applicants are requested not to send transmittal or registration fees until advised to do so by the Council office.

When an application is made for the transmittal of a certificate record to a member board that has requirements differing from those required for Council certification, the Council will attempt to identify any such requirements that the applicant does not meet and bring them to the attention of the applicant. Individuals so notified should contact that state board directly, prior to having their certificate record transmitted, to determine what procedures they must follow to satisfy these requirements.

9. JURISDICTION OF INITIAL (BASE) REGISTRATION

For purposes of Council certification, the jurisdiction of initial registration is that in which the applicant was first registered as an architect. The applicant must maintain registration in that jurisdiction in order to maintain Council certification. A record holder or certificate holder who does not wish to maintain registration in that jurisdiction may transfer, for certification purposes, to the jurisdiction in which residency or practice is maintained. This transfer can be effected provided the architect is registered in the jurisdiction to which transfer is requested, and provided the registration in the original jurisdiction has not expired or lapsed for reasons other than nonpayment of the required renewal fee. Such transfer may be made upon request to the Council and payment of a transfer fee.

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10. INACTIVE COUNCIL CERTIFICATION

Certification is inactive and void when the holder has failed to file the annual report and pay the renewal fee or when the holder does not make payment for Council services performed. To reactivate or reinstate certification, the holder is required to file supplementary forms and reports satisfactory to the Council, pay all fees which are in arrears, and a reinstatement fee.

11. REVOCATION OF COUNCIL CERTIFICATION

The Council *shall* revoke an architect's certification if:

- a. A member board has revoked or suspended for a period of twelve months or more the architect's registration for a cause other than non-payment of renewal fees or failure to file information with the member board; or
- b. Facts are subsequently revealed which show that the architect was actually ineligible at the time of certification.

In addition, the Council *may* revoke an architect's certification if:

- c. A member board or a court makes a finding, not reversed on appeal, that the architect (i) has, in the conduct of his/her architectural practice, violated the law or (ii) has engaged in conduct involving wanton disregard for the rights of others; or
- d. The architect has surrendered or allowed to lapse his or her registration in connection with disciplinary action pending or threatened; or
- e. A member board has denied the architect registration for a cause other than the failure to comply with the educational, training, age, residency, or other technical qualifications for registration in such jurisdiction; or
- f. The architect has willfully misstated a material fact in a formal submission to the Council.

The Council may reinstate a previously revoked certification, if the cause of the revocation has been removed, corrected, or

otherwise remedied. An applicant for reinstatement must meet the eligibility standards for certification in effect at the time of the new application.

SECTION D. SCHEDULE OF FEES

1. APPLICATION FOR CERTIFICATION

- a. For compilation of a Council record: \$125.00
- b. For processing an application for a Council certification: \$75.00 (This is in addition to the fee for compilation of a Council record under "a" above.)
- c. For transmittal of Council record or certificate record to a member board or to the registration authority of a foreign country: \$200.00
- d. For transmittal of supplemental information in connection with a Certificate Record previously transmitted when requested by the member board due to the applicant's failure to comply with that board's requirements in a timely manner: \$50.00
- e. For transfer of initial (base) registration: \$35.00
- f. For making the Council record current prior to granting Council certification: \$25.00 for each year or fraction thereof from the date of initial application or the date of the most recent application to make the record current. In no event shall the total updating fee exceed \$125.00
- g. For annual renewal of Council certification: \$50.00
- h. For reinstatement of Council certification which has lapsed due to non-payment of annual renewal or other fees: \$50.00 plus the sum of any outstanding fees. (The reinstatement fee is in addition to the payment of the annual renewal fees, at the rate as noted in "g" above, and any other fees that are in arrears to the date of receipt of the reinstatement fee.)
- i. For review, oral examination, or other personal appearance before a Council committee: \$350.00

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- j. For reinstatement of a revoked certification: \$350.00 (The reinstated fee is in addition to the payment of the annual renewal fees, at the rate as noted in "g" above, and any other fees that are in arrears to the date of receipt of the reinstatement fee.)

2. IDP

IDP applicants for Council certification are charged fees in accordance with the following schedule:

- a. For compilation of a Council record: \$125.00
Note: \$50.00 is payable upon submission of the application; the remaining \$75.00 is payable upon completion of the Council record compilation process. This includes only one transmittal of the record to a member board for admission to the examination when the transmittal is made twelve or more months *after* receipt of the application for Council record. When the transmittal is made within twelve months of the date of receipt of the application for Council record, the transmittal fee is \$150.00. Additional transmittals of the IDP Council record will be charged at the rate of \$200.00 per transmittal.
- b. For annual maintenance of the Council record (during internship period only): \$25.00
- c. For processing the Council record for certification once registration is acquired: \$75.00 (This fee is in addition to the fees noted above.)
- d. For updating or review of a Council record after transmittal to a board for admission to examination, should registration not have been acquired on a previous attempt: \$25.00 for each year or fraction over two months from the date of the initial transmittal. In no event shall the total updating fee exceed \$125.00.

NOTE: A \$25.00 fee will be imposed for each dishonored check. All fees are to be paid in U.S. dollars only.

SECTION E—EXAMINATIONS

1. GENERAL

For many years, the NCARB written examination was a 4-day, 36-hour, 7-part examination, all parts of which had to be passed before an individual could be registered as an architect by the board which administered the examination. This examination was discontinued after the December 1974 administration. In June 1973, a new written examination format was instituted consisting of two separate and distinct examinations: the Professional Examination and the Equivalency Examination. In July 1976, the Equivalency Examination was renamed the Qualifying Test. Beginning in January 1978, all applicants for registration were required to pass the architectural design/site problem of the Qualifying Test. In 1979, the Design/Site Test became Section "A" of the Professional Examination.

From 1979 to 1981 the Council conducted an assessment of its examinations. The examinations were assessed against criteria that were established following a national study of architectural practices and client/user needs. The findings and recommendations of this study were published in a report issued in 1981 titled NCARB Examination Validation Study. These recommendations were incorporated into a revised examination for registration. The examination, the NCARB Architect Registration Examination (A.R.E.), was administered for the first time in June, 1983. In 1988, another national study was conducted, and the findings were incorporated into revised A.R.E. specifications. The Council will periodically conduct such studies to maintain the examination content current with architectural practice and client/user needs.

In 1988, the Council also provided the A.R.E. in a computerized format on a pilot test basis (C/A.R.E.). The Council will continue its studies for possible implementation of C/A.R.E. on a full-scale basis in the near future. In the computer version of the A.R.E., only the machine scorable divisions are given.

The A.R.E. is intended to examine the applicant's competence based upon both education

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and practical experience. Accordingly, the Council has recommended to its member boards that the A.R.E. be administered only after applicants have completed their education and training.

2. ARCHITECT REGISTRATION EXAMINATION (A.R.E.)

The A.R.E. is the only examination offered by the Council for registration. It is given over four consecutive days in June of each year and contains the following divisions:

Division A: Pre-Design

Division B: (1) (2) Site Design—Written

Division B: (2) Site Design—Graphic

Division C: (2) Building Design

Division D/F: (3) Structural Technology—General and Long Span

Division E: Structural Technology—Lateral Forces

Division G: Mechanical, Plumbing and Electrical Systems

Division H: Materials and Methods

Division I: Construction Documents and Services

To pass the A.R.E., an applicant must achieve a passing grade on each Division. Scores from the individual divisions may NOT be averaged. The Council does not require applicants to take all divisions of the A.R.E. at their initial sitting for the examination, nor that they take all previously failed divisions at any subsequent sitting for the examination. For purposes of certification, the Council permits applicants unlimited opportunities to retake divisions previously failed.

(1) Beginning with the June 1988 administration of the A.R.E., Division B consists of separate written and graphic tests. Only the part of Division B which has been failed must be repeated.

(2) Beginning in December 1989, and each December thereafter, Division B—Graphic and Division C will be given in December as well as in June.

(3) Divisions D and F have been merged into a single division beginning with the 1988 administration of the A.R.E.

3. EXAMINATION TRANSFER CREDITS

Applicants who previously passed both Divisions D and F of the A.R.E. will receive credit for Division D/F. Those applicants who have not passed both Division D and Division F must pass Division D/F even though they may have passed Division D or Division F previously.

Applicants transferring from the previous examination series need only take those Divisions for which transfer credit has not been received. In order to be eligible for transfer credits for any parts of Professional Examination—Section B, the applicant must have passed three parts of that examination in one sitting.

Transfer credits to the A.R.E. from the previous NCARB examinations are as follows:

<u>Previous Examinations Passed</u>	<u>Credits to A.R.E.</u>
Professional Examination— Section B, Parts I and II	Division A
Professional Examination— Section A, (Design/Site)	Divisions B & C
Professional Examination— Section B, Part III.	Divisions D/F, E, G & H
Qualifying Test—Section B	Divisions D/F & E
Qualifying Test—Section D	Division G
Qualifying Test—Section C	Division H
Professional Examination— Section B, Part IV	Division I

Applicants without an NAAB accredited degree in architecture must, in all cases, pass Divisions D/F, E, G, and H of the A.R.E. if they have not passed equivalent portions of the Qualifying Test, even though the applicant may have passed the Professional Examination—Section B, Part III.

Applicants without an NAAB accredited degree in architecture must, in all cases, pass Division A of the A.R.E. if they have not passed Section A of the Qualifying Test, even though the applicant may have passed the Professional Examination—Section B, Parts I & II.

Since the history and theory of architecture is incorporated into all divisions of the A.R.E., no

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credit will be given for having passed the qualifying Test Section A—History.

In October 1988 and February 1989, many jurisdictions administered the computerized version of certain divisions of the A.R.E. (C/A.R.E.). More information regarding the A.R.E. and the C/A.R.E. is provided in NCARB *Circular of Information No. 2* and the C/A.R.E. Information Booklet. Early each calendar year, the Council publishes the Architect Registration Examination Handbook, which contains detailed information about the examination.

Applicants will not be admitted to the Oral Examination until all application and supplemental requirements are completed. Applicants may pass a lateral forces exam before or after the Oral Examination. The Oral Examination is conducted by a special committee of the Council; its scope is described in a document entitled Oral Interview Procedures for ARCUK Registrants, copies of which are available from the Council office.

SECTION F. INTERNATIONAL INTERRECOGNITION AGREEMENT

A qualified architect, registered by the Architect Registration Council of the United Kingdom (ARCUK) desiring to practice as an architect in the United States, may apply for Council certification until February 1, 1990. On that date, the Agreement will terminate. The application procedures and examination must be entirely completed by February 1, 1991, after which no further oral examinations for Council certification will be given.

The following specific criteria form the basis for evaluation of eligibility of ARCUK candidates for certification by the Council:

The applicant shall—

- a. have been registered under the provisions of the Architects Registration Acts 1931 to 1938, of the United Kingdom and have one year of additional practice experience following registration, and such registration is in good standing, and
- b. be required to present completed application forms and such other supplemental information as may be necessary to the Council in accordance with Section C of this Circular, and
- c. be required to pass Division E (Structural Technology—Lateral Forces) of the A.R.E. or the Council's lateral forces examination; and,
- d. be required to pass a Council Oral Examination.

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APPENDIX "A" To Circular of Information No. 1 EDUCATION, TRAINING AND EXAMINATION REQUIREMENTS FOR NCARB CERTIFICATION RELEASED JULY 1989.

THIS EDITION OF APPENDIX "A" SUPERSEDES ALL PREVIOUS TABLES OF EQUIVALENTS. INTERN-ARCHITECT DEVELOPMENT PROGRAM (IDP) APPLICANTS REFER TO APPENDIX "B" FOR THEIR TRAINING REQUIREMENTS.

1. CERTIFICATION STANDARDS

1.1 To be granted NCARB certification, an applicant must:

1.1.1 Be of good character as verified by employers, architects and NCARB member boards.

1.1.2 Hold a professional degree in architecture where the degree program has been accredited by the National Architectural Accrediting Board (NAAB) not later than two years after termination of enrollment or have satisfied NCARB's education requirements as otherwise specified in *Circular of Information No. 3*.

1.1.3 Have at least 3 years of training credits in accordance with Section 2 or have satisfied the IDP training requirements in accordance with Appendix "B".

1.1.4 Have passed the NCARB Architect Registration Examination (A.R.E.), or the NCARB Professional Examination (and the Qualifying Test or the Equivalency Examination when applicable by NCARB standards) or the NCARB 7-part, 36-hour Examination; provided such examinations and the grading procedures applied were in

accordance with NCARB standards current at the time the applicant sat for the examination.

1.1.5 Hold a current registration to practice architecture issued by an NCARB member board.

1.2 Applicants meeting all certification requirements above except 1.1.2 may nonetheless be granted certification if the applicant holds a high school diploma or equivalent and either (a) was registered by an NCARB member board prior to July 1, 1984 and has accumulated at least 5 education credits, or (b) had accumulated at least 5 education credits as of June 30, 1984. See *Circular of Information No. 3* for explanation of education credits.

1.3 Other experience may be substituted for the certification requirements outlined above, only insofar as NCARB considers it to be equivalent to the required qualifications.

1.4 In evaluating records, NCARB may, prior to certification, require substantiation of the quality and character of the applicant's experience, notwithstanding the fact that the applicant has complied with the technical certification requirements set forth above.

2. TRAINING STANDARDS

2.1 To satisfy the NCARB training standards, an applicant must have at least 3 years of training credits or have satisfied the IDP training requirements in accordance with Appendix "B". The following table sets forth the ways in which training credits can be acquired:

DESCRIPTION OF TRAINING	PERCENT CREDIT ALLOWED	MAXIMUM CREDIT ALLOWED
2.1.1 Diversified experience in architecture as an employee in the office of a registered architect.	100%	No Limit
2.1.2 Diversified experience in architecture as a principal practicing in the office of a registered architect with a verified record of substantial practice.	100%	No Limit (but see 2.4)
2.1.3 Diversified experience in architecture as an employee of an organization (other than offices of registered architects) when the experience is under the direct supervision of a registered architect.	100%	2 Years
2.1.4 Experience directly related to architecture, when under the direct supervision of a registered architect but not qualifying as diversified experience or when under the direct supervision of a professional engineer, landscape architect, planner or interior designer.	50%	1 Year
2.1.5 Experience, other than 2.1.1, 2.1.2, 2.1.3, and 2.1.4 experience, directly related to on-site building construction operations or experience involving physical analyses of existing buildings.	50%	6 Months
2.1.6 A post professional degree in architecture or teaching or research in an NAAB accredited architectural program.	100%	1 Year

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2. TRAINING STANDARDS (CONTINUED)

2.2 No training credits may be earned prior to satisfactory completion of:

- (1) three years in an NAAB accredited professional degree program, or
- (2) the third year of a four year pre-professional degree program in architecture accepted for direct entry to an NAAB accredited professional master's degree program, or
- (3) one year in an NAAB accredited professional master's degree program, or
- (4) 96 semester credit hours as evaluated by EESA in accordance with NCARB *Circular of Information No. 3* of which no more than 60 hours can be in the general education category or
- (5) five education credits in the circumstances described in 1.2.

Note: 32 semester credit hours or 48 quarter credit hours shall equal one year in an academic program.

2.3 No experience used to meet education requirements may be used to earn training credits.

2.4 After satisfying 1.1.2., every applicant must earn at least (i) one year of credit under 2.1.1 or (ii) three years of credit under 2.1.2, provided the applicant has practiced for those three years in association with another architect practicing as a principal or (iii) five years of credit under 2.1.2.

2.5 To earn credits under 2.1.1, 2.1.2, 2.1.3, 2.1.4, and 2.1.5, an applicant must work at least 35 hours per week for a minimum period or ten consecutive weeks under 2.1.1 or six consecutive months under 2.1.2, 2.1.3, 2.1.4, or 2.1.5. An applicant may earn one-half of the credits specified under 2.1.1 for work of at least 20 hours per week in periods of six or more consecutive months. No credits will be given for part-time work in any category other than 2.1.1.

2.6 To earn credit under 2.1.6, an applicant's credit hours must be in subjects evaluated by NCARB as directly related to architecture. 20 semester credit hours or 30 quarter credit hours of teaching or equivalent time in research will equal 1 year.

2.7 An organization will be considered to be "an office of a registered architect" if: (a) the architectural practice of the organization in which the applicant works is in the charge of a person practicing as a principal; and the applicant works under the direct supervision of a registered architect, and (b) the organization is not engaged in construction, and (c) the organization has no affiliate engaged in construction which has a substantial economic impact upon the person or persons in the organization practicing as a principal.

2.8 An organization (or an affiliate) is engaged in construction if it customarily engages in either of the following activities:

- (a) undertakes to provide labor and/or material for all or any significant portion of a construction project, whether on lump sum, cost plus or other basis of compensation, or
- (b) agrees to guarantee to an owner the maximum construction cost for all or any significant portion of a construction project.

2.9 A person practices as a "principal" by being (a) a regis-

tered architect and (b) the person in charge of the organization's architectural practice, either alone or with other registered architects.

2.10 A "registered architect" is a person registered to practice architecture in the jurisdiction in which (s)he practices.

2.11 The maximum credit for training as an employee of a person practicing architecture who is not an architect registered in a U.S. jurisdiction shall be one year. No credit will be granted for foreign training other than as an employee of a person practicing architecture. Provided, however, that a person with five years of foreign training under category 2.1.2 shall be deemed to have satisfied the training requirements.

2.12 In deciding if training represents "diversified experience in architecture," NCARB will compare the training with the training requirements set forth in the Intern-architect Development Program (IDP). See Appendix "B" and *IDP Guidelines*.

Applicants employed in settings described in 2.1.1, 2.1.2, and 2.1.3, whose experience is not diversified, may obtain credit only under 2.1.4.

3. EXAMINATION DEFICIENCIES

3.1 Examination deficiencies shall be subject to the following conditions:

3.1.1 Prior to July, 1973, the NCARB written examination was a 7-part examination of 36 hours duration, but some NCARB member boards administered examinations of a shorter duration. Compensation for each one hour deficiency in duration in the 7-part examination may be achieved by one year of excess training credits. Excess training credits may be earned only after initial registration by accumulating training credits in excess of those required for NCARB certification. Applicants who have earned under 2.1.2, ten or more years of excess training credits (in the manner described in the preceding sentence) and have received their initial registration by written examination, regardless of hour duration, are eligible for certification.

3.1.2 NCARB may waive deficiencies in the applicant's examination procedure arising from the examination transitions which occurred between July 1973 and January 1, 1978, and with the implementation of the A.R.E. in 1983 if, in its judgment, such deficiencies are minor in nature or, if substantial, have been adequately compensated for by some equivalent proof of the applicant's competency.

3.1.3 The transition rules relating to the implementation of the NCARB A.R.E. are described in Circular of Information No. 2.

3.1.4 An applicant whose registration was based in whole or in part on having passed sections of the California Architectural Licensing Examination and who has successfully completed an oral examination administered by NCARB with respect to the subject matter of those sections, shall be deemed to have received a passing grade in the corresponding divisions of the A.R.E.

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APPENDIX "B" To Circular of Information No. 1 TRAINING REQUIREMENTS FOR INTERN-ARCHITECT DEVELOPMENT PROGRAM (IDP) APPLICANTS FOR NCARB CERTIFICATION

THIS EDITION OF APPENDIX "B" SUPERSEDES ALL PREVIOUS TABLES OF EQUIVALENTS.

IDP APPLICANT DEFINED

An IDP applicant for NCARB certification is a person who has completed the training requirements listed below in satisfaction of 1.1.3 of Appendix "A".

TRAINING REQUIREMENTS

An IDP applicant must acquire a total of 700 value units (VU's) to satisfy the training requirements. One VU equals 8 hours of acceptable activity. See Appendix "A" for acceptable experience descriptions. The following chart lists the IDP training categories and areas and the value unit requirements for each.

CATEGORY A: Design and Construction Documents

	Minimum VU's Required
1. Programming	10
2. Site and Environmental Analysis	10
3. Schematic Design	15
4. Building Cost Analysis	10
5. Code Research	15
6. Design Development	40
7. Construction Documents	155
8. Specifications & Materials Research	15
9. Documents Checking & Coordination	15
Minimum Total VU's Required	360*

CATEGORY B: Construction Administration

10. Bidding & Contract Negotiation	10
11. Construction Phase-Office	15
12. Construction Phase-Observation	15
Minimum Total VU's Required	70*

CATEGORY C: Office Management

13. Office Procedures	15
14. Professional Activities	10
Minimum Total VU's Required	35*

*The differences between the minimum total VU's required in each of the categories A, B and C and the sum of the minimums required for each training area within the category must be acquired by earning VU's from training areas within the same category.

CATEGORY D: Related Activities

No Minimum Required	0
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This listing of required minimums in categories A, B and C totals 465 VU's, allowing for 235 additional VU's to be acquired in any of the listed categories. All of the 235 additional VU's may be acquired in one category or distributed among the categories.

EXPLANATION OF REQUIREMENTS

1. VU's in categories A, B and C may be acquired only if the applicant meets the time requirements of 2.5 of Appendix "A". VU's may be acquired in category D only if the activity is substantial and continuous.

Full VU credit is earned for acceptable full-time employment in the settings described in 2.1.4 and 2.1.5 of Appendix "A", and for acceptable part-time employment in the setting described in 2.1.1 of Appendix "A".

2. No VU's may be acquired prior to meeting the requirements of 2.2 of Appendix "A".

3. A post professional degree in architecture qualifies for 235 VU's under category D.

4. An IDP applicant may earn VU's by completing NCARB-approved supplementary education programs: credit to be in accordance with a table of credits established by NCARB. Supplementary education cannot be used to satisfy the minimum VU requirements in training areas 1-14. No VU's may be earned for supplementary education prior to meeting the requirements of 1.1.2 of Appendix "A" or while enrolled in a post-professional degree program in architecture.

5. The VU's which may be earned under paragraphs 3 and 4 may not exceed in the aggregate 235 VU's.

6. To satisfy categories A and B of the training requirements, VU's (including VU's earned from supplementary education) in those categories must be acquired when employed in the settings described in 2.1.1 or 2.1.3 of Appendix "A".

7. A minimum of 235 VU's must be acquired in the setting described in 2.1.1 of Appendix "A" after having satisfied 1.1.2.

8. In evaluating training, NCARB may, prior to certification, require substantiation of the quality and character of the training notwithstanding the fact that the IDP applicant has complied with the technical training requirements set forth above.

9. For detailed descriptions of the IDP training categories and supplementary education requirements, see *IDP Guidelines*.

Doctors, etc.

**CHAPTER 64.
MEDICINE.****Article**

1. State Medical Board (§§ 08.64.010—08.64.160)
2. Licensing (§§ 08.64.170—08.64.340)
3. Unlawful Acts (§ 08.64.360)
4. Miscellaneous Provisions (§§ 08.64.366—08.64.369)
5. General Provisions (§§ 08.64.370—08.64.380)

**ARTICLE 1.
STATE MEDICAL BOARD.****Section**

10. Creation and membership of State Medical Board
50. Oath of office
60. Seal
70. Officers
85. Meetings of the board
90. Quorum
100. Powers of board to adopt regulations
101. Duties
103. Investigator; executive secretary
105. Regulation of abortion procedures
107. Regulation of physician assistants and intensive care paramedics
110. Per diem and expenses
130. Board records
160. Applicability of Administrative Procedure Act

Sec. 08.64.010. Creation and membership of State Medical Board. The governor shall appoint a board of medical examiners, to be known as the State Medical Board, consisting of five physicians licensed in the state and residing in as many separate geographical areas of the state as possible, and two persons with no direct financial interest in the health care industry.

Sec. 08.64.050. Oath of office. Each member shall take an oath of office. The oath shall be filed and preserved in the division of occupational licensing of the department.

Sec. 08.64.060. Seal. The board shall adopt a seal.

Sec. 08.64.070. Officers. The board shall elect a president and secretary from among its members. The president and secretary may administer oaths.

Sec. 08.64.085. Meetings of the board. The board shall meet at least four times a year.

Sec. 08.64.090. Quorum. Four members of the board constitute a quorum for the transaction of all business properly before the board.

Sec. 08.64.100. Power of board to adopt regulations. The board may prescribe and establish rules and regulations necessary to carry into effect the provisions of this chapter.

Sec. 08.64.101. Duties. The board shall

- (1) examine and issue licenses to applicants;
- (2) develop written guidelines to insure that licensing requirements are not unreasonably burdensome and the issuance of licenses is not unreasonably withheld or delayed;
- (3) submit an annual report of its proceedings to the governor, including a statement of money received and disbursed;
- (4) after a hearing, impose disciplinary sanctions on persons who violate this chapter, or the regulations or orders of the board;
- (5) adopt regulations insuring that renewal of licenses is contingent upon proof of continued competency on the part of the licensee; and
- (6) coordinate with private professional organizations to establish an impaired medical professionals program to treat persons licensed under this chapter who abuse addictive substances.

Sec. 08.64.103. Investigator; executive secretary. After consulting with the board, the department shall employ two persons who are not members of the board; one shall be assigned as the investigator for the board; the other shall be assigned as the executive secretary for the board. The investigator shall

- (1) conduct investigations into alleged violations of this chapter, and into alleged violations of regulations and orders of the board;
- (2) at the request of the board, conduct investigations based on complaints filed with the department or with the board; and
- (3) be directly responsible and accountable to the board, except that only the department has authority to terminate the investigator's employment and the department shall provide day to day and administrative supervision of the investigator.

Sec. 08.64.105. Regulation of abortion procedures. The State Medical Board shall adopt regulations necessary to carry into effect the provisions of AS 18.16.010 and shall define ethical, unprofessional or dishonorable conduct as related to abortions, set standards of professional competency in the performance of abortions and establish procedures and set standards for facilities, equipment and care of patients in the performance of an abortion.

Sec. 08.64.107. Regulation of physician assistants and intensive care paramedics. The board shall adopt regulations regarding the registration of physician assistants and physician-trained mobile intensive care paramedics, and the medical services that each may perform, including but not limited to (1) the educational and other qualifications, (2) the application and registration procedures, (3) the scope of activities authorized, and (4) the responsibilities of the supervising or training physician.

Sec. 08.64.110. Per diem and expenses. The members of the board are entitled to per diem and expenses authorized by law

Sec. 08.64.130. Board records. The board shall preserve a record of its proceedings, which shall contain the name, age, residence and duration of residence of each applicant for a license, the time spent by the applicant in medical study, the place of medical study, and the year and school from which degrees were granted. The record shall also show whether the applicant was granted a license or rejected.

Sec. 08.64.160. Applicability of Administrative Procedure Act. The board shall comply with the Administrative Procedure Act. (AS 44.62)

ARTICLE 2. LICENSING.

Section

170. License to practice medicine or osteopathy
180. Application for license
190. Contents of application
200. Qualifications of physician applicants
205. Qualifications for osteopath applicants
207. Qualifications for acupuncture applicants
209. Qualifications for podiatry applicants
210. Examination required
220. Contents of examination and grading
225. Foreign medical graduates
230. License granted
240. License refused
250. License by credentials
255. Interview required
260. Re-examination
270. Temporary permits
272. Residency and internship permits
275. Temporary permit for locum tenens practice
312. Continuing education requirements

- 313. Inactive license
- 315. Fees
- 326. Grounds for imposition of disciplinary sanctions
- 331. Disciplinary sanctions
- 332. Automatic suspension for mental incompetency or insanity
- 334. Voluntary surrender
- 335. Reports of disciplinary action or license suspension or surrender
- 336. Duty of physicians and hospitals to report
- 338. Medical and psychiatric exams
- 340. Statement of grounds of refusal or revocation of license

Sec. 08.64.170. License to practice medicine or osteopathy.

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

(1) a physician assistant may examine, diagnose or treat persons under the supervision, control, and responsibility of either a physician licensed under this chapter or a physician exempted from licensing under AS 08.64.370;

(2) a physician-trained mobile intensive care paramedic may render emergency lifesaving service;

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

(4) a person who is licensed or authorized under another chapter of this title may engage in a practice that is authorized under that chapter.

(b) *[Repealed, § 4 ch 101 SLA 1974.]*

(c) A chiropractor practicing in the state on May 16, 1972 is exempt from this section.

(d) A podiatrist practicing in the state on March 26, 1976 is exempt from this section, and shall be issued a license without examination if application is made within one year of March 26, 1976.

Sec. 08.64.180. Application for license. A person who desires to practice medicine, osteopathy or acupuncture in the state shall apply in writing to the department for a license.

Sec. 08.64.190. Contents of application. The application shall state the name, age, residence, the duration of residence, the time spent in medical or osteopathy study, the place, year and school in which degrees were granted, and other information the board considers necessary. The application shall be made under oath.

Sec. 08.64.200. Qualifications of physician applicants. (a) Except for foreign medical graduates as specified in AS 08.64.225, each physician applicant shall

(1) *[Repealed, § 19 ch 48 SLA 1983.]*

(2) submit a certificate of graduation from a legally chartered medical school accredited by the Association of American Medical Colleges and the Council on Medical Education of the American Medical Association;

(3) submit a certificate from a recognized hospital certifying that the applicant has satisfactorily performed the duties of resident physician or intern for a period of one year;

(4) not have a license to practice medicine in another state, province, or territory which is currently suspended or revoked for disciplinary reasons; and

(5) be a citizen of the United States or be lawfully admitted for permanent residence.

(b) The board shall determine whether each physician applicant has any disciplinary or other actions recorded in the nationwide disciplinary data bank of the Federation of State Medical Boards.

Sec. 08.64.205. Qualifications for osteopath applicants. Each osteopath applicant shall meet the qualifications prescribed in AS 08.64.200(a)(4) and (5) and shall

(1) submit a certificate of graduation from the legally chartered school of osteopathy approved by the board;

(2) submit a certificate from a hospital approved by the American Medical Association or the American Osteopathic Association which certifies that the osteopath has satisfactorily completed and performed the duties of intern or resident physician for one year;

(3) take the examination required by AS 08.64.210 or be certified to practice by the National Board of Examiners for Osteopathic Physicians and Surgeons.

Sec. 08.64.207. Qualifications for acupuncture applicants. Each acupuncture applicant shall meet all of the qualifications prescribed in AS 08.64.200 and shall meet those requirements of experience or education in the practice of acupuncture as may be required by the board.

Sec. 08.64.209. Qualifications for podiatry applicants. (a) Each applicant who desires to practice podiatry shall meet the qualifications prescribed in AS 08.64.200(a)(4) and shall

(1) submit a certificate of graduation from a legally chartered school of podiatry approved by the board;

(2) take the examination required by AS 08.64.210; the State Medical Board shall call to its aid a podiatrist of known ability who is licensed to practice podiatry to assist in the examination and licensure of applicants for a license to practice podiatry;

(3) meet other qualifications of experience or educational which the board may require.

(b) The provisions of AS 08.64.180—08.64.190, 08.64.220, and 08.64.230—08.64.380 relating to the practice of medicine or osteopathy apply to the application procedure, testing, and practice of podiatry, as appropriate.

Sec. 08.64.210. Examination required. (a) The applicant shall take examinations in subjects the board considers necessary, unless excused under provisions of AS 08.64.250.

(b) The deadline for submitting an exam application to the board shall be established by regulation.

Sec. 08.64.220. Contents of examination and grading. (a) The board shall offer a written examination sufficient to test the applicant's fitness to practice medicine or osteopathy.

(b) *[Repealed, § 27 ch 148 SLA 1970.]*

(c) The examinations, answers, and scores shall be preserved and filed.

Sec. 08.64.225. Foreign medical graduates. Applicants who are graduates of medical colleges not accredited by the American Medical Association or one of its agencies shall meet the requirements of AS 08.64.200(a)(3), (4) and (5) and must have passed an examination and be certified by the Education Council on Foreign Medical Graduates, or be licensed by examination in another state or territory of the United States or province of Canada.

Sec. 08.64.230. License granted. (a) If the physician applicant passes the examination and meets the requirements of AS 08.64.200, the board shall grant a license to the applicant to practice medicine in the state.

(b) If the osteopath applicant passes the examination and meets the requirements of AS 08.64.205, the board shall grant a license to the applicant to practice osteopathy in the state.

(c) Each license shall be signed by the secretary and president of the board, and have the seal of the board affixed to it.

Sec. 08.64.240. License refused. (a) The board may not grant a license if

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

(2) the board determines that the applicant is professionally unfit to practice medicine or osteopathy in the state; or

(3) the applicant fails to comply with a requirement of this chapter.

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

Sec. 08.64.250. License by credentials. The board may waive the examination requirement and license by credentials if the physician or podiatry applicant meets the requirements of AS 08.64.200 or 08.64.209, submits proof of continued competence as required by regulation, pays the required fee and has

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

(2) passed an examination given by the National Board of Medical Examiners or the Federation of State Medical Boards of the United States if the applicant is a physician, or passed an examination given by the National Board of Podiatry Examiners if the applicant is a podiatrist.

Sec. 08.64.255. Interview required. All applicants for licensure must be interviewed in person by at least one member of the board before a license will be issued. The interview must be recorded. If the application is denied on the basis of the interview, the denial must be stated in writing with the reasons for it, and the record must be preserved.

Sec. 08.64.260. Re-examination. (a) If the applicant fails the examination, the applicant may, on the same application and payment of a reexamination fee, take another examination not less than six months nor more than two years after the date of the first examination. If the applicant fails a second examination, the applicant may, after a year or more of further study or training approved by the board, make a new application for licensure.

(b)—(d) *[Repealed, § 21 ch 87 SLA 1987.]*

Sec. 08.64.270. Temporary permits. (a) The board may issue a temporary permit to a physician applicant, osteopath applicant, or podiatry applicant who meets the requirements of AS 08.64.200, 08.64.205, or 08.64.209 and pays the required fee.

(b) A temporary permit issued under this section is valid for eight months or until the board meets to consider the application, whichever occurs first.

(c) A temporary permit issued under this section may be renewed at the board's discretion one time only.

Sec. 08.64.272. Residency and internship permits. (a) A person may not serve as a resident or intern without a permit issued under this section.

(b) For the limited purpose of residency or internship, the board may issue a temporary permit to an applicant without examination if the applicant meets the requirements of AS 08.64.200(a)(2) and applicable regulations of the board, pays the required fee, and has been accepted by an eligible institution in the state for the purpose of residency or internship.

(c) A permit issued under this section is valid for the period specified by the board, but not to exceed one year after the date of issue.

Sec. 08.64.275. Temporary permit for locum tenens practice. (a) A member of the board may grant a temporary permit to a physician or osteopath for the purpose of substituting for another physician or osteopath licensed in this state. The permit is valid for 120 consecutive days. If circumstances warrant, an extension of the permit may be granted by the board.

(b) A physician applying under (a) of this section shall pay the required fee and shall meet the requirements of AS 08.64.200. In addition, the physician shall submit evidence of holding a license to practice medicine in a state or territory of the United States or in a province of Canada.

(c) An osteopath applying under (a) of this section shall pay the required fee and shall meet the requirements of AS 08.64.205. In addition, the osteopath shall submit evidence of holding a license to practice in a state or territory of the United States or in a province of Canada.

(d) Within 10 days after the permit has been granted, the board member shall forward to the department a report of the issuance of the permit.

Sec. 08.64.312. Continuing education requirements. (a) The board shall promote a high degree of competence in the practice of medicine by requiring every physician licensed in the state to fulfill continuing education requirements.

(b) Before a license may be renewed the licensee shall submit evidence to the board that continuing education requirements prescribed by regulations adopted by the board have been met.

(c) The board may exempt a physician from the requirements of (b) of this section upon an application by the physician giving evidence satisfactory to the board that the physician is unable to comply with the requirements because of extenuating circumstances. However, no person may be exempted from more than 15 hours of continuing education in a five-year period.

Sec. 08.64.313. Inactive license. A licensee who does not practice in the state may hold an inactive license. A person who practices in the state, however infrequently, shall hold an active license.

Sec. 08.64.315. Fees. The department shall set fees under AS 08.01.065 for each of the following:

- (1) application
- (2) license by examination
- (3) license by endorsement or waiver of examination
- (4) temporary permit
- (5) locum tenens permit
- (6) license renewal, active
- (7) license renewal, inactive
- (8) license by reexamination.

Sec. 08.64.326. Grounds for imposition of disciplinary sanctions. (a) The board may impose a sanction if the board finds after a hearing that a licensee

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

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

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

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

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

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

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

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

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

(8) has demonstrated

(A) professional incompetence, gross negligence or repeated negligent conduct;

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

(C) unfitness because of physical or mental disability;
 (9) engaged in unprofessional conduct or in lewd or immoral conduct in connection with the delivery of professional services to patients;

(10) has violated AS 18.16.010;

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

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

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

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

Sec. 08.64.331. Disciplinary sanctions. (a) If the board finds that a licensee has committed an act set out in AS 08.64.326(a), the board may

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

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

(B) limit practice to those areas prescribed;

(C) continue professional education until a satisfactory degree of skill has been attained in those areas determined by the board to need improvement;

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

(7) impose a civil fine of not more than \$10,000; or

(8) impose one or more of the sanctions set out in (1)—(7) of this subsection.

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

(c) The board may summarily suspend a license before final hearing or during the appeals process if the board finds that the licensee poses a clear and immediate danger to the public health and safety

if the licensee continues to practice. A person whose license is suspended under this section is entitled to a hearing by the board no later than seven days after the effective date of the order and the person may appeal the suspension after a hearing to a court of competent jurisdiction.

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

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

(f) The board shall be consistent in the application of disciplinary sanctions. A significant departure from earlier decisions of the board involving similar situations must be explained in findings of fact or orders made by the board.

Sec. 08.64.332. Automatic suspension for mental incompetency or insanity. Notwithstanding AS 44.62, if a person holding a license to practice medicine or osteopathy under this chapter is adjudged mentally incompetent or insane by any final order or adjudication by a court of competent jurisdiction or by voluntary commitment to an institution for the treatment of mental illness, the person's license shall be suspended by the board. The suspension shall continue in effect until the court finds or adjudges that the person has been restored to reason or until a licensed psychiatrist approved by the board determines that the person has been restored to reason.

Sec. 08.64.334. Voluntary surrender. The board, at its discretion, may accept the voluntary surrender of a license. No license may be returned unless the board determines, under regulations established by it, that the licensee is competent to resume practice. However, no license may be returned to the licensee if the voluntary surrender resulted in the dropping or suspension of civil or criminal charges against the physician.

Sec. 08.64.335. Reports of disciplinary action or license suspension or surrender. The board shall promptly report to the Federation of State Medical Boards for inclusion in the nationwide disciplinary data bank license refusals under AS 08.64.240, actions taken by the board under AS 08.64.331, and license suspensions or surrenders under AS 08.64.332 or 08.64.334.

Sec. 08.64.336. Duty of physicians and hospitals to report.
 (a) A physician who professionally treats a person licensed to

practice medicine or osteopathy in this state for alcoholism or drug addiction, or for mental, emotional, or personality disorders, shall report it to the board if there is probable cause that the person may constitute a danger to the health and welfare of that person's patients or the public if that person continues in practice. The report shall state the name and address of the person and the condition found.

(b) A hospital that revokes, suspends, conditions, restricts, or refuses to grant hospital privileges to, or imposes a consultation requirement on, a person licensed to practice medicine or osteopathy in the state shall report to the board the name and address of the person and the reasons for the action within seven working days after the action is taken. A hospital shall also report to the board the name and address of a person licensed to practice medicine or osteopathy in the state if the person resigns hospital staff privileges while under investigation by the hospital or a committee of the hospital and the investigation could result in the revocation, suspension, conditioning, or restricting of, or the refusal to grant, hospital privileges, or in the imposition of a consultation requirement. A report is required under this subsection regardless of whether the person voluntarily agrees to the action taken by the hospital. A report is not required if the sole reason for the action is the person's failure to complete hospital records in a timely manner or to attend staff or committee meetings. In this subsection "consultation requirement" means a restriction placed on a person's existing hospital privileges requiring consultation with a designated physician or group of physicians in order to continue to exercise the hospital privileges.

(c) Upon receipt of a report under (a) or (b) of this section, the board shall investigate the matter and, upon finding that there is reasonable cause to believe that the person who is the subject of the report is a danger to the health or welfare of the public or to the person's patients, the board may appoint a committee of three qualified physicians to examine the person and report its findings to the board. Notwithstanding the provisions of this subsection, the board may summarily suspend a license under AS 08.64.331(c) before appointing an examining committee or before the committee makes or reports its findings.

(d) If the board finds that a person licensed to practice medicine or osteopathy is unable to continue in practice with reasonable safety to the person's patients or to the public, the board shall initiate action to suspend, revoke, limit, or condition the person's license to the extent necessary for the protection of the person's patients and the public.

(e) A physician, hospital, or hospital committee that in good faith submits a report under this section or participates in an investigation

or judicial proceeding related to a report submitted under this section is immune from civil or criminal liability for the submission or participation.

(f) A physician or hospital may not refuse to submit a report under this section or withhold from the board or its investigators evidence related to an investigation under this section on the grounds that the report or evidence

(1) concerns a matter that was disclosed in the course of a confidential physician-patient relationship or during a meeting of a hospital medical staff, governing body, or committee that was exempt from the public meeting requirements of AS 44.62.310; or

(2) is required to be kept confidential under AS 18.23.030.

Sec. 08.64.338. Medical and psychiatric exams. For the purposes of an investigation under this chapter, the board may order a person to whom it has issued a license or permit to submit to a medical or psychiatric examination by a physician or other practitioner of the healing arts appointed by the board. An examination shall be at the board's expense. An examination may include the required submission of biological specimens requested by the examining physician or practitioner.

Sec. 08.64.340. Statement of grounds of refusal or revocation of license. If the board refuses to issue a license or revokes a license, it shall file a brief and concise statement of the grounds and reasons for the action in the office of the secretary of the board and in the department. The statement, together with the written decision of the board, shall remain of record in the department.

ARTICLE 3. UNLAWFUL ACTS.

Section

360. Penalty for practicing without a license or in violation of chapter

Sec. 08.64.360. Penalty for practicing without a license or in violation of chapter. Except for a physician assistant, a physician-trained mobile intensive care paramedic under AS 08.64.170, or a person licensed or authorized under another chapter of this title who engages in practices for which that person is licensed or authorized under that chapter, a person practicing medicine or osteopathy in the state without a valid license or permit is guilty of a class A misdemeanor. Each day of illegal practice is a separate offense.

**ARTICLE 4.
MISCELLANEOUS PROVISIONS.**

Section

- 366. Liability for services rendered by a physician-trained mobile intensive care paramedic**
367. Prescription or administration of laetrile by physicians
369. Health care professionals to report certain injuries

Sec. 08.64.366. Liability for services rendered by a physician-trained mobile intensive care paramedic. An act or omission of a physician-trained mobile intensive care paramedic done or omitted in good faith while rendering emergency service to a person who is in need of immediate aid in order to avoid serious harm or loss of life does not impose any liability upon the physician-trained mobile intensive care paramedic, the supervising physician, a hospital, the officers, members of the staff, nurses, or other employees of a hospital or upon a federal, state, borough, city or other local governmental unit or upon other employees of a governmental unit; however, this section does not relieve a physician or a hospital of a duty otherwise imposed by law upon the physician or hospital for the designation of training of a physician-trained mobile intensive care paramedic or for the provision or maintenance of equipment to be used by the physician-trained mobile intensive care paramedic.

Sec. 08.64.367. Prescription or administration of laetrile by physicians. (a) A physician may not be subject to disciplinary action by the State Medical Board for prescribing or administering amygdalin (laetrile) to a patient under the physician's care who has requested the substance unless the State Medical Board in a hearing conducted under the Administrative Procedure Act (AS 44.62) has made a formal finding that the substance is harmful.

(b) A hospital or health facility may not interfere with the physician-patient relationship by restricting or forbidding the use of amygdalin (laetrile) when prescribed or administered by a physician and requested by a patient unless the substance as prescribed or administered by the physician is found to be harmful by the State Medical Board in a hearing conducted under the provisions of the Administrative Procedure Act (AS 44.62)

Sec. 08.64.369. Health care professional to report certain injuries. (a) A health care professional who initially treats or attends to a person with an injury described in (b) of this section shall make certain that an oral report of the injury is made promptly to the Department of Public Safety, a local law enforcement agency, or a village public safety officer. The health care professional shall make

certain that a written report of an injury described in (b)(1) or (2) of this section is submitted to the Department of Public Safety within three working days after the person is treated. The report shall be a form provided by the Department of Public Safety.

(b) The following injuries shall be reported under (a) of this section:

- (1) second or third degree burns to five percent or more of a patient's body;
- (2) a burn to a patient's upper respiratory tract or laryngeal edema due to the inhalation of super-heated air;
- (3) a bullet wound, powder burn, or other injury apparently caused by the discharge of a firearm;
- (4) an injury apparently caused by a knife, axe, or other sharp or pointed instrument, unless the injury was clearly accidental; and
- (5) an injury that is likely to cause the death of the patient, unless the injury was clearly accidental.

(c) A person who, in good faith, makes a report under this section, or who participates in judicial proceedings related to a report under this section, is immune from any civil or criminal liability that might otherwise be incurred as a result of making such a report or participating in the judicial proceedings.

(d) In this section, "health care professional" includes an emergency medical technician, health aide, physician, nurse, paramedic, and physician's assistant, but does not include a practitioner of religious healing.

**ARTICLE 5.
GENERAL PROVISIONS.**

Section

- 370. Persons not affected**
380. Definitions

Sec. 08.64.370. Persons not affected. This chapter does not apply to

(1) officers in the regular medical service of the armed services of the United States or the United States Public Health Service while in the discharge of their official duties;

(2) a physician or osteopath who is not a resident of this state, who is asked by a physician or osteopath licensed in this state to help in the diagnosis or treatment of a case;

(3) the practice of the religious tenets of a church;

(4) [Repealed, § 21 ch 87 SLA 1987.]

(5) a physician in the regular medical service of the United States Public Health Service or the armed services of the United States volunteering services without pay or other remuneration to a hospital, clinic, medical office, or other medical facility in the state;

**CHAPTER 40.
STATE MEDICAL BOARD****Articles**

1. Licensing (12 AAC 40.010—12 AAC 40.055)
2. Abortions (12 AAC 40.060—12 AAC 40.140)
3. Continuing Medical Education
(12 AAC 40.200—12 AAC 40.220)
4. Mobile Intensive Care Paramedics
(12 AAC 40.300—12 AAC 40.390)
5. Physician Assistants
(12 AAC 40.400—12 AAC 40.490)
6. General Provisions
(12 AAC 40.960—12 AAC 40.990)

**ARTICLE 1.
LICENSING****Section**

10. Application for license by credentials
15. Application for license by examination
20. License by examination
25. Lapsed physician licenses
35. Temporary permit application requirements
36. Locum tenens permit application requirements
38. Residency permit
40. Recognized hospital
50. Biographical data
55. Interview required

12 AAC 40.010. APPLICATION FOR LICENSE BY CREDENTIALS. (a) An applicant for licensure by credentials must file a complete application and be interviewed in accordance with 12 AAC 40.055 and AS 08.64.255 before the board will consider issuance of a license.

(b) A complete application must include the following documents requested by the applicant but sent directly to the division office:

(1) evidence satisfactory to the board that applicant has passed an appropriate examination as described in (c) of this section;

(2) a notarized copy of a medical, osteopathy, or podiatry school diploma;

(3) a notarized copy of an internship or residency certificate;

(4) verification of licensure from all states where the applicant held a license;

(5) a sworn statement listing all hospitals at which the applicant has had privileges within the past five years and original letters of

reference from each of those hospitals describing the kind of experience received and the performance of the applicant;

(6) clearance from the federal Drug Enforcement Administration (DEA);

(7) clearance from the Federation of State Medical Boards;

(8) a Physician Profile from the American Medical Association (AMA), if applicable; and

(9) all required application and licensing fees.

(c) The evidence that an applicant has passed an appropriate examination as by (b)(1) of this section must be either

(1) verification of an examination in the medical and basic science subjects as a prerequisite to licensure in a State or Territory of the U.S., District of Columbia, Puerto Rico, or a Province or Territory of Canada; or

(2) an official transcript from

(A) the Federation of State Medical Boards documenting successful passage of the FLEX exam; or

(B) the National Board of Medical Examiners documenting successful passage of the NBME exam; or

(C) the National Board of Examiners of Osteopathic Physicians and Surgeons documenting successful passage of the NBEOPS exam; or

(D) the National Board of Podiatry Examiners documenting successful passage of the NBPE exam.

(d) Applicants are responsible for requesting transcripts and paying any fees associated with having transcripts sent directly to the board.

12 AAC 40.015. APPLICATION FOR LICENSE BY EXAMINATION. (a) An applicant for license by examination shall submit a written application to the department not less than 120 days before the examination date.

(b) A complete application must be on file with the department not less than 120 days before the examination date and must include all supporting documents and meet the requirements of AS 08.64.200 or AS 08.64.225.

(c) After passing the written examination an applicant must be interviewed in accordance with 12 AAC 40.055 and AS 08.64.255 before the board will consider issuance of a license.

12 AAC 40.020. LICENSE BY EXAMINATION. (a) The written examination administered twice yearly in Alaska will be the most current version of the Federation of State Medical Boards FLEX examination.

(b) The minimum passing grade for each part of the FLEX exam is a scale score of 75.

(c) Both parts of the FLEX exam may be taken at one sitting or each may be taken at separate times. If the parts are taken separately, they must be taken in sequence. An applicant will not be permitted to sit for Part II until Part I is successfully passed.

(d) An applicant who takes both parts of the FLEX exam in a single sitting and fails only one part will be required to retake only the part failed.

(e) Except as provided in (f) of this section, an applicant may retake the FLEX exam or any part of the FLEX exam, as often as desired.

(f) If an applicant does not pass both parts of the FLEX exam within five years after first applying, the applicant must pursue and complete a supervised course of study acceptable to the board before permission to retake the exam will be given. The applicant must then retake and pass both parts, even if one of the two parts has been previously passed.

(g) No credit will be given for passing any part of the former three part version of the FLEX exam administered before May 18, 1985.

(h) If an applicant for licensure in this state has passed either part of the two part FLEX exam in another state during the five years before application in this state, the applicant need only take the part not passed as long as both parts are passed within five years.

12 AAC 40.025. LAPSED PHYSICIAN LICENSES. (a) A physician license which has been lapsed for between one and five years will, in the board's discretion be reissued, if the applicant submits

(1) a new and complete application as required by 12 AAC 40.010, documenting compliance with AS 08.64.200 and 08.64.250;

(2) documentation that the continuing medical education requirements of 12 AAC 40.200—12 AAC 40.220 have been met for the entire period the license has been lapsed; and

(3) the fees required by 12 AAC 02.250.

(b) A physician whose license has been lapsed for one year or more but who has been licensed and actively practicing in another state or country may apply for a license by credentials under 12 AAC 40.010 and pay the fees required in 12 AAC 02.250.

(c) A physician license which has been lapsed for less than one year will be reinstated by the board if clearance is received from the Federation of State Medical Boards and if the applicant submits

(1) documentation that all continuing medical education requirements of 12 AAC 40.200—12 AAC 40.220 have been met; and

(2) the penalty for reinstatement fee required in 12 AAC 02.105 and all renewal fees required in 12 AAC 02.250.

12 AAC 40.035. TEMPORARY PERMIT APPLICATION REQUIREMENTS. (a) A member of the board, will, in a member's discretion, issue a temporary physician permit to an applicant who

- (1) meets the requirements of AS 08.64.270; and
- (2) has a complete application on file with the division before arranging for an interview with the member of the board; and
- (3) is interviewed in accordance with 12 AAC 40.055 and AS 08.64.255.

(b) A complete application must include all of the documents required in 12 AAC 40.010 except that

- (1) letters of reference are required from only the last two hospitals at which the applicant has had privileges;
- (2) the AMA physician profile needs only to have been requested; and
- (3) the DEA clearance needs only to have been requested.

(c) After an application for a temporary permit has been received, the division will request biographical data clearances from the Federation of State Medical Boards and the federal Drug Enforcement Agency. The clearance must be on file with the division before the permit is issued.

12 AAC 40.036. LOCUM TENENS PERMIT APPLICATION REQUIREMENTS. (a) A member of the board, will, in the member's discretion, issue a locum tenens permit to an applicant who

- (1) meets the requirements of AS 08.64.275;
- (2) has a complete application on file with the division prior to arranging for an interview with a member of the board; and
- (3) is interviewed in accordance with 12 AAC 40.055 and AS 08.64.255.

(b) A complete application must include

- (1) a notarized copy of a medical school diploma;
- (2) a notarized copy of an internship or residency certificate;
- (3) a verification of active licensure from at least one other state, requested by the applicant but sent directly to the division; verification from all other states where the applicant has held or currently holds licenses must have been requested by the applicant and directed to the division for inclusion in the applicant's file; and
- (4) all required application fees for a locum tenens permit.

(c) Once an application for a locum tenens permit has been received, the division will request Federation of State Medical Boards clearance, which must be on file with the division before the permit is issued.

12 AAC 40.038. RESIDENCY PERMIT. (a) A member of the board will, in the member's discretion, issue a residency permit to an applicant who

- (1) meets the requirements of AS 08.64.272;
 - (2) is interviewed in accordance with 12 AAC 40.055 and AS 08.64.255; and
 - (3) provides a complete application at the interview.
- (b) A complete application must include
- (1) a letter from the Alaska institution accepting the applicant as a resident and accepting responsibility for the applicant's training;
 - (2) a letter from the training institution stating that the applicant is in good standing and that the Alaska program is a part of the residency or internship program;
 - (3) a certified copy of the applicant's medical school diploma as required in AS 08.64.200(2); and
 - (4) payment of a \$30 application fee and a \$20 residency permit fee.
- (c) A residency permit is valid only for the duration of the residency at the Alaska institution, not to exceed one year.

12 AAC 40.040. RECOGNIZED HOSPITAL. For the purpose of AS 08.64.200(3) a recognized hospital is one which has been approved for internship or residency training by the Council on Medical Education of the American Medical Association or the Canadian Medical Association.

12 AAC 40.050. BIOGRAPHICAL DATA. No application for licensure by credentials or examination will be considered complete until the applicant has requested the following documents and they are on file in the division office:

- (1) a physician profile from the American Medical Association, if applicable;
- (2) clearance from the United States Department of Justice, Bureau of Narcotics and Dangerous Drugs;
- (3) clearance from the Federation of State Medical Boards regarding previous or pending disciplinary actions against the applicant by another jurisdiction.

12 AAC 40.055. INTERVIEW REQUIRED. (a) All applicants for a physician license or permit shall be interviewed in person by a board member as required by AS 08.64.255.

(b) If the interviewing board member determines that the interview is not adequate to allow license or permit approval without consultation with the board, an in-person interview before a quorum of the board is required.

**ARTICLE 2.
ABORTIONS****Section**

- 60. Termination of pregnancy
- 70. Informed consent
- 80. Medical procedures
- 90. Evaluation
- 100. Consultation requirements
- 110. Abortion procedures
- 120. Standards for hospitals and facilities
- 130. Records
- 140. Limitation

12 AAC 40.060. TERMINATION OF PREGNANCY. Termination of pregnancy must be requested by the pregnant woman, unless she has been adjudged mentally incompetent or is unmarried and under 18 years of age, in which case the request must be made by her parent or guardian.

12 AAC 40.070. INFORMED CONSENT. Unless otherwise provided in 12 AAC 40.060, a written informed consent shall be obtained from the patient or from any other person whose consent is required before termination of a pregnancy. Such written informed consent shall be on the patient's chart. The patient and other persons whose consent is required shall be advised of the medical implications and the possible emotional and physical sequelae of the procedure.

12 AAC 40.080. MEDICAL PROCEDURES. The patient shall be examined by a physician licensed in Alaska, and a written record of the patient's physical and emotional health shall be prepared before performing an abortion procedure as set out in 12 AAC 40.110.

12 AAC 40.090. EVALUATION. The attending physician shall make an evaluation of the patient and an estimation of the duration of gestation based upon the patient's history, examination and test results. This information shall be recorded on the patient's chart.

12 AAC 40.100. CONSULTATION REQUIREMENTS. Abortions interrupting a pregnancy up to and including the twelfth week of gestation may be performed without consultation. Abortions performed after the twelfth week of gestation shall be preceded by consultation with another physician. The consultation shall include an opinion as to the preferred method of termination of pregnancy.

12 AAC 40.110. ABORTION PROCEDURES. During the second or third trimester of a pregnancy, acceptable procedures include dilation and curettage, suction aspiration of the uterus, injection of pharmacological agents, hysterectomy and hysterotomy. The exact procedure to be used will depend upon the patient's total health, age, associated disease and pathology, and anomalies such as skeletal defects and other medical indications.

12 AAC 40.120. STANDARDS FOR HOSPITALS AND FACILITIES. (a) During the second or third trimester of a pregnancy, abortions shall be performed under sterile conditions. A bed and a registered nurse shall be available for a minimum recovery period of one-half hour. A registered nurse shall be present during the procedure.

(b) During the second or third trimester of a pregnancy, blood, blood derivatives, blood substitutes or plasma expanders shall be immediately available when an abortion is performed, and an operating room appropriately staffed and equipped for major surgery in accordance with regulations adopted under AS 18.20.060 shall be immediately available.

12 AAC 40.130. RECORDS. During the second or third trimester of a pregnancy, the attending physician shall record a medical history, findings of the physical examination, operative report of the abortion procedure and pathology report as part of the clinical record to be maintained by the hospital or facility. The physician and hospital or facility shall treat the patient's identity and medical record as confidential information.

12 AAC 40.140. LIMITATION. A fetus which has not developed beyond 150 days after the first day of the last menstrual period may be considered nonviable for purposes of AS 11.15.060(a). In the performance of an abortion after that date, the physician shall be guided by a reasonable judgment as to whether the fetus is viable in fact.

**ARTICLE 3.
CONTINUING MEDICAL EDUCATION****Section**

- 200. General requirements
- 210. Credit hours
- 220. Certification of compliance

12 AAC 40.200. GENERAL REQUIREMENTS. (a) A physician seeking renewal of a license on or after January 1, 1986 shall obtain an average of 17 credit hours of continuing medical education during each year of the previous license period.

(b) If a licensee fails to meet continuing medical education requirements due to illness or other extenuating circumstances, the board will, in its discretion, grant an extension of time in compliance with AS 08.64.312(c). The board will consider each case on an individual basis.

12 AAC 40.210. CREDIT HOURS. (a) Except as provided in (b) of this section, a licensee may meet the continuing medical education requirements set out in 12 AAC 40.200(a) only by obtaining credit hours in a Category I continuing medical education program accredited by the American Medical Association.

(b) The board will accept the following as the equivalent of the credit hours required under 12 AAC 40.200(a):

(1) a current physician's recognition award from the American Medical Association, American Podiatry Association, American Osteopathy Association, or a recognized subspecialty board; or

(2) a current recertification by a specialty board recognized by the American Medical Association.

12 AAC 40.220. CERTIFICATION OF COMPLIANCE. (a) A licensee shall submit, upon a form supplied by the board, a sworn affidavit of compliance with the continuing medical education requirement at the time the licensee applies for license renewal.

(b) The board will, in its discretion, require a licensee to submit additional evidence of compliance with the continuing medical education requirement. The licensee shall maintain evidence of compliance.

ARTICLE 4.

MOBILE INTENSIVE CARE PARAMEDICS

Section

- 300. Application for license
- 310. Qualification for license
- 315. Sponsorship
- 320. Approved curriculum
- 325. Internship requirements
- 330. Persons currently practicing as mobile intensive care paramedics
- 340. License issuance and expiration
- 350. Renewal of license
- 352. Lapsed paramedic licenses
- 355. Temporary permits
- 356. Provisional license
- 360. Grounds for suspension, revocation or refusal to issue a license

370. Scope of authorized activities

380. Prohibited acts

390. Identification

12 AAC 40.300. APPLICATION FOR LICENSE. (a) An applicant for a license as a mobile intensive care paramedic shall apply in writing to the board.

(b) The application will be provided by the board and must contain the name, age, mailing and geographical address (if different), the time spent in study, the place, year and school from which the degrees or certificates were granted, evidence that the applicant meets the requirements of 12 AAC 40.310, and any other information the board considers necessary.

(c) The application must be made under oath before a person empowered by AS 09.65.010 to administer oaths and must be signed by the sponsoring physician.

12 AAC 40.310. QUALIFICATION FOR LICENSE. An applicant for license as a mobile intensive care paramedic must

(1) be 19 years of age or older;

(2) be a high school graduate;

(3) be currently certified as an emergency medical technician by the National Registry of Emergency Medical Technicians, or the Alaska Department of Health and Social Services;

(4) at all times, be under the supervision of a physician sponsor approved by the board, as required under 12 AAC 40.315;

(5) have successfully completed an approved curriculum under 12 AAC 40.320;

(6) have satisfactorily completed a six-month internship which meets the requirements of 12 AAC 40.325 following the successful completion of a board-approved curriculum;

(7) pass the written and practical examination for emergency medical technician-paramedic administered by the National Registry of Emergency Medical Technicians;

(8) submit a nonrefundable license application fee required by 12 AAC 02.250; and

(9) not be currently under suspension or revocation as a mobile intensive care paramedic, the subject of an unresolved investigation, complaint review procedure, or disciplinary proceeding undertaken by a certifying or licensing agency in another state.

12 AAC 40.315 SPONSORSHIP. (a) A person licensed as a mobile intensive care paramedic shall immediately report to the board, in writing, any change of sponsorship.

(b) A change in sponsorship automatically suspends a mobile intensive care paramedic's license to practice until a new physician

sponsor is approved by the board. A licensee must have a board-approved physician sponsor at all times.

12 AAC 40.320. APPROVED CURRICULUM. (a) The approved curriculum for license as a mobile intensive care paramedic is the U.S. Department of Transportation **National Training Course Emergency Medical Technician Paramedic**, in effect at the time of training.

(b) The training program must be under the direction of a physician licensed in the state where the training takes place.

12 AAC 40.325. INTERNSHIP REQUIREMENTS. An internship for a mobile intensive care paramedic must meet the following requirements:

(1) all procedures performed by an intern must be under the direct supervision of a physician sponsor or another physician, physician assistant, registered nurse, or mobile intensive care paramedic, licensed or certified in the state where the internship takes place, who has been designated the responsibility of supervision by the physician sponsor; and

(2) the successful completion of the internship must be verified, on a form approved by the board, by the physician sponsor, attesting that the mobile intensive care paramedic intern is capable of performing the activities listed in 12 AAC 40.370(a) including any other emergency procedures authorized by the physician sponsor under 12 AAC 40.370(a)(8); and

(3) verification from the supervising physician of the successful completion of 20 twenty-four hour shifts, or the equivalent number of hours, completed at a location approved in advance by the board.

12 AAC 40.330. PERSONS CURRENTLY PRACTICING AS MOBILE INTENSIVE CARE PARAMEDICS. A mobile intensive care paramedic practicing in this state under the supervision of a board-approved sponsor physician upon January 13, 1980, will be issued a license without examination if application is made within 180 days after January 13, 1980.

12 AAC 40.340. LICENSE ISSUANCE AND EXPIRATION. Upon documentation of successful completion of the requirements of this chapter, a license will be issued by the department to an applicant to practice as a mobile intensive care paramedic. A license expires biennially on a date set by the department. A license must be renewed under 12 AAC 40.350.

12 AAC 40.350. RENEWAL OF LICENSE. (a) Upon receipt of written application by a licensee, the board will renew the license for two years if

(1) The licensee submits satisfactory evidence of completion of continuing medical education consisting of not less than 30 classroom hours and 30 clinical hours for each year he has practiced as a licensed mobile intensive care paramedic;

(2) the licensee submits to the board a written recommendation as to his fitness to practice as a mobile intensive care paramedic made by the applicant's sponsor physician; and

(3) payment of the nonrefundable license renewal fee required by 12 AAC 02.250 is received.

(b) When a license cannot be renewed under (a) of this section, the licensee must resubmit an initial application under 12 AAC 40.300—12 AAC 30.310.

(c) The board will, in its discretion, exempt a mobile intensive care paramedic from the requirements of (a)(1) of this section upon application giving evidence satisfactory to the board that he or she has been unable to comply with the requirements because of extenuating circumstances. No person will be exempted from more than 60 hours of continuing in a four-year period.

12 AAC 40.352. LAPSED PARAMEDIC LICENSES. (a) A mobile intensive care paramedic license which has been lapsed for between one and five years will, in the board's discretion, be reissued, if the applicant submits

(1) a new and complete application as required by 12 AAC 40.300, documenting compliance with 12 AAC 40.310;

(2) documentation that the continuing medical education requirements of 12 AAC 40.350(a)(1) have been met for the entire period the license has been lapsed; and

(3) the fees required by 12 AAC 02.250.

(b) A mobile intensive care paramedic whose license has been lapsed for one year or more but who has been licensed and actively practicing in another state or country may apply for a provisional license under 12 AAC 40.356 and pay the fees required by 12 AAC 02.250.

(c) A mobile intensive care paramedic license which has been lapsed for less than one year will be reinstated by the board if the applicant submits

(1) documentation that all continuing medical education requirements of 12 AAC 40.350 have been met; and

(2) the penalty for reinstatement fee required by 12 AAC 02.105(6) and all renewal fees required by 12 AAC 02.250.

12 AAC 40.355. TEMPORARY PERMITS. (a) A member of the board may issue a temporary mobile intensive care paramedic permit to an applicant who

- (1) meets the requirements of 12 AAC 40.64.310; and
- (2) submits verification of sponsorship by a physician sponsor.
- (b) A temporary permit is valid for eight months or until the board meets and considers the application, whichever occurs first.
- (c) The board will, in its discretion, renew a temporary permit for good cause, one time only.
- (d) A temporary permit will be withdrawn by the board if the sponsorship of the physician sponsor is withdrawn.
- (e) "Temporary Permit" means a permit issued by a member of the board to an individual who has applied for licensure, has fulfilled the requirements set out in 12 AAC 40.310 and is awaiting the next meeting of the board for consideration of the application.

12 AAC 40.356. PROVISIONAL LICENSE. (a) A provisional license will, in the board's discretion, be issued to an applicant who meets the requirements of (b) of this section.

(b) An applicant for a provisional licensure as a mobile intensive care paramedic must

- (1) be 19 years of age or older;
- (2) be a high school graduate;
- (3) have successfully completed an approved curriculum under 12 AAC 40.320 which included didactic, clinical, and field training;
- (4) be currently certified, or licensed, as a paramedic in another state;
- (5) not be currently under suspension or revocation as a mobile intensive care paramedic, the subject of an unresolved investigation, complaint review procedure, or disciplinary proceeding undertaken by a certifying or licensing agency in another state; and
- (6) submit written verification from the National Registry of Emergency Medical Technicians that the applicant is in the process of complying with 12 AAC 40.310(7).

(c) An application for a provisional license must include written verification, on a form approved by the department, from the applicant's previous physician sponsor, attesting that the applicant is capable of performing the activities listed in 12 AAC 40.370(a) including any other specific emergency procedures authorized by the supervising physician sponsor.

(d) The board will, in its discretion, require the applicant to provide any additional documentation necessary to verify the education or experience of the applicant.

(e) A provisional license is valid for eight months or until the board meets and considers the application, whichever occurs first.

(f) The board will, in its discretion, renew a provisional license one time only at the request of the applicant's physician sponsor.

(g) The board will revoke a provisional license if the physician sponsor withdraws sponsorship, or if the board is notified that the provisional licensee has failed the examination for licensure.

12 AAC 40.360. GROUNDS FOR SUSPENSION, REVOCATION OR REFUSAL TO ISSUE A LICENSE. The board, after compliance with the Administrative Procedure Act (AS 44.62), will, in its discretion, revoke, suspend, or refuse to issue a license for

- (1) fraud or deceit in obtaining a license required by this chapter;
- (2) habitual abuse of alcoholic beverages or depressants, or illegal use of hallucinogenic or stimulant drugs as defined by AS 17.12.150(3) or the use of narcotic drugs as defined by AS 17.10.230(1);
- (3) violation of the Controlled Substances Act (PL 91-513; 84 Stat. 1242) or any other federal law pertaining to medical practice and drugs;
- (4) gross misconduct by a licensee in the performance of his or her duties as a mobile intensive care paramedic which tends to endanger life or limb;
- (5) practice beyond the scope authorized by the sponsor physician.

12 AAC 40.370. SCOPE OF AUTHORIZED ACTIVITIES. (a) A licensed mobile intensive care paramedic, when under the supervision of a sponsor physician, may perform the activities listed in this subsection. The direct supervision of these activities may be delegated when caring for a patient in a hospital under the direct supervision of a physician, or at the scene of a medical emergency when voice contact is monitored by a physician and direct communication is maintained, on the order of the physician, or when under the specific standing order of a physician. The activities are

- (1) performing cardiopulmonary resuscitation and defibrillation;
- (2) initiating and maintaining intravenous routes using approved intravenous techniques and solutions;
- (3) performing pulmonary ventilation by approved methods;
- (4) performing gastric suction by intubation;
- (5) obtaining blood for laboratory analysis;
- (6) applying rotating tourniquets;
- (7) administering parenterally, orally, or topically any approved agents or solutions;
- (8) performing other emergency procedures authorized by a supervising physician.

(b) A person enrolled in a mobile intensive care paramedic training program may perform the activities set out in (a) of this section insofar as:

- (1) the activities are required as part of the training program;
 - (2) the activities which take place in a hospital are supervised by a physician; and
 - (3) the activities which take place outside a hospital are supervised by a licensed mobile intensive care paramedic.
- (c) A person who is completing the internship required by 12 AAC 40.310(7) may perform the activities in (a) of this section for no more than six months.

12 AAC 40.380. PROHIBITED ACTS. No person may represent himself or herself as a paramedic, mobile intensive care paramedic, or emergency medical technician-paramedic unless he or she is licensed as a mobile intensive care paramedic under this chapter.

12 AAC 40.390. IDENTIFICATION. While performing the duties of a mobile intensive care paramedic, the licensee shall display over the right breast pocket of the uniform the identifying insignia prescribed by the department.

ARTICLE 5. PHYSICIAN ASSISTANTS

Section

- 400. Physician assistant registration
- 405. Temporary registration
- 406. Locum tenens authorization to practice
- 408. Authorization to practice as a physician assistant
- 410. Collaborative relationship
- 430. Performance and assessment of practice
- 440. Student physician assistant permit
- 445. Graduate physician assistant registration
- 447. Authorization to practice as a graduate physician assistant
- 450. Prescriptive authority
- 460. Identification
- 470. Renewal of a physician assistant registration
- 475. Lapsed physician assistant registration
- 480. Exemptions
- 490. Grounds for suspension, revocation or denial of registration

12 AAC 40.400. PHYSICIAN ASSISTANT REGISTRATION.
(a) A person who desires to undertake medical diagnosis and treatment or the practice of medicine in AS 08.64.380(7) as a physician

assistant shall

- (1) apply for permanent renewable registration on a form provided by the department;
 - (2) pay the appropriate fees established in 12 AAC 02.250; and
 - (3) be approved by the board.
- (b) The application must contain documented evidence of
- (1) graduation from a physician assistant program accredited by the American Medical Association Committee on Allied Health Education and Accreditation;
 - (2) a passing score on the National Board of Medical Examiner's Certifying Examination for Primary Care Physician Assistants; and
 - (3) a current certification issued by the National Commission on Certification of Physician Assistants (NCCPA); and
 - (4) compliance with continuing medical education standards established by the National Commission on Certification of Physician Assistants.
- (c) A physician assistant must be registered under this section at the time the board issued an authorization to practice in this state.

12 AAC 40.405. TEMPORARY REGISTRATION. (a) A member or designee of the board may approve a temporary physician assistant registration of an applicant who meets the requirements of 12 AAC 40.400 and 12 AAC 40.408 and pays the fee set out in 12 AAC 02.250.

(b) Temporary registration is valid for eight months or until the board meets and considers the application for permanent renewable registration, whichever occurs first.

(c) The board will, in its discretion, renew a temporary registration once only, based on good cause.

(d) An applicant who has been denied authorization to practice by the board under 12 AAC 40.408 is not entitled to temporary registration or to renew a temporary registration.

12 AAC 40.406. LOCUM TENENS AUTHORIZATION TO PRACTICE. (a) A member or designee of the board may issue a locum tenens authorization to practice to a physician assistant for the purpose of temporarily substituting for another licensed or authorized health care provider, if the applicant

- (1) applies on a form provided by the department;
- (2) pays the fee established in 12 AAC 02.250;
- (3) is a physician assistant registered under 12 AAC 40.400 or 12 AAC 40.405;

(4) documents an established collaborative relationship, under 12 AAC 40.410 (a-d) and 12 AAC 40.980, with the physician who holds the collaborative relationship with the absent physician assistant; and

(5) has the application and collaborative relationship approved by a member or designee of the board.

(b) A locum tenens authorization to practice is valid for 45 days and may be extended by a member or designee of the board for another 45 days only.

(c) A physician assistant seeking a locum tenens authorization to practice in a location other than the one in which the collaborating physician practices must submit documented evidence to the authorizing board member or designee that previous experience as a physician assistant is sufficient to meet the requirements of the location assignment.

12 AAC 40.408. AUTHORIZATION TO PRACTICE AS A PHYSICIAN ASSISTANT. (a) Unless authorized under 12 AAC 40.406, before a person can practice in this state as a physician assistant the person must

(1) apply on the current form provided by the department;

(2) pay the collaborative relationship fee established in 12 AAC 02.250;

(3) hold permanent renewable physician assistant registration or temporary registration issued under this chapter;

(4) submit documented evidence of an established collaborative relationship under 12 AAC 40.410 and 12 AAC 40.980;

(5) submit a list of all other collaborative relationships established for that physician assistant; and

(6) be approved by a member or designee of the board under (b) of this section.

(b) A temporary authorization to practice may be issued by a member or designee of the board which is valid for eight months or until the board meets to consider the authorization to practice, whichever occurs first.

(c) A temporary authorization to practice issued under this section to a physician assistant practicing in a remote location, as defined in 12 AAC 40.410(g), expires when the requirements of 12 AAC 40.410 and 12 AAC 40.980 are met.

12 AAC 40.410. COLLABORATIVE RELATIONSHIP. (a) A registered physician assistant may not practice without at least one collaborative relationship established under this chapter.

(b) Documented evidence of an established collaborative relationship consists of the plan of collaboration approved by the board under 12 AAC 40.980.

(c) A person authorized to practice as a registered physician assistant shall immediately report to the board, in writing, any change in his or her collaborative relationship.

(d) A change in a collaborative relationship automatically suspends a registered physician assistant's authority to practice under that collaborative relationship.

(e) The first time a physician assistant practices in a remote location, the physician assistant shall work 160 hours in direct patient care under the direct and immediate supervision of the collaborating physician or alternate collaborating physician within 90 days of starting practice in the remote location. The first 40 hours must be completed before the physician assistant begins practice in the remote location.

(f) A physician assistant who practices in a remote location and who has a change of collaborative physician must work 40 hours under the direct and immediate supervision of the new collaborative physician within 60 days of establishing the new collaborative relationship.

(g) In this section, "remote location" means a location in which a physician assistant practices that is 30 or more miles by road from the collaborating physician's primary office.

12 AAC 40.430. PERFORMANCE AND ASSESSMENT OF PRACTICE. (a) A person may perform medical diagnosis and treatment as a physician assistant only if registered by the board and authorized to practice under 12 AAC 40.408 and only within the scope of practice of the collaborating physician.

(b) A periodic method of assessment of the quality of practice must be established by the collaborating physician before an applicant is granted authorization to practice.

(c) Records of assessment must be maintained by the collaborating physician and will, at the board's discretion, be audited.

(d) In this section, "periodic method of assessment" means evaluation of medical care and clinic management, accomplished through at least two days each quarter of direct and personal contact at either the physician's or physician assistant's site of work and through at least monthly telephone or radio review of patient care and review of health care records.

12 AAC 40.440. STUDENT PHYSICIAN ASSISTANT PERMIT. (a) To apply for a permit to practice as a student physician assistant a person shall

(1) apply to the board on a form provided by the department;

(2) pay the fee established in 12 AAC 02.250;

(3) be enrolled in a physician assistant program accredited by the American Medical Association Committee on Allied Health

Education and Accreditation and establish, to the satisfaction of the board, that the student physician assistant will, upon graduation, meet requirements for registration established in 12 AAC 40.400;

(4) when authorized, shall display a nameplate designating that person as a "student physician assistant."

(b) A student physician assistant must be provided with continuous and on-site supervision by a registered physician assistant authorized to practice under 12 AAC 40.408 or a physician licensed in this state.

12 AAC 40.445. GRADUATE PHYSICIAN ASSISTANT REGISTRATION. (a) An applicant for registration to practice as a graduate physician assistant shall submit

(1) a complete application to the board on a form provided by the department;

(2) the fees established in 12 AAC 02.250;

(3) evidence of having graduated from a physician assistant program accredited by the American Medical Association Committee on Allied Health Education and Accreditation; and

(4) evidence of having been accepted to take the next entry level National Board of Medical Examiner's Certifying Examination for Primary Care Physician Assistants for initial certification.

(b) A graduate physician assistant registration is valid until the board receives notice that the applicant failed to take or failed to pass the NCCPA certifying examination under (a) of this section or until the first board meeting after the results of the examination are received by the board, whichever occurs first.

(c) The board will, in its discretion, reissue a graduate physician assistant registration, only in cases where the registrant was prevented from taking a scheduled examination.

(d) A registered graduate physician assistant must be authorized to practice under 12 AAC 40.447 and be provided with continuous on-site supervision by a registered physician assistant authorized to practice under 12 AAC 40.408 or a physician licensed in this state.

12 AAC 40.447. AUTHORIZATION TO PRACTICE AS A GRADUATE PHYSICIAN ASSISTANT. (a) Before a person can practice as a graduate physician assistant the person shall

(1) apply on the form provided by the department;

(2) pay the collaborative relationship fee established in 12 AAC 02.250;

(3) hold graduate physician assistant registration issued under 12 AAC 40.445;

(4) submit documented evidence of an established collaborative relationship under 12 AAC 40.410 and 12 AAC 40.980; and

(5) be approved by a member or designee of the board.

(b) When registered and authorized to practice, the registrant shall display a nameplate designating that person as a "graduate physician assistant."

12 AAC 40.450. PRESCRIPTIVE AUTHORITY. (a) The board will transmit to the Alaska Board of Pharmacy a list of all physician assistants with prescriptive authority. The list will include

(1) the name of the physician assistant;

(2) the name of the collaborating physicians; and

(5) any limitation on prescriptive authority in addition to the limitations set out in (b) and (c) of this section.

(b) A physician assistant may not prescribe Class I or II controlled substances.

(c) Prescriptive authority for Class III, IV and V controlled substances will be limited to that of the collaborative physician.

(d) A prescription written and signed by a registered physician assistant must include the collaborating physician's printed name and Drug Enforcement Administration (D.E.A.) number.

(e) The board will notify the Alaska Board of Pharmacy within 24 hours of a termination or change in a registered physician assistant's prescriptive authority.

(f) Termination of a collaborate relationship terminates a physician assistant's prescriptive authority under that relationship.

12 AAC 40.460. IDENTIFICATION. (a) A registered physician assistant authorized to practice shall conspicuously display on his or her clothing a nameplate identifying the physician assistant as a "Physician Assistant-Certified (PA-C)" and shall display at his or her customary place of employment

(1) a current state registration; and

(2) a sign of at least five by eight inches informing the public that documents showing the registered physician assistant's education and a copy of the board-approved plan of collaboration are available for inspection.

12 AAC 40.470. RENEWAL OF A PHYSICIAN ASSISTANT REGISTRATION. (a) A physician assistant registration must be renewed biennially on the date set by the department.

(b) An application for renewal must be made on the form provided by the department and must include

(1) payment of the renewal fee established in 12 AAC 02.250;

(2) documented evidence that the applicant has met the continuing medical education and recertification requirements of the NCCPA, including the NCCPA recertification examination, and is currently certified by NCCPA;

(3) verification on a form provided by the department of each authorization to practice issued under 12 AAC 40.408 under which the physician assistant is practicing.

12 AAC 40.475. LAPSED PHYSICIAN ASSISTANT REGISTRATION. (a) A physician assistant registration which has been lapsed between one and five years will, in the board's discretion, be reissued, if the applicant submits

(1) a new and complete application as required by 12 AAC 40.400;

(2) documentation that the continuing medical education requirements of 12 AAC 40.470 have been met for the entire period the registration has been lapsed; and

(3) the fees required by 12 AAC 02.250.

(b) a physician assistant registration which has been lapsed for less than one year will be reinstated by the board if the applicant submits

(1) documentation that all continuing medical education requirements of 12 AAC 40.470 have been met; and

(2) the penalty for reinstatement fee required by 12 AAC 02.105(6) and all renewal fees required by 12 AAC 02.250.

12 AAC 40.480. EXEMPTIONS. (a) Nothing in this chapter prevents or regulates the use of a community health aid in the usual and customary manner in the rural areas of the State of Alaska.

(b) Nothing in this chapter regulates, restricts, or alters the function of a person traditionally employed in an office, by a physician, in a position not regulated by the State Medical Board under AS 08.64.

12 AAC 40.490. GROUNDS FOR SUSPENSION, REVOCATION OR DENIAL OF REGISTRATION. The board, after compliance with the Administrative Procedure Act (AS 44.62), will, in its discretion, suspend, revoke or deny the registration of a physician assistant who

(1) fails to pay the fees established in 12 AAC 02.250;

(2) has obtained, or attempted to obtain, registration or authorization to practice as a physician assistant by fraud, deceit, material misrepresentation, or false statement;

(3) habitually abuses alcoholic beverages, or illegally uses depressants, hallucinogenic or stimulant drugs as defined by AS 17.12.150(3) or uses narcotic drugs as defined by AS 17.10.230(13);

(4) consistently fails to comply with 12 AAC 40.460;

(5) practices without the required collaborative relationship;

(6) represents or uses any signs, figures, or letters to represent himself or herself as a physician, surgeon, doctor, or doctor of medicine;

(7) violates any section of this chapter;

(8) is found to have demonstrated professional incompetence as defined in 12 AAC 40.970.

ARTICLE 6. GENERAL PROVISIONS

Section

960. Current address

970. Professional incompetence

980. Collaborating physician

985. General anesthetic

990. Definitions

12 AAC 40.960. CURRENT ADDRESS. A licensee shall maintain a current, valid mailing address on file with the division at all times. The latest mailing address on file for an active, inactive or lapsed license is the address of the licensee for official communications, notifications and service of legal process.

12 AAC 40.970. PROFESSIONAL INCOMPETENCE. As used in AS 08.64 and these regulations, "professional incompetence" means lacking sufficient knowledge, skills, or professional judgement in that field of practice in which the physician or physician assistant concerned engages, to a degree likely to endanger the health of his or her patients.

12 AAC 40.980. COLLABORATING PHYSICIAN. (a) A physician who establishes a collaborative relationship with a physician assistant shall submit to the board, under oath, a plan of collaboration which includes

(1) license data, including license number, date of issue, and specialty, if any, for the physician;

(2) personal data, including the name, employment, and both residence and mailing addresses of the physician assistant with whom the physician enters into a collaborative relationship;

(3) the physician's method of quality assurance, including frequency and method of contacts with the physician assistant, and a proposed system of referral;

(4) a proposed method whereby the patient, including patients who may be blind or deaf, is made aware of the level of educational attainment of the physician assistant;

(5) any limitations on the prescriptive authority of the physician assistant and a reason for them; and

(3) "license" means a license, certificate, permit, registration or similar evidence of authority issued by the division or by one of the boards listed in AS 08.01.010;

(4) "licensee" means person who holds a license issued by the division or by one of the boards listed in AS 08.01.010.

APPENDIX A**CHAPTER 20.
HOSPITALS.**

Sec. 18.20.050. Denial, suspension, or revocation of license. The department may deny, suspend, or revoke a license in a case in which it finds that there has been a substantial failure to comply with the requirements established under AS 08.64.336 or AS 18.20.060—18.20.080.

**CHAPTER 23.
HEALTH CARE SERVICES INFORMATION.**

Sec. 18.23.030. Confidentiality of records of review organization. (a) Except as provided in (b) of this section, all data and information acquired by a review organization, in the exercise of its duties and functions, shall be held in confidence and may not be disclosed to anyone except to the extent necessary to carry out the purposes of the review organization, and is not subject to subpoena or discovery. Except as provided in (b) of this section, a person described in AS 18.23.020 may not disclose what transpired at a meeting of a review organization except to the extent necessary to carry out the purposes of a review organization, and the proceedings and records of a review organization are not subject to discovery or introduction into evidence in a civil action against a health care provider arising out of the matter that is subject of consideration by the review organization. Information, documents, or records otherwise available from original sources are not immune from discovery or use in a civil action merely because they were presented during proceedings of a review organization, nor may a person who testified before a review organization or who is a member of it be prevented from testifying as to matters within the person's knowledge, but a witness may not be asked about the witness' testimony before a reviewing organization or opinions formed by the witness as a result of its hearings, except as provided in (b) of this section.

(b) Testimony, documents, proceedings, records, and other evidence adduced before a review organization that are otherwise inaccessible under this section may be obtained by a health care provider who claims that denial is unreasonable, or may be obtained under subpoena or discovery proceedings brought by a plaintiff who claims that information provided to a review organization was false and claims that the person providing the information knew or had reason to know the information was false.

(c) Nothing in this chapter prevents a person whose conduct or competence has been reviewed under this chapter from obtaining, for the purpose of appellate review of the action of the review organization, any testimony, documents, proceedings, records and other evidence adduced before the review organization.

(d) Notwithstanding the provisions of (b) and (c) of this section, information contained in a report submitted to the State Medical Board, and information gathered by the board during an investigation, under AS 08.64.336 is not subject to subpoena or discovery unless and until the board takes action to suspend, revoke, limit, or condition a license of the person who is the subject of the report or investigation.

APPENDIX B

**ALASKA RULES OF THE COURT
RULES OF EVIDENCE
ARTICLE V. PRIVILEGES**

Rule 504. Physician and Psychotherapist-Patient Privilege.

(a) **Definitions.** As used in this rule:

(1) A patient is a person who consults or is examined or interviewed by a physician or psychotherapist.

(2) A physician is a person authorized to practice medicine in any state or nation, or reasonably believed by the patient so to be.

(3) A psychotherapist is (A) a person authorized to practice medicine in any state or nation, or reasonably believed by the patient so to be, while engaged in the diagnosis or treatment of a mental or emotional condition, including alcohol or drug addiction, or (B) a person licensed or certified as a psychologist or psychological examiner under the laws of any state or nation or reasonably believed by the patient so to be, while similarly engaged.

(4) A communication is confidential if not intended to be disclosed to third persons other than those present to further the interest of the patient in the consultation, examination, or interview, or persons reasonably necessary for the transmission of the communication, or persons who are participating in the diagnosis and treatment under the direction of the physician or psychotherapist, including members of the patient's family.

(b) **General Rule of Privilege.** A patient has a privilege to refuse to disclose and to prevent any other person from disclosing confidential communications made for the purpose of diagnosis or treatment of his physical, mental or emotional conditions, including alcohol or drug addiction, among himself, his physician or psychotherapist, or persons who are participating in the diagnosis or treatment under the direction of the physician or psychotherapist, including members of the patient's family.

(c) **Who May Claim the Privilege.** The privilege may be claimed by the patient, by his guardian, guardian ad litem or conservator, or by the personal representative of a deceased patient. The person who was the physician or psychotherapist at the time of the communication is presumed to have authority to claim the privilege but only on behalf of the patient.

(d) **Exceptions.** There is no privilege under this rule:

(1) **Condition and Element of Claim or Defense.** As to communications relevant to the physical, mental or emotional condition of the patient in any proceeding in which the condition of the patient is an element of the claim or defense of the patient, of any party claiming through or under the patient, of any person raising the patient's condition as an element of his own case, or of any person claiming as a beneficiary of the patient through a contract to

APPENDIX B (Continued)

which the patient is or was a party; or after the patient's death, in any proceeding in which any party puts the condition in issue.

(2) *Crime or Fraud.* If the services of the physician or psychotherapist were sought, obtained or used to enable or aid anyone to commit or plan a crime or fraud or to escape detection or apprehension after the commission of a crime or a fraud.

(3) *Breach of Duty Arising Out of Physician-Patient Relationship.* As to a communication relevant to an issue of breach, by the physician, or by the psychotherapist, or by the patient, of a duty arising out of the physician-patient or psychotherapist-patient relationship.

(4) *Proceedings for Hospitalization.* For communications relevant to an issue in proceedings to hospitalize the patient for physical, mental or emotional illness, if the physician or psychotherapist, in the course of diagnosis or treatment, has determined that the patient is in need of hospitalization.

(5) *Required Report.* As to information that the physician or psychotherapist or the patient is required to report to a public employee, or as to information required to be recorded in a public office, if such report or record is open to public inspection, or as to information or matters contained in or reasonably raised by a report submitted under AS 08.64.336, other than information that would establish the identity of a patient, unless the court finds that it is necessary to admit the identifying information in order to serve the interests of justice.

(6) *Examination by Order of Judge.* As to communications made in the course of an examination ordered by the court of the physical, mental or emotional condition of the patient, with respect to the particular purpose for which the examination is ordered unless the judge orders otherwise. This exception does not apply where the examination is by order of the court upon request of the lawyer for the defendant in a criminal proceeding in order to provide the lawyer with information needed so that he may advise the defendant whether to enter a plea based on insanity or to present a defense based on his mental or emotional condition.

(7) *Criminal Proceeding.* For physician-patient communications in a criminal proceeding. This exception does not apply to the psychotherapist-patient privilege. (Added by Supreme Court Order 364 effective August 1, 1979; amended by Supreme Court Order 850 effective January 15, 1988)

STATE OF ALASKA

DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

DIVISION OF OCCUPATIONAL LICENSING

STEVE COWPER, GOVERNOR

7TH FLOOR FRONTIER BLDG.
3601 C STREET, SUITE 722
ANCHORAGE, ALASKA 99503
PHONE: (907) 561-2878

October 16, 1989

David Rogers, Lawyer
Box 33932
Juneau, AK 99803

Dear David,

I would like to thank you again for the opportunity to speak to the Insurance Liability Task Force last week. I enjoyed meeting with the task force and hope that the information I was able to provide was helpful.

As we discussed on the phone on October 13, I did some research on the question of the Medical Board establishing a code of ethics. Specifically I spoke with Tom Conley, M.D., who served as chairman of the Medical Board for the last 3-4 years. He retired as chairman as of June of this year. Dr. Conley explained to me that the attorney general opinion was a verbal opinion given approximately 6-7 years ago by Dick Monkman, Assistant Attorney General. Basically, the standard code of ethics for the medical profession is the American Medical Association code, a current copy of which I am enclosing for your reference. Dr. Conley explained that there were concerns years ago as to whether the AMA code promoted restraint of trade and was out of sync with the FTC rulings regarding advertising. The other concern regarding a code of ethics was that it attempted to create law outside of the normal legal procedures for codifying this type of information, and that ethics were somewhat nebulous and hard to enforce.

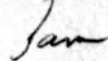
The principles of medical ethics which I am enclosing is copied from the 1989 Current Opinions of the Council on Ethical and Judicial Affairs of the American Medical Association. I will attempt to find out if there have been changes in the principles of medical ethics recently or whether this code of ethics has been in force for a number of years.

The Medical Board will be looking at the matter of a code of ethics at its next board meeting in November. I would be happy to inform you of the results of their discussion after that meeting. Meanwhile, I am still pursuing information on malpractice reporting requirements and which states require reporting of claims made and those requiring reporting of settlements, judgments and awards. Also, as I mentioned on the phone, I spoke with the hearing officer that handles a number of the

medical board cases who explained that "clear and convincing" was the standard of proof which is utilized in medical board cases.

Please feel free to keep in touch and I will forward the other information as soon as I get it.

Sincerely,



Pam Ventgen, CMA
Executive Secretary
State Medical Board

enclosure

0654M/tb

AMERICAN MEDICAL ASSOCIATION

PRINCIPLES OF MEDICAL ETHICS

PREAMBLE:

The medical profession has long subscribed to a body of ethical statements developed primarily for the benefit of the patient. As a member of this profession, a physician must recognize responsibility not only to patients, but also to society, to other health professionals, and to self. The following Principles adopted by the American Medical Association are not laws, but standards of conduct which define the essentials of honorable behavior for the physician.

- I. A physician shall be dedicated to providing competent medical service with compassion and respect for human dignity.
- II. A physician shall deal honestly with patients and colleagues, and strive to expose those physicians deficient in character or competence, or who engage in fraud or deception.
- III. A physician shall respect the law and also recognize a responsibility to seek changes in those requirements which are contrary to the best interests of the patient.
- IV. A physician shall respect the rights of patients, of colleagues, and of other health professionals, and shall safeguard patient confidences within the constraints of the law.
- V. A physician shall continue to study, apply and advance scientific knowledge, make relevant information available to patients, colleagues, and the public, obtain consultation, and use the talents of other health professionals when indicated.
- VI. A physician shall, in the provision of appropriate patient care, except in emergencies, be free to choose whom to serve, with whom to associate, and the environment in which to provide medical services.
- VII. A physician shall recognize a responsibility to participate in activities contributing to an improved community.

STATE OF ALASKA

DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

DIVISION OF OCCUPATIONAL LICENSING

STEVE COWPER, GOVERNOR

7TH FLOOR FRONTIER BLDG.
3001 C STREET, SUITE 722
ANCHORAGE, ALASKA 99503
PHONE: (907) 561-2070

December 21, 1989

David E. Rogers
P. O. Box 33932
Juneau, Alaska 99803

Dear David:

I enjoyed talking with you again today. As we discussed on the phone, the Medical Board has no statistics which document the theory that a small percentage of physicians is responsible for the largest number of disciplinary actions. The board has seen a few physicians with repeated complaints, but we can draw no conclusions from that information as yet.

As you know, at the present time the Medical Board does not receive any malpractice data. I am therefore unable to comment on the statement that a small number of physicians are responsible for the large majority of the medical malpractice cases.

I am enclosing copies of the journal articles I mentioned. I hope you can find them useful.

If I can be of any further assistance in this matter, please do not hesitate to call me.

Sincerely,



Pam Ventgen, CMA
Executive Secretary
State Medical Board

0716M/mh

STATE OF ALASKA

DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

DIVISION OF OCCUPATIONAL LICENSING

STEVE COWPER, GOVERNOR

7TH FLOOR FRONTIER BLDG.
3601 C STREET, SUITE 722
ANCHORAGE, ALASKA 99503
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October 16, 1989

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Dear David,

I would like to thank you again for the opportunity to speak to the Insurance Liability Task Force last week. I enjoyed meeting with the task force and hope that the information I was able to provide was helpful.

As we discussed on the phone on October 13, I did some research on the question of the Medical Board establishing a code of ethics. Specifically I spoke with Tom Conley, M.D., who served as chairman of the Medical Board for the last 3-4 years. He retired as chairman as of June of this year. Dr. Conley explained to me that the attorney general opinion was a verbal opinion given approximately 6-7 years ago by Dick Monkman, Assistant Attorney General. Basically, the standard code of ethics for the medical profession is the American Medical Association code, a current copy of which I am enclosing for your reference. Dr. Conley explained that there were concerns years ago as to whether the AMA code promoted restraint of trade and was out of sync with the FTC rulings regarding advertising. The other concern regarding a code of ethics was that it attempted to create law outside of the normal legal procedures for codifying this type of information, and that ethics were somewhat nebulous and hard to enforce.

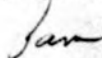
The principles of medical ethics which I am enclosing is copied from the 1989 Current Opinions of the Council on Ethical and Judicial Affairs of the American Medical Association. I will attempt to find out if there have been changes in the principles of medical ethics recently or whether this code of ethics has been in force for a number of years.

The Medical Board will be looking at the matter of a code of ethics at its next board meeting in November. I would be happy to inform you of the results of their discussion after that meeting. Meanwhile, I am still pursuing information on malpractice reporting requirements and which states require reporting of claims made and those requiring reporting of settlements, judgements and awards. Also, as I mentioned on the phone, I spoke with the hearing officer that handles a number of the

medical board cases who explained that "clear and convincing" was the standard of proof which is utilized in medical board cases.

Please feel free to keep in touch and I will forward the other information as soon as I get it.

Sincerely,



Pam Ventgen, CMA
Executive Secretary
State Medical Board

enclosure

0654M/tb

AMERICAN MEDICAL ASSOCIATION

PRINCIPLES OF MEDICAL ETHICS

PREAMBLE:

The medical profession has long subscribed to a body of ethical statements developed primarily for the benefit of the patient. As a member of this profession, a physician must recognize responsibility not only to patients, but also to society, to other health professionals, and to self. The following Principles adopted by the American Medical Association are not laws, but standards of conduct which define the essentials of honorable behavior for the physician.

- I. A physician shall be dedicated to providing competent medical service with compassion and respect for human dignity.
- II. A physician shall deal honestly with patients and colleagues, and strive to expose those physicians deficient in character or competence, or who engage in fraud or deception.
- III. A physician shall respect the law and also recognize a responsibility to seek changes in those requirements which are contrary to the best interests of the patient.
- IV. A physician shall respect the rights of patients, of colleagues, and of other health professionals, and shall safeguard patient confidences within the constraints of the law.
- V. A physician shall continue to study, apply and advance scientific knowledge, make relevant information available to patients, colleagues, and the public, obtain consultation, and use the talents of other health professionals when indicated.
- VI. A physician shall, in the provision of appropriate patient care, except in emergencies, be free to choose whom to serve, with whom to associate, and the environment in which to provide medical services.
- VII. A physician shall recognize a responsibility to participate in activities contributing to an improved community.

STATE OF ALASKA

DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

DIVISION OF OCCUPATIONAL LICENSING

STEVE COWPER, GOVERNOR

7TH FLOOR FRONTIER BLDG.
3601 C STREET, SUITE 722
ANCHORAGE, ALASKA 99503
PHONE: (907) 561-2878

January 16, 1990

David Rogers
P. O. Box 33932
Juneau, AK 99803

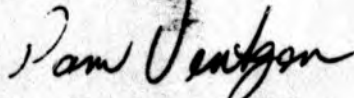
Dear David:

I received a call today from Julie in Sam Cotten's office regarding physician continuing medical education (CME) requirements. I'm enclosing a copy of the medical practice statutes and regulations and have marked those sections pertaining to CME.

Julie also asked about providers of CME programs. Most CME programs within the state are provided through the hospitals, the state medical association or local medical societies, and the physician specialty associations. There are also, of course, numerous programs provided in other states and countries by universities and medical schools, professional associations and various consulting firms, to name just a few. In October, 1988 the medical board, in cooperation with the nursing, dental and pharmacy boards and the Division of Occupational Licensing, presented a CME program dealing with the clinical management of pain. The joint boards are anticipating producing another program this coming fall. The specific topic for the upcoming program has not yet been fully identified.

I hope this provides the information you needed. If you'd like anything else, please give me a call.

Sincerely,



Pam Ventgen, CMA
Executive Secretary
State Medical Board

Enclosure

cc: Sam Cotten
Randall P. Burns

0732M

ALASKA STATE MEDICAL BOARD
ANNUAL PERFORMANCE REPORT
FISCAL YEAR 1989

Prepared by:

Pamela K. Ventgen, CMA
Executive Secretary
September 26, 1989

STATE MEDICAL LICENSING BOARD

State of Alaska
Division of Occupational Licensing
Pouch D
Juneau AK 99811

August 1, 1989

Randall P. Burns, Director
Division of Occupational Licensing
Department of Commerce & Economic Development
P. O. Box D-LIC
Juneau, AK 99811

Dear Mr. Burns:

Enclosed you will find the annual report of the State Medical Board for FY-89. The report, submitted to meet the statutory requirements under AS 08.011, is quite complete and self-explanatory.

I feel the board and the division have continued to function as a team in the pursuit of assuring that quality medical care be rendered to Alaskans. There exists excellent unity of purpose in our combined responsibility.

The board feels the loss, through retirement, of two board members, Dr. Jeffrey Partnow and Bonnie Coghlan. We will miss their valuable involvement and the historical perspective they have provided the board since 1980 and 1984 respectively. We thank them for their efforts.

Tom Conley, M.D., has stepped down as board chair as of June, 1989. The amount of time and energy he has contributed cannot be described. The remaining months of his present term will assure a smooth transition as he continues to provide relative knowledge from his personal data bank. We cannot thank him enough for his efforts.

The division personnel continue to do a wonderful job. The work load increases with each year and we would not be able to perform our responsibilities without their assistance. Pam Ventgen, executive secretary, would simply be irreplaceable. Colin Matthews is doing an excellent job under his ever increasing investigative burden. Kym Walker is as efficient and cheerful as ever. Kevin Henderson continues to do an excellent job with the regulatory changes. Matt Anderson, state Emergency Medical Services Coordinator, deserves special thanks for his work in re-writing the paramedic regulations which were recently adopted.

The implementation of the Impaired Physicians Program continues to become effective through the work of Ray Schalow, Executive Director, Alaska State Medical Association and the ASMA committee. We thank them for their efforts and look forward to making this a viable resource for rehabilitation of the impaired.

The medical board looks forward to another busy and productive year in FY 90.

Sincerely,


James W. Thompson, M.D.
Chair, State Medical Board

Alaska State Medical Board

FY-89 Annual Report

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Board or Commission	Appointed	Term
STATE MEDICAL BOARD		
AS 08.54 - 7 members; 4 year term, serves until new member is appointed and qualified.		
Raymond Bailey (Public Member) 1726 Chena Pump Road Fairbanks, Alaska 99709 (work) 479-0690 (home) 479-0134	January 12, 1989	August 13, 1992
T.L. Conley, M.D., (Chairperson) Ketchikan Medical Clinic, Inc. 3612 Tongass Ketchikan, AK 99901 (work) 225-5146 (home) 225-4483	July 15, 1982	April 21, 1990
Abigale Ryan Hensley (Public Member) (Secretary) P.O. Box 710 Kotzebue, AK 99752 (work & home) 442-3669	Feb 10, 1986	January 9, 1983
Joan G. Jelinek, M.D. 2111 Cowles, Suite 1 Fairbanks, Alaska 99701 (work) 452-7522	January 12, 1989	November 6, 1992
Michael H. Newman, M.D. 4048 Laurel St., #106 Anchorage, AK 99508 (work) 563-8141 (home) 243-5269	July 18, 1988	July 8, 1992
Patrick Nolan, D.O. 3300 Providence Drive, # 206 Anchorage, AK 99508 (work) 561-6100 (home) 345-1796	April 22, 1988	April 21, 1992
James W. Thompson, M.D. 3260 Hospital Drive Juneau, AK 99801 (work) 586-8447 (home) 789-7491	Feb 26, 1987	January 12, 1992
Kym Walker, Licensing Examiner Division of Occupational Licensing P.O. Box D-LIC Juneau, AK 99811-0800 (work) 465-2541		
Pam Ventgen, CMA, Executive Secretary State Medical Board 3601 "C" Street, Suite 722 Anchorage, AK 99503 (work) 561-2878 (home) 349-9301		

NARRATIVE SUMMARY

The purpose of the State Medical Board is to serve and protect the public health. The functions of the State Medical Board can be viewed as falling into three broad areas:

1. The issuance, after scrutinizing qualifications, of licenses to physicians, osteopaths and podiatrists, and permits to paramedics and physician assistants.
2. The investigation of infractions of rules and statutes, particularly as they relate to incompetence, negligence and impairment which may endanger the public, by any members, new applicants or those already licensed or permitted, of the regulated groups. On findings of deficiencies, the board is enjoined and empowered to take corrective action up to and including revocation of licenses and permits.
3. The review of existing regulations and the proposal and adoption of new regulations designed to ensure that quality medical care be readily and efficiently available to the population. The board is also expected to advise the Legislature on necessary changes in statutes to ensure the same end.

The board feels that it has made significant progress in all three areas over the last fiscal year and is optimistic that the board can fulfill its responsibilities even more effectively in FY-90.

Issuance of Licenses

In this area, the board has continued to very carefully scrutinize applications to ensure that applicants are qualified for practice in the State of Alaska. The process has become more complex and time consuming in order to assure continued high quality and competence. The board now requires that all applications be accompanied by disciplinary data bank information from the Federation of State Medical Boards in regard to disciplinary sanctions imposed by other jurisdictions. Additionally, as part of the application process, the board is requiring information from all hospitals where physician applicants have previously had staff privileges. It is widely accepted that this is the one most effective tool in assessing competence. Deficiencies in practice are generally more likely to come to the attention of hospital staffs earlier than they do to other review boards and having access to this data spotlights those applicants who we need to investigate more closely. This does create more work for the board and occasionally results in some slow down in licensure but it is felt that this is a small price to pay for assuring that those licensed in the State of Alaska will meet high standards. Additionally, during FY-89, the board instituted the use of a biographical data sheet for use during the interview process and began requesting independent verification of physician applicants' medical school and first year of post graduate training.

Meetings

During FY-89 the board had funding and staff support to hold four meetings as required by statute. All four of these meetings were held in Anchorage in

order to accomplish business at minimum expense. This meeting schedule allowed the board to function effectively without undue delays in licensure and disciplinary matters.

Investigations

The concerns of the board in prior years about lack of funding and personnel to adequately address investigative matters have been considerably improved with the services of a full-time dedicated investigator. The number of investigations in FY-89 was significantly higher than in prior years and investigations were delayed in some cases. It appears that the services of the executive secretary and investigator have increased public awareness of the of the board's function and existence, resulting in an increase in the number of complaints from the public and the medical community.

Federation of State Medical Boards

The board was able to send a board member and the executive secretary to the annual meeting of the Federation of State Medical Boards in April 1989. This was a very worthwhile undertaking and one that the board hopes to continue on an annual basis. Input from other medical boards was helpful in assessing our programs, getting advice on model legislation, and learning about innovative ways of handling common problems. As noted, information coming to the board from the disciplinary data bank of the Federation of State Medical Boards has been very beneficial in the area of licensure. Improvements in the rapidity with which this data can be accessed were presented at the annual meeting and the State Medical Board is looking into ways of making use of these new on-line data systems. Additionally, close cooperation with the Federation of State Medical Boards insures access to training for board members and staff.

National Practitioner Data Bank

The board was also able to obtain current information on the National Practitioner Data Bank due to be in operation at the federal level in the fall of 1989. This data bank is one portion of the Health Care Quality Improvement Act of 1986 (PL 99-660) and requires hospitals and malpractice insurance carriers to report disciplinary actions through state medical boards to the data bank. This will require increased staff time to accommodate the additional reporting requirements of PL 99-660 and the anticipated increase in investigatory cases.

Impaired Physician Program

The executive secretary position was created and funded in FY-87. Having a full-time executive officer for the board has been a welcome addition and has increased the effectiveness of the board. One of the primary goals of the executive secretary this year was the implementation of an impaired physician program. Such a program was authorized by legislation that passed FY-87 which instructed the board to coordinate with private professional organizations to establish an impaired physician program. Actual provision of services will be with the state medical association. This program was a cooperative effort between the State Medical Board and the Alaska State Medical Association and was approved by the board, the association and the Division of Occupational Licensing in June 1988. In general, the program requires the impaired

practitioner to receive rehabilitative treatment and participate in a monitored recovery program and chemical monitoring during a five-year period of probationary licensure. Experience around the country indicates that such programs are highly effective and can salvage otherwise competent practitioners while at the same time effectively protecting the public.

Regulations

In regard to regulatory projects, there are several that were completed within FY-89 and several that are in progress at the moment. Regulations covering Physician Assistants were revised in FY-88 and 89 and became effective in FY-89. They included provisions for locum tenens PA's and clarification of the registration and authorization to practice procedures. The regulations revisions also included a number of housekeeping changes. Regulatory projects still in progress include paramedic internship, short term physician licensure as well as housekeeping changes to the physician locum tenens permit coverage. Statutory changes sought this year did not make it through the legislature this term and will be attempted again in FY-90.

New Board Members

The board acquired two new Fairbanks members this year. Joan Jelinek, M.D. replaced Jeffrey Partnow, M.D., and Raymond Bailey replaced Bonnie Coghlan in a public member position.

Applicant Interviews

Since most applicants travel to or through Anchorage, the Anchorage board members continue to shoulder the burden of interviewing the vast majority of physician applicants. In FY-88, the executive secretary was delegated the authority to interview physician assistants and issue temporary permits. This has provided more timely service to licensees and at the same time, eased some of the load on the board members.

Recognition and Appreciation

The State Medical Board appreciates the assistance of Division of Occupational Licensing staff including:

Pam Ventgen, CMA, Executive Secretary
Ryn Walker, Licensing Examiner
Gail Matthews, Investigator
Ervin Henderson, Regulations Specialist

The board also recognizes and appreciates the assistance of the Hearing Officers and Assistant Attorneys General.

Summary

Finally, the board would like to comment that cooperation between the board and the Division of Occupational Licensing in Fiscal Year 1989 has been excellent. We all seem to have been moving toward common goals in the last year and the spirit of cooperation has resulted in significant

accomplishments. Regulation of professional licensure is a very complex and demanding task and one that the public is demanding be carried out consistently and with competence. Great strides have been made in this process in the last year and the board feels that the state has been well served.

FY 89 STATISTICAL INFORMATION
(Please Type)

Date: June 30, 1989

Method: Check the appropriate method in which licenses are issued (not including Examination), and cite the specific statutory authority.

<u> </u> Credentials	AS 08. <u>64.250</u>
<u> </u> Reciprocity	AS 08. <u>N/A</u>
<u> </u> Comity	AS 08. <u>N/A</u>
<u> </u> Endorsement	AS 08. <u>N/A</u>

New Licenses: List each category and the number of licenses issued within each category for the first time in FY 89

CATEGORY:

NUMBER OF LICENSES:

(1) <u>Allopathic Physicians (M.D.'s)</u>	<u>86</u>
(2) <u>Osteopathic Physicians (D.O.'s)</u>	<u>12</u>
(3) <u>Podiatrists</u>	<u>1</u>
(4) <u>Physician Assistants</u>	<u>25</u>
(5) <u>Mobile Intensive Care Paramedics</u>	<u>21</u>
Total:	<u>145</u>

	Physician	Total:	Physician Assistant	Paramedic
Number of CURRENT licensees:	<u>925</u>		<u>138</u>	<u>100</u>
Number of LAPSED licensees:	<u>744</u>		<u>70</u>	<u>42</u>
Number of INACTIVE licensees:	<u>255</u>		<u>--</u>	<u>--</u>

Expiration Date: If the expiration date is different for each category, indicate the category after each date.

Expire: 12-31-90

Examination: List each examination separately indicating the licensure category (such as RN, LPN, Dentist, Dental Hygienist), the total number of examinees, number passed and failed.

Exam Statute Authority: AS 08.64.210

(1) Category:	Total Candidates	#Passed	#Failed
<u>M.D. FLEX</u>	<u>None in FY 89</u>	_____	_____
Date and City: _____			
(2) Category:	Total Candidates	#Passed	#Failed
_____	_____	_____	_____
Date and City: _____			
(3) Category:	Total Candidates	#Passed	#Failed
_____	_____	_____	_____
Date and City: _____			
(4) Category:	Total Candidates	#Passed	#Failed
_____	_____	_____	_____
Date and City: _____			

MEETINGS: List Date(s) and Location(s)

1. 10/13,15,16/88 - Anchorage
2. 01/09-10/89 - Anchorage
3. 03/20-21/89 - Anchorage
4. 05/22-23/89 - Anchorage

TELECONFERENCES: List Date(s) and Site(s)

1. 12/31/88

REGULATION HEARINGS: List Date(s) and Site(s)

No hearings held.

Although no hearings were held, work was done on paramedic regulations.

INVESTIGATIONS: (Attach Case Summary)

See attached

STATE MEDICAL BOARD
ENFORCEMENT STATISTICS

FY-89

Investigations

Cases Pending Start of FY-89	17
New Cases Opened	94
Cases Closed	68
Cases Pending End of FY-89	43

Litigation

Cases Pending Start of FY-89	7
New Cases Opened	3
Cases Closed	2
Cases Pending End of FY-89	8

Enforcement Activity

Accusations	1
Statement of Issues	0
Cease and Desist Orders	0
Hearings	1

Disciplinary Actions

Cases Dismissed	0
Licenses Denied	0
Licenses Suspended	1
Probation	4
Licenses Revoked	0
Stipulations/Settlements	3
Letters of Reprimand	0

BOARD/COMMISSION TRAVEL REQUEST

A. In-State Regular Board Meetings: FY 90 FY 91

Number of board meetings authorized
by statute: 4

Number of board meetings requested: 4 4

Location(s): Anchorage Anchorage
Anchorage Anchorage
Juneau Anchorage
Anchorage Anchorage

B. Out-of-State Travel

<u>Name of Event</u>	<u>Location</u>	<u>Dates</u>	<u>Who expected to Attend</u>	<u>Alternate</u>
Western Region Meeting AIMS (Medical Board Administrators)	Sacramento, CA	Oct. 89	Pam Ventgen	—
Site Visit Evaluate residential chemical dependency treatment facilities	Portland, OR Atlanta, GA	Jan-Feb 90	J. Thompson, MD	—
Federation of State Medical Boards Annual Meeting	Birmingham, AL	April 90	J. Thompson, MD	A. Hensley
AMA Conference on Impaired Health Practitioners	Orlando, FL	June 90	Pam Ventgen	—

SUNSET PERFORMANCE AUDIT RECOMMENDATIONS

The last sunset audit of the medical board was completed in January 1987. Although there were no recommendations included in the report, several issues were identified in the analysis of public need. A response to the sunset audit was prepared by then-Commissioner J. Anthony Smith to address these specific issues.

There has been a renewed commitment to hold four face-to-face meetings each year. The board has done so in FY-88 and FY-89 and plans to hold four face-to-face meetings in FY-90.

As indicated in the commissioner's 1987 letter, the division is now able to allocate direct and indirect costs as well as actual revenues to the medical board. This allows for more accurate setting of fees to match the expenses of operating and supporting the board.

Lastly, the board has established regulations (12 AAC 40.055) to govern the interview requirement. The board continues to revise and improve its handling of interviews, primarily with the scheduling of all interviews through staff and the delegation to the executive secretary of physician assistant, paramedic, locum tenens and resident-in-training permit interviews.

REVIEW OF PRIOR YEAR OBJECTIVES

Goal I - Meet the requirements of Alaska Medical Statutes AS 08.64.

A. To enforce statutes and regulations in issues of discipline and quality assurance.

1. To investigate and take action on complaints within three months of the complaint: The board, through the Division of Occupational Licensing, continues striving to improve in this area.
2. To work cooperatively with the Attorney General's Office in the timely enforcement of disciplinary actions: The innovative use of hearing officers within the division has resulted in a more rapid clearing of cases. Additionally, cases, especially in the area of impairment, are handled through mutually arrived at consent decrees rather than taking them through the lengthy litigation process. Delays due to work load in the Anchorage Attorney General's office continue to plague the process.
3. The number of cases is up considerably over prior years, in part due to the ability to work all cases that come to the board's attention. The full-time investigator dedicated to the medical board continues to gain expertise in the medical arena and is increasingly effective. Complaints are responded to promptly, investigations are handled thoroughly and brought to the board in a timely manner.

B. To review applications of medical practitioners on a timely and impartial basis.

1. To review within three months all completed applications for licensure to practice in the State of Alaska of allopathic physicians (M.D.'s), osteopathic physicians (D.O.'s), podiatrists, physician assistants, and mobile intensive care paramedics: With the opportunity to meet four times in this fiscal year, we have fulfilled this goal in most cases. In those cases where there has been delay, it has almost invariably been caused by failure of the applicant to submit the needed data or the uncovering of information that led to further investigation. In those areas where all the data was complete and there was no adverse information presented, licensure was completed within the time frame indicated.
2. To evaluate, on an ongoing basis, ways to improve the application and licensing process: The board has continued to review its function in this area. With the employment of the executive secretary, the board has made further improvements. The executive secretary has streamlined the setting of applicant appointments for interviews and has increased the assurance that license files were complete prior to interview. Additionally, the executive secretary's handling of temporary permits to

physician assistants has provided more efficient service to PA applicants and the public they serve. The executive secretary continues to revise and update the license application forms and procedures to accommodate regulation revisions and policy changes. Lastly, the executive secretary is able to assist applicants with the licensing process, and is especially adept when out of the ordinary situations arise.

C. To have four (4) face-to-face meetings every year. This has been accomplished in FY-89.

1. To advertise board meetings well in advance and widely in various media: We continue to try and do this with mixed success, primarily due to cost of advertising.
2. To inform the public of board activities through a periodic newsletter: A newsletter is still financially prohibitive; however, the board has been more successful in publishing the results of its deliberations both in the general press and through State Medical Association publications.
3. Increase public awareness of the medical board's function: The board would like to assist the division in development of a generic brochure educating the public on how to file a complaint with the division.

D. To provide the Federation Licensing Examinations (FLEX).

To hold two FLEX examinations yearly (June and December): These continue to be offered.

Goal II - Improve the performance of the board and ensure that existing statutes and regulations are relevant.

A. To evaluate the relevance of existing medical practice statutes and regulations.

1. To examine, rewrite, and put into effect policies and regulations that will rectify inconsistencies and conflicts in present regulations and policies: We have continued to do this. The Physician Assistant regulatory project was completed in FY-89. These new regulations allow for locum tenens physician assistants and clarify the distinction between registration and the physician assistant's authorization to practice.
2. To recommend, when appropriate, statutory changes to the present Alaska Medical Statutes, AS 08.64:

The board sought statutory changes this year to:

- a. establish a "retired" status medical license to allow retired

physicians no longer practicing to maintain their licenses with no continuing medical education (CME) requirements.

b. establish a "courtesy status" license to accommodate physicians accompanying interstate and international sporting teams.

c. provide for short-term licensure with full credentialing requirements and reduced fee for short-term work assignments.

d. restrict locum tenens permits to those physicians specifically substituting for another Alaska licensed physician.

e. extend peer review immunity to the impaired physician committee of the Alaska State Medical Association.

f. provide for the executive secretary to conduct locum tenens and resident-in-training permit interviews.

g. restrict the use of amphetamines to currently appropriate medical uses.

h. preserve the sanctions imposed by the board during the sometimes lengthy appeals process.

B. To improve administrative functioning.

1. To effectively utilize the services of the executive secretary in administrative areas, supervision of probationary licensure, setting up an impaired physicians program, etc.: The executive secretary is enhancing the functioning of the board by providing ongoing support for board meetings and carrying out the board's functions on a day-to-day basis, providing orientation to new board members, providing supervision of licensees under probation and working with the Alaska State Medical Association in implementing a formal impaired physician program.

C. To improve the board's knowledge and effectiveness in ensuring safe health care for the citizens of the State of Alaska.

1. To send one board member and the executive secretary to the annual meeting of the Federation of State Medical Boards: This was done this year with what the board considers significant benefit to its functioning.
2. To cooperate with the Nursing and Pharmacy Boards to ensure coordinated regulations relating to health care: The State Medical Board has continued to have contact with the Nursing and Pharmacy Boards. Present cooperation between the various boards is considered smooth and harmonious by all involved. The medical, nursing and pharmacy boards met jointly this year to address common issues of interest to these boards. Additionally,

the boards and the division sponsored a pain management continuing education seminar in October 89 to address concerns relating to appropriate prescribing of narcotic drugs.

3. To develop an effective impaired physician program: The Impaired Physician Treatment Program was developed in conjunction with the Alaska State Medical Association and based on Oregon's notably effective program. The program includes a residential treatment component, AA and peer support aftercare and random chemical screening for alcohol and drugs of abuse. The program was formally adopted by the medical board, medical association and the division in June 1988 and is being fully implemented.
4. The board participated in the Prescription Abuse Data Synthesis (PADS) project. The PADS project was developed and is funded by the American Medical Association (AMA) and was brought to Alaska at the request of the Alaska State Medical Association and the State Medical Board to assess the extent of any prescription drug abuse problems in Alaska. After analysis of the data and investigation into prescriptive practices in Alaska, it was determined that there is not a significant prescription drug abuse problem in Alaska although there are some areas where additional education would be appropriate. Recommendations were made by the PADS policy group and submitted to the Governor. The report is attached as addendum A.

NEW GOALS AND OBJECTIVES

Goal I - Meet the requirements of Alaska Medical Statutes AS 08.64.

A. To enforce statutes and regulations in issues of discipline and quality assurance.

1. To investigate and take action on complaints within three months of the complaint.
2. To work cooperatively with the Attorney General's Office and the Division Hearing Officers in the timely enforcement of disciplinary actions and to have the Assistant Attorney General present during a portion of each board meeting for advice and counsel.
3. To effectively utilize the services of the full-time medical investigator.

B. To review applications of medical practitioners on a timely and impartial basis.

1. To review within three months all completed applications for licensure to practice in the State of Alaska of:

Allopathic Physicians (M.D.s)
Osteopathic Physicians (D.O.s)
Podiatrists (D.P.M.s)
Physician Assistants (P.A.s)
Mobile Intensive Care Paramedics (M.I.C.P.s)

2. To evaluate, on an ongoing basis, ways to improve the application and licensing process.

C. To have four (4) face-to-face meetings every year.

1. To advertise board meetings widely and well in advance.
2. To inform medical providers and the public of board actions on a regular basis.

D. To offer FLEX examinations.

To offer two FLEX examinations yearly (June and December).

Goal II - Improve the performances of the board to ensure that existing statutes and regulations are relevant.

A. To evaluate the relevance of existing medical practice statutes and regulations.

1. To examine, rewrite and put into effect policies and regulations that will rectify inconsistencies and conflicts in present regulations and policies.
2. To recommend, when appropriate, statutory changes to the present Alaska Medical Statutes, AS 08.64.

B. To improve administrative functioning.

1. To effectively utilize the services of the executive secretary in administrative areas, supervising of probationary licensure, continued implementation of the impaired physician program and other projects as necessary.

C. To improve the board's knowledge and action in ensuring safe health care for the citizens of the State of Alaska.

1. To send one board member and the executive secretary to the Annual meeting of the Federation of State Medical Boards.
2. To send the executive secretary to the Administrators in Medicine Society (AIMS is a subgroup of the Federation of State Medical Boards consisting of executive officers of all the state medical boards) regional and semi-annual meetings.
3. To cooperate with the Nursing and Pharmacy Boards to ensure coordinated regulations relating to health care.
4. To continue working with the Alaska State Medical Association to fully implement the recently adopted Impaired Physician Treatment Program.
5. To develop and distribute a brochure explaining the purpose and function of the medical board and the complaint and investigation process so that the public has better access to the services of the board.
6. To develop and implement the recommendations resulting from the PADS project.

BUDGET RECOMMENDATIONS

In considering the budget for the State Medical Board in FY-90, the board requests funding be allocated for four (4) face-to-face meetings. Inevitably, there will be at least one teleconference during the year for unexpected matters. A board member and the executive secretary are expected to attend the Federation of State Medical Boards meeting in April 1990 in Birmingham, Alabama. Funding will also be required to send the executive secretary to the Administrators in Medicine Society (AIMS) Western Region meeting in Sacramento in October 1989. The AIMS regional meeting will be particularly important this year as it will deal largely with training and implementation of the National Practitioner Data Bank. Funding is required for the executive secretary to attend AMA's conference on Impaired Health Professionals in Orlando, Florida in June 1990. The executive secretary is also expected to represent the medical board at the annual meeting of the Alaska State Medical Association in Fairbanks in June 1990. Lastly, funding will be needed for a half-time position to provide data reporting services to the National Practitioner Data Bank, which was created under PL 99-660, the Health Care Quality Improvement Act of 1986. The data bank is scheduled to begin operation September 1, 1989.

LEGISLATIVE RECOMMENDATIONS

The board is considering legislation to increase post-graduate training requirements. AS 08.64.200(3) requires one year post-graduate level training. Other states are increasing their requirements to two and in some states three years of post-graduate level training. The board feels that the complexity of medicine now makes two years post-graduate training a reasonable requirement. In addition, the State of Alaska would not want to have lower standards than other states and thereby attract applicants who could not obtain licensure elsewhere.

The board is also considering legislation to provide for requiring the Special Purpose Examination (SPEX) for physician applicants who are some years (e.g., 10 years) beyond initial license examination. Without these requirements the board must rely on outdated examination results, letters of reference and recommendation, and other limited means. As other states begin to require this additional examination Alaska should assess the need to follow suit.

The board will be considering legislation to accommodate the single examination pathway to licensure. This new examination will replace both of the currently recognized examinations: The Federation Licensing Examination (FLEX) and the National Board of Medical Examiners (NBME) examinations. The single examination pathway to licensure was recently adopted by the Federation of State Medical Boards at its annual meeting in April 1989. It is expected that the single examination will be phased in over the next several years.

Additionally, the board intends to pursue legislation introduced in early 1989 relative to: interview requirements, retired status licensure, immunity extended to the impaired physician committee of the Alaska State Medical Association, credentialing for courtesy licenses, short-term full licenses, restricting the use of amphetamines, preserving sanctions of the board and amendments to the definitions in AS 08.64.380(7)(B).

BOARD/COMMISSION RECOMMENDATIONS FOR

PROPOSED LEGISLATION

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

1. Proposed language:

Section 1. AS 08.64.101(6) is amended to read:

Sec. AS 08.64.101(6) coordinate with private professional organizations to establish an impaired medical professionals program to identify, confront and treat persons licensed under this chapter who abuse addictive substances.

2. Public/Industry/Profession benefit:

To protect the public by facilitating the effective operation of the Impaired Physician Program.

3. State the problem or purpose prompting this request:

Sections 1 & 13 are to be read together.

The volunteers who staff the effort have been concerned that though they are protected from civil liability in terms of arranging treatment that their very necessary activity in terms of identification and confrontation of those in need of help is not so protected. The provisions of Section 1 & 13 extend the protection of immunity from civil and criminal liability for these necessary activities. This seems logical, appropriate and consonant with protection of the public's health.

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

Under the provisions of HB 70 of the 15th Legislature the board was empowered to contract with a private professional agency to run an impaired professionals program. Such a contract was signed June 1988 between the Board and the Division of Occupational Licensing and the Alaska State Medical Association (ASMA). Members of the ASMA's Impaired Physician Committee (all unpaid volunteers) seek out individuals in trouble, confront them and get them into treatment. The program is working very well at this point and is a marvelous boon to the community in shortstopping problems before they go on to threaten the public health.

5. Identify the alternatives to this legislation (if any):

- a. One alternative is to provide no immunity, which would effectively chill the willingness of physician volunteers to risk the liability exposure of confronting impaired colleagues.

6. Which alternative mentioned would be most acceptable?

Proposed language.

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

Yes.

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

Board/Commission Member: Thomas L. Conley, M.D.

Day Phone: 225-4483

BOARD/COMMISSION RECOMMENDATIONS FOR

PROPOSED LEGISLATION

1. Proposed language:

Section 2. AS 08.64.225 is amended to read:

Sec. AS 08.64.225. FOREIGN MEDICAL GRADUATES. Applicants who are graduates of medical colleges not accredited by the American Medical Association or one of its agencies must [SHALL] meet the requirements of AS 08.64.200(a)(3),(4),(5), and AS 098.64.255 and must have passed an examination and be certified by the Education Council on Foreign Medical Graduates, or be licensed by examination in another state or territory of the United States or province of Canada.

2. Public/Industry/Profession benefit:

To clarify the interview requirement and to make the statutes more consistent with present policy.

3. State the problem or purpose prompting this request:

Sections 2,3,6,7 & 10 are to be read together.

Present statute requires that all licensees and permittees be interviewed by at least one board member. Present policy requires that should the interviewer feel unsure about granting the license after the interview that an interview by the whole board and appropriate investigation by the division be carried out before licensure.

Interviews are carried out by both physician and non-physician members of the board without distinction. There is no attempt to use the interview as a test of knowledge both for practical and statutory reasons.

The interviewing of permanent and temporary licenses (most of the latter are expected to go on to permanent license status) should appropriately remain with board members exclusively. It is being found however that interviewing resident-in-training and locum tenens candidates is placing a severe burden on board members' time, especially in Anchorage and Fairbanks, and leading to delays and resentment on the part of both candidates and volunteer board members. It seems appropriate then that our executive secretary should take on part of that task. That individual is trained in statute and regulation and is familiar with training and testing cycles and the methods of acceptable identification.

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

The interview requirement is one that was set by the legislature many years ago. What the legislative intent was is unclear to the board and

research through older versions of the statutes back to 1948 doesn't clarify the issue. Our practical experience is that it has some utility in determining that the applicant is indeed who he says he is (documents and pictures match, etc.), seems to be sober and not flagrantly psychotic, and seems to present a logical sequence of training. It also allows for verification of immigration and naturalization documents which cannot, by law, be photocopied.

The board recognizes that the interview is of significantly less importance than careful review of notarized training, residency, hospital privilege, specialty board, testing and licensure (in other jurisdictions) documentation plus clearance by the DEA and National Federation of State Medical Boards.

5. Identify the alternatives to this legislation (if any):

Eliminate interview requirement for resident-in-training and for locum tenens applicants.

6. Which alternative mentioned would be most acceptable?

Proposed changes.

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

Yes.

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

Board/Commission Member: Thomas L. Conley, M.D.

Day Phone: 225-4483

BOARD/COMMISSION RECOMMENDATIONS FOR

PROPOSED LEGISLATION

1. Proposed language:

Section 3. AS 08.64.230 is amended to read:

Section AS 08.64.230. LICENSE GRANTED. (a) If the physician applicant passes the examination and meets the requirements of AS 08.64.200 and AS 08.64.255, the board shall grant a license to the applicant to practice medicine in the state.

(b) If the osteopath applicant passes the examination and meets the requirements of AS 08.64.205 and AS 08.64.255, the board shall grant a license to the applicant to practice osteopath in that state.

(c) Each license shall be signed by the secretary and president of the board, and have the seal of the board affixed to it.

2. Public/Industry/Profession benefit:

To make statutory requirements more consistent between sections.

3. State the problem or purpose prompting this request:

See Section 2.

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

See Section 2.

5. Identify the alternatives to this legislation (if any):

Eliminate interview requirement.

6. Which alternative mentioned would be most acceptable?

Proposed language.

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

Yes.

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

Board/Commission Member: Thomas L. Conley, M.D.

Day Phone: 225-4483

BOARD/COMMISSION RECOMMENDATIONS FOR

PROPOSED LEGISLATION

1. Proposed language:

Section 4. AS 08.64.240(a) is amended to read:

Section AS 08.64.240. LICENSE REFUSED. (a) The board may not grant or license if

(4) The applicant has surrendered a license in another jurisdiction while under investigation and the license has not been reinstated in that jurisdiction.

2. Public/Industry/Profession benefit:

To protect the public from incompetent practitioners.

3. State the problem or purpose prompting this request:

This section closes a loophole. At present, persons who have surrendered a license in another jurisdiction while under investigation are free to apply in Alaska (if they have had the license revoked they are not so permitted). It seems sensible to require that they clear up their problem one way or another in the prior jurisdiction before applying in Alaska.

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

See above.

5. Identify the alternatives to this legislation (if any):

None.

6. Which alternative would be most acceptable?

Proposed language.

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

Yes.

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

Board/Commission Member: Thomas L. Conley, M.D.

Day Phone: 225-4483

BOARD/COMMISSION RECOMMENDATIONS FOR

PROPOSED LEGISLATION

1. Proposed language:

Section 5. AS 08.64.270 is repealed and readopted to read:

Sec. AS 08.64.270. TEMPORARY PERMIT. (a) The board may issue a temporary permit to a physician applicant, osteopath applicant, or podiatry applicant who meets the requirements of AS 08.64.205, AS 08.64.209 or AS 08.64.225 and pays the required fee.

(b) A temporary permit issued under this section is valid for six months and must be approved by the board at the next regularly scheduled meeting of the board after it is issued.

(c) A temporary permit issued under this section may not be renewed. The fee for the permit shall be one quarter of the biennial licensing fee (plus the appropriate application fee). At the discretion of the licensee and with board approval the temporary license may be converted to a biennial license (permanent license) upon payment of the remainder of the fee due for such a license.

2. Public/Industry/Profession benefit:

To make the statutes and regulations consistent with desired policy.

3. State the problem or purpose prompting this request:

Sections 5 & 7 should be read together:

In the past, a temporary license was granted to an individual who had completed all the requirements for a permanent license including an interview and was waiting for the board to meet to confirm the material and grant permanent licensure.

The ~~locum~~ tenens permit, though statutorially designed to be used only by those substituting for another physician, developed an expanded, and to the board, uncomfortable meaning. It was used as intended for substitute physicians but was also used to cover individuals who came to Alaska to work in seasonal jobs, emergency rooms, etc., and those coming up briefly to see if they wanted to relocate to Alaska. Often they were not actually substituting for an Alaskan physician but there seemed no other reasonable category in which to place them without requiring permanent licensure. Some individuals also seemed to acquire such permits on a regular basis, and as it were, acquire sort of a permanent license at a cut rate.

By coordinating AS 08.64.270 and AS 08.275 the board hopes to create two categories.

A. Temporary Permit - good for 6 months and requiring all the documentation required for a permanent license plus interview by a board member to be used

- 1) While waiting formal board action at the next regular meeting at which point it is converted to a permanent license.
- 2) By those filling a temporary slot in an emergency room, seasonal clinic, etc., but not substituting for an Alaskan physician.
- 3) By those moving to the state who have not yet decided if they wish to stay permanently.
- 4) Individuals in category 2 & 3 (or for that matter, those who wish to get frequent locum tenens permits) can then move on to permanent licensure by paying the remnant 75% of the permanent licensure fee any time up to 6 months after getting the temporary as they will have complied with all the requirements. The board would still have the discretion of putting a hold on this if the individual had gotten into trouble during the 6-month temporary period.

B. Locum Tenens Permit - good for 60 days with one renewal and a limit of 240 days in any two years between new permits and renewals. It would require somewhat less documentation than a temporary (but demand a currently valid license in another jurisdiction and clearance by National Federation of State Medical Boards) plus an interview by either a board member or the board's executive secretary. It could be used only by one substituting for an Alaskan physician who would have to be specifically designated. An individual who chose to function repeatedly in the role (i.e., beyond 240 days in two years) would be expected to get a permanent license (either directly or through the temporary license route) in his own right, not as a substitute.

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

See above.

5. Identify the alternatives to this legislation (if any):

None.

6. Which alternative would be most acceptable?

Proposed language.

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

Yes.

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

Board/Commission Member: Thomas L. Conley, M.D.

Day Phone: 225-4483

BOARD/COMMISSION RECOMMENDATIONS FOR

PROPOSED LEGISLATION

1. Proposed language:

Section 6. AS 08.64.272(b) is amended to read:

(b) For the limited purpose of residency or internship, the board may issue a permit to an applicant without examination if the applicant meets the requirements of AS 08.64.200(a)(2) and applicable regulations of the board, meets the requirements of AS 08.64.278. pays the required fee, and has been accepted by an eligible institution in the state for the purpose of residency or internship.

2. Public/Industry/Profession benefit:

To make statutory requirements more consistent between the sections.

3. State the problem or purpose of prompting this request:

See Section 2.

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

5. Identify the alternatives to this legislation (if any):

None.

6. Which alternative mentioned would be most acceptable?

Proposed language.

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

Yes.

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

Board/Commission Member: Thomas L. Conley, M.D.

Day Phone: 225-4483

BOARD/COMMISSION RECOMMENDATIONS FOR
PROPOSED LEGISLATION

1. Proposed language:

Section 7. AS 08.64.275 is amended to read:

Sec. AS 08.64.275 TEMPORARY PERMIT FOR LOCUM TENENS PRACTICE. (a) A member of the board may grant a temporary permit to a physician or osteopath for the purpose of substituting for another physician or osteopath licensed in this state. The permit is valid for [120] 60 consecutive days. If circumstances warrant, an extension of the permit may be granted by the board.

(b) A physician applying under (a) of this section shall pay the required fee and shall meet the requirements of AS 08.64.200 and of AS 08.64.278. In addition, the physician shall submit evidence of holding a license to practice medicine in a state or territory of the United States or in a province of Canada.

(c) An osteopath applying under (a) of this section shall pay the required fee and shall meet the requirements of AS 08.64.205 and of AS 08.64.278. In addition, the osteopath shall submit evidence of holding a license to practice in a state or territory of the United States or in a province of Canada.

(d) Within 10 days after the permit has been granted, the board member shall forward to the department a report of the issuance of the permit.

(e) A limit of four such permits and/or extensions (limit of 240 days) may be granted to a single individual during a two year period.

2. Public/Industry/Profession benefit:

To make requirements consistent.

3. State the problem or purpose prompting this request:

See Section 2.

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

5. Identify the alternatives to this legislation (if any):

Eliminate interview requirement for locum tenens practice.

6. Which alternative mentioned would be most acceptable?

Proposed language.

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

Yes.

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

Board/Commission Member: Thomas L. Conley, M.D.

Day Phone: 225-4483

BOARD/COMMISSION RECOMMENDATIONS FOR

PROPOSED LEGISLATION

1. Proposed language:

Section 8. AS 08.64 is amended by adding a new section to read:

Sec. AS 08.64.276. RETIRED STATUS (a) on reaching the age of 65, and on payment of an appropriate one time fee, a licensee in good standing with the board may apply for the conversion of an active or inactive license to retired status.

(b) A retired license is issued for the remnant span of the licensee's life and does not require renewal.

(c) Individuals holding retired licenses are exempt from the provisions of AS 08.64.312.

(d) Individuals holding a retired license are prohibited from practicing medicine, osteopathy or podiatry, as the case may be, in the State of Alaska.

(e) Retired licensees may reapply for active licensure but are required to meet any reasonable criteria set by the board in the individual case including but not limited to demonstration of adequate CME credits, retaking of national examinations such as the FLEX exam, physical and psychiatric examination, interview with the board as a whole, and clearance by the National Data Bank of the National Federation of State Medical Boards.

2. Public/Industry/Profession benefit:

These provisions would allow a physician retired from active practice to continue to use the honorific "M.D." and maintain a medical license without the continuing education requirements or the ability to practice medicine.

3. State the problem or purpose prompting this request:

It is felt that a permanent retired license status will serve the retired physicians' purposes and protect the public health. Retired status should also appeal to those who are effectively retired and presently faced with CME requirements they cannot meet because of age or infirmity. The CME statutes at present make no provision for people in this status.

The proposed statute, while not precluding reactivation of retired licenses, would empower the board to make very certain that the individual was competent to resume such practice.

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

It is recognized that there are a number of physicians who retain licensure beyond the time it is reasonable for them to practice out of the sense of pride licensing brings them and because of an oddity in statute that prohibits them from using the "M.D." after their name if not licensed. (The statute, AS 08.02.010, is designed to prevent the unlicensed from deluding the public as to their qualifications).

5. Identify the alternatives to this legislation (if any):

None.

6. Which alternative mentioned would be most acceptable?

Proposed language.

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

Yes.

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

Board/Commission Member: Thomas L. Conley, M.D.

Day Phone: 225-4483

BOARD/COMMISSION RECOMMENDATIONS FOR
PROPOSED LEGISLATION

1. Proposed language:

Section 9. AS 08.64 is amended by adding a new section to read:

Sec. AS 08.64.277. COURTESY LICENSE. The State Medical Board may by regulation set criteria for issuing temporary courtesy licenses to medical and osteopathic physicians and podiatrists accompanying interstate and international sporting teams and international contingents participating in activities in Alaska. Such licenses shall be limited in time to that length of time the contingent or sporting team is present in Alaska and in any case no longer than 45 days. Such licensees will be limited to practicing on team or contingent members, their dependents and foreign nationals accompanying international groups.

2. Public/Industry/Profession benefit:

This would permit the board to grant courtesy licensure, under appropriate restrictions, to medical practitioners accompanying sports teams, such as Olympic teams (if Anchorage had been selected as the site), interstate and international sporting contingents.

3. State the problem or purpose prompting this request:

There is currently no provision for credentialing the courtesy physicians.

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

Difficulties occasionally arise when visiting participants under the care of their own physicians require services or supplies from the local health care system.

5. Identify the alternatives to this legislation (if any):

No action.

6. Which alternative mentioned would be most acceptable?

Prefer proposed legislation.

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

Yes.

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

Board/Commission Member: Thomas L. Conley, M.D.

Day Phone: 225-4483

BOARD/COMMISSION RECOMMENDATIONS FOR
PROPOSED LEGISLATION

1. Proposed language:

Section 10. AS 08.64 is amended by add a new section to read:

Sec. AS 08.64.278. INTERVIEW REQUIRED FOR PERMITS. An applicant for an intern permit, a resident permit, or a temporary permit for locum tenens practice must be interviewed in person by at least one member of the board or by the executive secretary of the board.

2. Public/Industry/Profession benefit:

Allowing the executive secretary of the board to conduct resident-in-training and locum tenens interviews will make the licensing process less burdensome on applicants and board members.

3. State the problem or purpose prompting this request:

See Section 2.

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

See Section 2.

5. Identify the alternatives to this legislation (if any):

Eliminate interview requirement.

6. Which alternative mentioned would be most acceptable?

Proposed legislation.

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

Yes.

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

Board/Commission Member: Thomas L. Conley, M.D.

Phone: 225-4483

BOARD/COMMISSION RECOMMENDATIONS FOR

PROPOSED LEGISLATION

1. Proposed language:

Section 11. AS 08.64 is amended by adding a new subsection to AS 08.64.326 numbered AS 08.64.326(a) (14) to read:

Sec. AS 08.64.326 GROUNDS FOR IMPOSITION OF DISCIPLINARY SANCTIONS.
(a) (14) Has prescribed, ordered, dispensed, administered, supplied, sold, or given any amphetamine, sympathomimetic amine drug or compound identified as a Schedule II controlled substance under AS 11.71.150 to or for any person except for the treatment of drug induced brain dysfunction, or for the treatment of epilepsy, or for the differential diagnostic evaluation of depression, or for the treatment of depression shown to be refractory to other therapeutic modalities, or for the clinical investigation of the effects of such drugs or compounds in which case an investigative protocol therefore shall have been submitted to and reviewed and approved by the board before such investigation has been begun.

2. Public/Industry/Profession benefit:

Protect the public from inappropriate prescribing of amphetamines.

3. State the problem or purpose prompting this request:

It is clear that 99+% of all amphetamines prescribed are for weight reduction. It is clear that while they may be beneficial for 2-3 weeks that after that they serve no purpose in that regard and lead to significant habituation. Amphetamine prescription in "weight reduction clinics" is the single most significant diversion point of these medications onto the illicit market.

The proposed legislation, adapted from Wisconsin statutes, recognizes the seven (7) valid uses of the medication (accounting for less than 1% of prescriptions) and makes other use subject to disciplinary sanction.

It will help in showing down diversion and will also help the ethical physician when importuned by individuals seeking such medications if he/she can inform those individuals that such prescribing is illegal.

Such provisions have proved quite useful in other states.

It is suggested that statutory language of a similar nature be inserted into the pharmacy statutes to further control amphetamine use. The division, along with the boards of pharmacy, nursing and medicine, the DEA, the ASMA and State Troopers are presently engaged in a cooperative effort known as PADS (prescription abuse data system) to try to reduce diversion. The present statute will help in that effort.

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

See item 3 above.

5. Identify the alternatives to this legislation (if any):

None.

6. Which alternative mentioned would be most acceptable?

N/A.

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

Yes.

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

Board/Commission Member: Thomas L. Conley, M.D.

Day Phone: 225-4483

BOARD/COMMISSION RECOMMENDATIONS FOR
PROPOSED LEGISLATION

1. Proposed language:

Section 12. AS 08.64.335 is amended to read:

Sec. AS 08.64.335. REPORTS OF DISCIPLINARY ACTION OR LICENSE SUSPENSION OR SURRENDER. The board shall promptly report to the Federation of State Medical Boards for inclusion in the nationwide disciplinary data bank license or permit refusals under AS 08.64.240, actions taken by the board under AS 08.64.331, and license or permit suspensions or surrenders under AS 08.64.332 or AS 08.64.334.

2. Public/Industry/Profession benefit:

To protect the public from incompetent practitioners by reporting adverse board actions to the nationwide disciplinary data bank.

3. State the problem or purpose prompting this request:

When this section was crafted for HB 70 in 1986-87 we neglected to insert the word "permit". Since certain of our licenses (temporary, locum tenens) and our physician assistant authority are referred to as permits it could be argued we are prevented from reporting disciplinary and other actions concerning these licenses and permits. We have considered that such reports fall under the legislative intent of the statute so have proceeded to submit reports when appropriate but feel it would be best to clean up the language.

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

See above.

5. Identify the alternatives to this legislation (if any):

None.

6. Which alternative mentioned would be most acceptable?

Proposed language.

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

Yes.

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

Board/Commission Member: Thomas L. Conley, M.D.

Day Phone: 225-4483

BOARD/COMMISSION RECOMMENDATIONS FOR

PROPOSED LEGISLATION

1. Proposed language:

Section 13. AS 08.64.336(e) is amended to read:

Sec. AS 08.64.336. DUTY OF PHYSICIANS AND HOSPITALS TO REPORT. (e) A physician, hospital, hospital committee, or private professional organization designated under AS 08.64.101(6) to identify, confront and treat individuals licensed under this chapter who abuse addictive substances, that in good faith submit a report under this section or participates in an investigation or judicial proceeding related to a report submitted under this section is immune from civil or criminal liability for the submission or participation.

To be read with Section 1 - to provide immunity for the Impaired Physician Program volunteers and staff.

2. Public/Industry/Profession benefit:

To protect the public by facilitating the effective operation of the Impaired Physician Program.

3. State the problem or purpose prompting this request:

Sections 1 & 13 are to be read together.

The volunteers who staff the effort have been concerned that though they are protected from civil liability in terms of arranging treatment that their very necessary activity in terms of identification and confrontation of those in need of help is not so protected. The provisions of Section 1 and 13 extend the protection of immunity from civil and criminal liability for these necessary activities. This seems logical, appropriate and consonant with protection of the public's health.

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

Under the provisions of HB 70 of the 15th Legislature the board was empowered to contract with a private professional agency to run an impaired professionals program. Such a contract was signed June 1988 between the Board and the Division of Occupational Licensing and the Alaska State Medical Association (ASMA). Members of the ASMA's Impaired Physician Committee (all unpaid volunteers) seek out individuals in trouble, confront them and get them into treatment. The program is working very well at this point and is a marvelous boon to the community in shortstopping problems before they go on to threaten the public health.

5. Identify the alternatives to this legislation (if any):

None.

6. Which alternative mentioned would be most acceptable?

N/A.

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

Yes.

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

Board/Commission Member: Thomas L. Conley, M.D.

Day Phone: 225-4483

BOARD/COMMISSION RECOMMENDATIONS FOR
PROPOSED LEGISLATION

1. Proposed Language:

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

Sec. AS 08.64.369. PRESERVING SANCTIONS OF THE BOARD. A refusal of or a sanction of a license or permit issued under this chapter may not be temporarily enjoined nor an action of the board in refusing or sanctioning a license stayed pending appeal to a court of competent jurisdiction or temporarily enjoined or stayed pending appeal to superior appellate review unless the court granting such an injunction or stay does so on demonstration of reasonable cause to presume the board's refusal to grant a license or permit or sanction a license or permit may have been based on discrimination on the basis of race, creed, color, sex, national origin, or handicapping condition that does not impair safe practice, on conspiracy in restraint of trade, or malicious intent to injure the applicant or licensee or permittee.

2. Public/Industry/Profession benefit:

To protect the public from incompetent practitioners who have been sanctioned by the board and are pursuing appeals processing.

3. State the problem or purpose prompting this request:

The division, the board, and the National Federation of State Medical Boards regard medical licensure as a privilege granted to individuals by the state for the convenience and health of its citizens. It is not an inherent right of individuals any more than is a drivers license. Thus when there is good and sufficient reason for the board to believe an individual is not practicing safely and is endangering the public health, it seems reasonable to permit sanctions imposed to stand unless and until a court of competent jurisdiction overrules the board on appeal. It must be remembered the board acts cautiously and in full compliance with the Administrative Procedure Act, assuring rights to a complete hearing, before acting on a license sanction. To then have a court stay the action for long periods of time while an appeal is heard seems to be significantly detrimental to the public's health and safety. In one particularly notorious case within the board's experience an incompetent practitioner who had caused a number of deaths was permitted to practice for seven years after the board revoked his license while he slowly pursued appeals all the way to the U.S. Supreme Court. The board's action was upheld at each level but the practitioner was permitted to endanger the public for an additional seven years after original revocation.

The present statute, with language which protects the licensee against arbitrary action by the board, seeks to correct this most unfortunate state of affairs.

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

See above.

5. Identify the alternatives to this legislation (if any):

None.

6. Which alternative mentioned would be most acceptable?

Proposed language.

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

Yes.

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

Board/Commission Member: Thomas L. Conley, M.D.

Day Phone: 225-4483

BOARD/COMMISSION RECOMMENDATIONS FOR

PROPOSED LEGISLATION

1. Proposed language:
Section 15. This Act takes effect immediately under AS 01.10.070(c).
2. Public/Industry/Profession benefit:
Immediate effectiveness of the statutory changes.
3. State the problem or purpose prompting this request:
Request elimination of any delay in implementation.
5. Identify the alternatives to this legislation (if any):
None.
6. Which alternative mentioned would be most acceptable?
N/A.
7. Does the entire board/commission agree with this legislative request?
Yes.
8. In the event questions should be raised during review of this request, please indicate below which board member we should contact.

Board/Commission Member: Thomas L. Conley, M.D.

Day Phone: 225-4483

REGULATION RECOMMENDATIONS

The regulations project addressing paramedic internship and licensing has been addressed in detail this year and is working its way through the approval process. The physician assistant regulations are in need of revision to include requirements for alternate collaborative physician. Provisions for the alternate were inadvertently dropped when the last revisions were completed. The board will also seek regulations revisions following adoption of the statutory changes currently before the legislature.

BOARD/COMMISSION RECOMMENDATIONS FOR

PROPOSED REGULATIONS

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

1. Proposed language:

12 AAC 40.410

A plan of collaboration includes identification of at least one physician, licensed in Alaska, to serve as alternate collaborating physician. The alternate may serve at the request of or in the absence of the primary collaborating physician.

2. Public/Profession/Industry benefit:

Protection of the public through provision of a physician to provide supervision/consultation when the primary collaborating physician is unavailable.

3. State the problem or purpose prompting this request:

The board has always required designation of an alternate collaborating physician. This requirement used to be found in 12 AAC 40.400(b)(s) and was inadvertently dropped during the regulations revisions. The board has maintained the policy and asks that the requirement be put back in the regulations.

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

See above.

5. Identify the alternatives to this regulation (if any):

None.

6. Which alternative mentioned would be most acceptable?

Proposed language.

7. Does the entire board/commission agree with this regulation request?

Yes.

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

Pam Ventgen, Executive Secretary, State Medical Board - 561-2878 or

Board/Commission Member: James W. Thompson, M.D., Chair

Phone: 586-2605

FEDERAL LEGISLATION IMPACTING THE STATE MEDICAL BOARD

The Health Care Quality Improvement Act was enacted on November 14, 1986 as Title IV of Public Law 99-660. This act places the Federal Government in a new role regarding health care practitioner credentialing. Its purpose is to identify incompetent and unethical physicians and dentists through collection and dissemination of data regarding adverse actions taken against health care practitioners. The following entities will be required to report to the data bank: state medical boards, hospitals, malpractice insurance carriers, self-insured physicians, HMO's and group medical practices with a formal professional review process, and professional societies with formal peer review. According to the March 21, 1988 Federal Register, the act provides for these reporting entities to report to the state medical boards, and the boards in turn, report to the national data bank. The Act also requires the boards to monitor the compliance of health care entities in reporting to the board under these regulations.

Although enacted in 1986, the original implementation date was November 14, 1987. Implementation was postponed due to lack of funding and is now scheduled for September 1, 1989.

The Health Care Quality Improvement Act (PL 99-660) will have considerable impact on the State Medical Board by significantly increasing demands on staff to accomplish the required reporting of medical board actions and actions reported to the board by other entities. There is also potential for increased investigative activity as more information comes to the board's attention. The board requests support from the Division of Occupational Licensing to establish a half-time position to enable the board to meet these upcoming Federal requirements.

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ADDENDUM A

PADS PROJECT REPORT

PRESCRIPTION ABUSE DATA SYNTHESIS (PADS)

THE ALASKA PADS REPORT

SUBMITTED TO GOVERNOR COWPER

JUNE 1989

EXECUTIVE SUMMARY

THE ALASKA PADS REPORT

For almost a year, more than a dozen Alaskan health care organizations have been working on a project to reduce the abuse and diversion of prescription drugs. The PADS Project (Prescription Abuse Data Synthesis) was developed by the American Medical Association in 1983. Twenty-eight other states have implemented this project, with technical assistance provided free-of-charge to states by the AMA. In Alaska, this public-private sector effort was sponsored by the Alaska State Medical Association with the Division of Occupational Licensing, Department of Commerce and Economic Development being the lead state agency.

The PADS model involves a technical component which defines the nature and extent of the potential abuse and diversion of prescription drugs. Diversion is the process by which these drugs, intended for legitimate medical use, become abused for illicit purposes.

Although drugs are diverted at numerous points in the production and distribution chain, 80% to 90% of such diversion occurs at the hospital, practitioner and pharmacy level, according to the American Medical Association. Practitioner diverters have been identified in PADS by four major categories:

- The dishonest - who knowingly prescribe or dispense drugs for abuse purposes, usually for profit.
- The disabled - whose professional competence has been impaired by alcohol and/or other drug abuse.
- The duped - who unwittingly contribute to the problem by acquiescing to patients' ruses or insistent demands for drugs, or by being lax in the security of prescription pads and office procedures.
- The dated - who have not kept pace with developments in pharmacology, drug therapy or the abuse of drugs.

The PADS Project in Alaska involved the efforts of four working groups. The Technical Group conducted the most comprehensive study of prescription drug abuse ever conducted in the state, using information on the supply of these medications, as well as their abuse demand. The Technical Group Report revealed that while cocaine and marijuana are responsible for a vast majority of the drug abuse treatment admissions and arrests, prescription drug abuse remains a problem. The Regulatory/Enforcement Group conducted thirty-one investigations of potential sources of diversion. Nine cases were found to have violations of laws or regulations.

The Professional Associations Group focused its attention on the need for voluntary, early-intervention, impaired practice programs for all health care practitioners who prescribe, dispense, or administer controlled prescription drugs.

The Policy Group made eight recommendations that resulted from the implementation of the PADS Project and from the activities needed to be conducted to reduce the abuse and diversion of prescription drugs in Alaska.

The Recommendations are:

1. The Division of Medical Assistance, Department of Health and Social Services should produce computerized reports employing the Drug Utilization Review System (DURS). These reports should be produced as frequently as is cost effective, ideally on a quarterly basis. Based on the experience with PADS, the cost of producing these reports would be covered by the savings in public funds that would otherwise be spent on reimbursement for inappropriate prescriptions. The state should provide the funds for the production of these reports if the operating budget of the Division of Medical Assistance cannot cover the expense of generating the DURS report from out of the current budget.
2. There should be a central clearinghouse for identifying persons who attempt to obtain prescription drugs under false pretenses, and to disseminate this information to prescribers, pharmacists and hospital emergency rooms. The Attorney General's Office should render an opinion as to how this may be accomplished without violating patient confidentiality. If statutory language is required then the state should seek the necessary legislation.
3. The Division of Occupational Licensing should seek legislative approval to enter into agreements with private professional associations to establish impaired practitioner programs.
4. The Division of Occupational Licensing should establish a Task Force on Impaired Practice, with representation from each of the health care professional associations and regulatory boards whose members or licensees prescribe, dispense or administer controlled prescription drugs. The Task Force should develop common guidelines and funding requirements for the establishment of impaired practice

programs, reporting to the Division Director no later than December 31, 1989.

5. The Code Revision Commission, which has begun work on revisions to the occupational licensing acts, should prioritize the completion of this work.

6. As part of the existing mandatory continuing education program, all practitioners who can prescribe or dispense, should be mandated to take six core hours of controlled prescription drug curriculum material in a two year period. Thereafter, two hours of update should be required in a two year period. The two year periods would coincide with license renewals.

7. Professional associations should utilize the various educational opportunities available to them (for example, newsletters, meetings, etc.) to inform their members of the PADS Report and related materials.

8. The PADS Policy Group should meet to review the status of these recommendations, no later than November 15, 1989.

PRESCRIPTION ABUSE DATA SYNTHESIS (PADS)

THE ALASKA PADS REPORT

I. INTRODUCTION

At the invitation of the Alaska State Medical Association and the Alaska State Medical Board, Bonnie Wilford of the American Medical Association provided information on the PADS Project to state agencies and professional associations in a July 7, 1988 meeting in Anchorage. The organizations represented decided to implement the PADS Project. The Division of Occupational Licensing agreed to co-sponsor the project with the Alaska State Medical Association, and became the lead state agency.

In October of 1988, the first of four implementation site visits was conducted by Barry Rhodes, the PADS Technical Consultant. Mr. Rhodes is an independent consultant who is retained by the American Medical Association which provides his services free-of-charge to states implementing the PADS Project. The four site visits, culminating on May 16 and 17, 1989, are the basis of this report on the results of the implementation of the PADS Project in Alaska.

II. THE PADS MODEL

The PADS model was developed by the American Medical Association to create a public-private mechanism to address prescription drug diversion. Diversion is the process whereby prescription drugs are being rechanneled from appropriate medical use through legal distribution routes to "street" drug abusers through a variety of licit and illicit routes. The PADS model utilizes existing information to identify the nature, extent and complexity of the problem. It inventories the policies, procedures and resources which address diversion control, and identifies the problem areas within the diversion control system. Action is taken during the implementation of the model, by the agencies and organizations involved, to resolve those problems that can be fixed with existing resources, laws and regulations. Those problems for which the solutions require further action are reported to the governor at the conclusion of the implementation phase of the project.

Although drugs are diverted at numerous points in the production and distribution chain, 80% to 90% of such diversion occurs at the hospital, practitioner and pharmacy level, according the American Medical Association.

Diversifiers have been identified in PADS by four major categories:

Dishonest --or "script"-- health care professionals who willfully and knowingly prescribe and/or dispense drugs for purposes of abuse, and usually for profit, and pharmacists who willingly and knowingly dispense drugs pursuant to false or forged prescriptions or dispense drugs of abuse without a prescription.

Disabled --or impaired-- health care professionals whose professional competence has been impaired by drug abuse, alcoholism, or other physical or mental disorders.

Duped practitioners and pharmacists who unwittingly contribute to the problem by acquiescing to some patients' ruses or insistent demands for drugs of abuse or pharmacists who dispense drugs of abuse pursuant to forged or false prescriptions.

Dated health care professionals who have not kept pace with developments in pharmacology, drug therapy or the abuse of drugs.

These categories illustrate both the broad scope and the complexity of the drug diversion problem. No single solution is appropriate for all diversion cases. Intervention strategies must be responsive to the precise nature of the diversion problem.

The PADS model was designed for use at the state level because the nature of prescription drug abuse varies dramatically from state to state, and because problem identification and resolution mechanisms (enforcement, regulatory and licensing authorities, treatment agencies and professional associations) are concentrated at the

state level.

In Alaska, four groups were established to perform the work necessary to implement the PADS model: The Technical Group, The Regulatory/Enforcement Group, The Professional Associations Group, and The Policy Group.

The Technical Group performed a study of the nature and extent of the prescription drug abuse problem in Alaska by examining data on both the supply of drugs and the abuse demand. The organizations serving on the Technical Group included:

Division of Occupational Licensing
Department of Commerce and Economic Development

Division of Medical Assistance
Department of Health and Social Services

Alaska State Troopers
Department of Public Safety

State Office of Alcoholism and Drug Abuse
Department of Health and Social Services

Alaska State Medical Association

United States Drug Enforcement Administration

The Regulatory/Enforcement Group coordinated the targeting of specific cases developed from computerized data. Joint investigations were conducted to verify the PADS targeting methodology. As a result of these investigations, approximately nine practitioner diversion cases were developed for regulatory board action.

The agencies participating in the Regulatory/Enforcement Group were:

Division of Occupational Licensing
Department of Commerce and Economic Development

Division of Medical Assistance
Department of Health and Social Services

State Office of Alcoholism and Drug Abuse
Department of Health and Social Services

Alaska State Troopers
Department of Public Safety

United States Drug Enforcement Administration

The Professional Associations Group conducted an inventory of policies, resources, and procedures pertaining to identification, intervention, and rehabilitation of impaired health care professionals. In addition, this group developed strategies for education of health care professionals about the problem of

prescription drug misuse, abuse and diversion. The organizations that participated in the Professional Associations Group were:

Alaska State Medical Association
Alaska Academy of Physician Assistants
Alaska Pharmaceutical Association
Alaska Nurses Association
Alaska Nurse Practitioner Association
Alaska Veterinarian Association
Alaska Dental Society

The Policy Group served as the coordinating body for the PADS Project and was the ultimate forum which formulated the final project recommendations by consensus. One of the chief benefits of having this group address solutions to problems in the diversion control system is the diversity of experience and perspective brought to bear. The membership of this Group included all of the agencies and organizations listed for the three groups mentioned above, plus:

Governor Cowper's Office
Alaska State Medical Board
Alaska Board of Nursing

III. SUMMARY OF PADS ACTIVITIES TO DATE

The Technical Group

The Technical Group Report to the Policy Group (Appendix A) on the nature and extent of the prescription drug abuse problem in Alaska is the most comprehensive study of the problem ever conducted. Abuse demand data was submitted by two state agencies. The Alaska Scientific Crime Detection Laboratory presented information on drugs analyzed. The State Office of Alcoholism and Drug Abuse provided data on treatment admissions to drug abuse programs.

Drug supply data was provided by one federal agency and one state agency. The U.S. Drug Enforcement Administration provided information from ARCOS (Automation of Reports and Consolidated Orders System) on the purchases of drugs that exceeded national, state, regional norms. The purchases of the following ARCOS drugs were analyzed: Meperidine, Dronabinol, Cocaine, Pentobarbital, Alfentanil, and Methamphetamine. The Division of Medical Assistance provided data from MMIS (Medicaid Management Information System.) The MMIS data was used to identify abnormally high prescribers of the following drugs: Valium, Tylox, Percodan/Percocet, Xanax, Darvon and Demerol. The information needed to analyze drug supply patterns by physician and hospital bed distribution came from the Alaska State Medical Association.

The MMIS data required a considerable amount of manual data compilation and analysis. The Division of Medical Assistance requested, from their contractor, reports on the prescribing and dispensing of selected controlled prescription drugs. These reports were then analyzed by the PADS Technical Consultant for more than two days to select targets for further investigation. The Medical Consultant to the Division then spent nearly five days retrieving and analyzing the additional information needed by the Regulatory/Enforcement Group. The Policy Group, in Section IV of this report, recommends making the use of the MMIS data more efficient as a diversion detection tool.

The Regulatory/Enforcement Group

The Technical Group Report was used to identify targets for investigation developed from the analysis of the ARCOS and MMIS data. In all, thirty-one targets were selected for further investigation by the Division of Occupational Licensing and the U.S. Drug Enforcement Administration. This effort by the PADS Enforcement Group was the largest comprehensive investigation of prescription drug diversion in Alaska's history. The PADS Enforcement Group Report to the Policy Group (Appendix B) contains the background, results and preliminary conclusions, as well as a case by case synopsis.

The Professional Associations Group

The Professional Associations Group conducted a study of its member organizations to determine which disciplines had impaired practice intervention programs. It was determined that only the Medical Association and the Dental Society had such programs. Each professional association wanted to enhance its ability to focus on early identification of and intervention with impaired practitioners. Since these programs require considerable resources and expertise, the members of the Professional Associations Group decided to work towards an interdisciplinary set of standards and procedures, as well as a sharing of resources where appropriate.

An important aspect of professional association impaired practice programs is that they supplement and not replace the activities of the regulatory licensing boards. Therefore, the Professional Associations Group sought to develop written agreements, such as the one already in place between the Medical Association, the Medical Board, and the Division of Occupational Licensing. It was determined that the legislature would need to amend the practice acts of the professions other than medicine in order for the other state licensing boards to enter into such agreements with their associated private professional associations. The Policy Group, in Section IV of this report, recommends that the legislature take such action.

The Policy Group

The specialized expertise offered to the PADS Project by each of the three working groups was brought together in the Policy Group. In this setting, issues were discussed and policy decisions were made. It was an opportunity for an exchange of ideas between the regulators and the regulated. The different perspectives of those in the public and private sectors were shared and formed the basis for consensus decision-making. The Policy Group brainstormed a list of problem statements that were the basis for the recommendations from the Policy Group in Section IV of this report.

IV. RECOMMENDED ACTIONS FOR THE REDUCTION OF PRESCRIPTION DRUG ABUSE IN ALASKA

PROBLEM STATEMENT #1: There is no central source of data about the prescribing or dispensing of controlled prescription drugs.

RECOMMENDATION #1

The Division of Medical Assistance (DMA) should produce computerized reports employing the Drug Utilization Review System (DURS). These reports should be produced as frequently as is cost effective, ideally on a quarterly basis. Based on the experience with PADS, the cost of producing these reports would be covered by the savings in public funds that would otherwise be spent on reimbursement for inappropriate prescriptions. The state should provide the funds for the production of these reports if the operating budget of DMA cannot cover the expense of generating the DURS report from out of the current budget.

As is explained in Section III of this report, considerable manual effort was used to test the efficacy of using the DMA's new Medicaid Management Information System (MMIS) for detecting the diversion and abuse of prescription drugs. The DURS software provides excellent automated reports that would give program managers from the Division of Medical Assistance and investigators from the Division of Occupational Licensing the information they need to open diversion cases.

RECOMMENDATION #2

There should be a central clearinghouse for identifying persons who attempt to obtain prescription drugs under false pretenses, and to disseminate this information to prescribers, pharmacists and hospital emergency rooms. The Attorney General's Office should render an opinion as to how this may be accomplished without violating patient confidentiality. If statutory language is required then the state should seek the necessary legislation.

Drug abusers use various ruses, such as feigning particular medical conditions that require medication, or presenting forged or falsified prescriptions to obtain controlled prescription drugs. These "professional patients" or "doctor shoppers" often victimize many physicians, dentists, hospital emergency rooms and pharmacies. If health care providers are alerted to the identity of a person who is engaged in these fraudulent activities, a significant amount of diversion and abuse could be thwarted. Several states have systems that alert health care providers, while some states have ruled that such a system violates the rights of the perpetrator. Should the Attorney General's Office rule that such a system could be used in Alaska, whether under existing statute or on passage of legislation authorizing such shared information, the Division of Occupational Licensing would pursue the development of such a clearinghouse.

PROBLEM STATEMENT #2: The current practice acts are unclear and vague.

RECOMMENDATION #3

The Division of Occupational Licensing should seek legislative approval to enter into agreements with private professional associations to establish impaired practitioner programs.

The only practice act that currently allows such an agreement is the medical practice act. A memorandum of understanding exists with the Division of Occupational Licensing, the Alaska State Medical Association and the Alaska State Medical Board. The legislature should grant approval of such action by amending Title 8, Chapter 1, "Centralized Licensing," to provide for such programs wherever a professional organization is willing and able to seek such an agreement with the state.

RECOMMENDATION #4

The Division of Occupational Licensing (DOL) should establish a Task Force on Impaired Practice, with representation from each of the health care professional associations and regulatory boards whose members or licensees are authorized to prescribe, dispense or administer controlled prescription drugs. The Task Force should develop common guidelines and funding requirements for the establishment of impaired practice programs, reporting to the Division Director of DOL no later than December 31, 1989.

Impaired practice programs should function within the same guidelines, regardless of profession. Medicine and dentistry are the only professional associations that currently have programs. Other professions either lack the membership base or the financial resources to implement a successful effort. If programs operate under the same guidelines, some program components can be conducted jointly, by the professional organizations. A significant increase in professional self-policing would actually act to improve the health and safety of the public serviced by these professions.

RECOMMENDATION #5

The Code Revision Commission, which has begun work on revisions to the occupational licensing practice acts, should prioritize the completion of this work.

PROBLEM STATEMENT #3: The lack of knowledge about prescribing leads to inappropriate prescribing.

RECOMMENDATION #6

As part of the existing mandatory continuing education program, all practitioners who can prescribe or dispense should be mandated to take six core hours of controlled prescription drug curriculum material in a two year period. Thereafter, two hours of update should be required in a two year period. The two year periods would coincide with license renewals.

The PADS Policy Group wanted to be certain that the curriculum materials necessary for obtaining the mandated credits were readily accessible in Alaska. The licensing boards are responsible for the certification of courses, and the Division of Occupational Licensing should facilitate this activity with the appropriate boards.

RECOMMENDATION #7

Professional associations should utilize the various educational opportunities available to them (for example, newsletters, meetings, etc.) to inform their members of the PADS Report and related materials.

RECOMMENDATION #8

The PADS Policy Group should meet to review the status of these recommendations, no later than November 15, 1989.

ADDENDUM B

REGULATIONS REVISIONS,
MOBILE INTENSIVE CARE PARAMEDICS

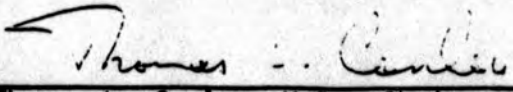
ORDER ADOPTING, AMENDING, AND REPEALING REGULATIONS OF THE
DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT
STATE MEDICAL BOARD

The attached _____ pages of regulations which constitute a major revision to mobile intensive care paramedics regulations and which address application requirements, curriculum, internships, continuing education, license renewal, scope of practice, and numerous housekeeping provisions are hereby certified to be correct copies of the regulations which the Department of Commerce and Economic Development, State Medical Board, after the May 22, 1989 vote of a quorum of the board, amends, repeals, and adopts under the authority of AS 08.64.100 and AS 08.64.107 and after compliance with the Administrative Procedure Act (AS 44.62), specifically including notice under AS 44.62.190 and AS 44.62.200 and opportunity for public comment under AS 44.62.210.

This action is not expected to require an increased appropriation.

This order takes effect on the 30th day after it has been filed by the Lieutenant Governor as provided in AS 44.62.180.

DATE: 22 May 1989
Anchorage, AK



Thomas L. Conley, M.D., Chairman
State Medical Board

FILING CERTIFICATION

I, Stephen McAlpine, Lieutenant Governor for the State of Alaska, certify that on _____, 198____, at _____ .m., I filed the attached regulations according to the provisions of AS 44.62.040 - AS 44.62.120.

Stephen McAlpine, Lieutenant Governor

Effective: _____)

Register: _____)

KDH/dg14151D
051189a

PROPOSED REGULATIONS

STATE MEDICAL BOARD

CHAPTER 40

12 AAC 40.300(c) is amended to read:

(c) The application must be notarized [MADE UNDER OATH] before a person empowered by AS 09.63.010 [AS 09.65.010 TO ADMINISTER OATHS] and must be signed by the sponsoring physician. (Eff. 1/13/80, Reg. 73, am / / , Reg. ____)

Authority AS 08.64.100
AS 08.64.107

12 AAC 40.310 is repealed and readopted to read:

12 AAC 40.310 QUALIFICATION FOR INITIAL LICENSE. (a) An applicant for a mobile intensive care paramedic license shall:

- (1) be 19 years of age or older;
- (2) be a high school graduate;
- (3) provide a letter from the applicant's physician sponsor verifying that the applicant will, at all times, be under the supervision of a physician sponsor approved by the board, as required under 12 AAC 40.315;
- (4) have successfully completed an approved curriculum under 12 AAC 40.320;
- (5) following the successful completion of the didactic and clinical portions of the board-approved curriculum, have satisfactorily completed a 480 hour internship which meets the requirements of 12 AAC 40.325;
- (6) pass the written and practical examination for emergency medical technician-paramedic administered by the National Registry of Emergency Medical Technicians, and;
- (7) submit the fees established by 12 AAC 02.250.

(b) An applicant for licensure as a mobile intensive care paramedic, who is currently licensed in another state, shall fulfill the requirements outlined in (a) of this section and shall;

(1) not be currently under suspension or revocation as mobile intensive care paramedic, emergency medical technician-paramedic, or equivalent, and must not be the subject of an unresolved investigation, complaint review procedure, or disciplinary proceeding undertaken by a certifying or licensing agency in another state; and

(2) must submit written verification from the applicant's previous physician sponsor, on a form approved by the department, attesting that the applicant is capable of performing the activities listed in 12 AAC 40.370 (a) plus any other specific emergency procedures authorized by the physician sponsor.

(c) The board will, in its discretion, require an applicant to provide any additional documentation necessary to verify the applicant's education or experience. (Eff. 1/13/80, Reg. 73, am 5/11/85, Reg. 94, am 8/20/87, Reg. 103, am 4/10/88, Reg. 106; am / / , Reg.)

Authority AS 08.64.100
AS 08.64.107
AS 08.64.240

12 AAC 40.320 is amended to read:

12 AAC 40.320 APPROVED CURRICULUM. (a) The approved curriculum for license as a mobile intensive care paramedic is the U.S. Department of Transportation National Training Course Emergency Medical Technician Paramedic, in effect at the time of training.

(b) The training program must be under the direction of a physician licensed in the state where the training takes place.

(c) A training program taught in Alaska must be approved, in advance, by the board and by the Alaska Department of Health and Social Services. (Eff. 1/13/80, Reg. 73, am 4/10/88, Reg. 106, am 8/20/87, am / / , Reg.)

Authority AS 08.64.100
AS 08.64.107

12 AAC 40 is amended by adding a new section to read:

12 AAC. 40.322. PARAMEDIC TRAINING PROGRAM COURSE APPROVAL. (a) An individual or organization applying for approval of a mobile intensive care paramedic training program to be taught within Alaska shall show to the board that it:

(1) has a written agreement with a board approved physician who is familiar with training and direction of prehospital emergency care providers and who agrees to

(A) review all components of the paramedic training program to ensure that instructional accuracy is maintained;

(B) review the progress of each student to ensure that instructional goals are being met and that demonstration of competence is occurring before the student is put into a patient care setting; and

(C) act as liaison to hospitals and emergency medical services participating in the paramedic training program;

(2) has a written agreement with the institutions and agencies which are to provide clinical experience and which agree to

(A) provide access to patients who present common problems encountered in the delivery of advanced emergency care in sufficient numbers and in distribution by age and sex;

(B) assign students to clinical settings to include the operating room, recovery room, delivery room, intensive care unit, respiratory therapy, labor and delivery, pediatrics, and the emergency department; and

(C) ensure that the students are supervised by program instructors or hospital personnel, such as nurses and physicians.

(3) has a written agreement with an advanced life support emergency medical services system which has a call volume which will provide students with access to patients who present common problems in the delivery of advanced prehospital emergency care in sufficient numbers and in distribution by age and sex and which agrees to ensure that

(A) adequate personnel resources exist within the EMS system so that the assigned student is never a substitute for paid personnel or a required team member;

(B) the student is under the direct supervision of

a physician, physician assistant, registered nurse, or mobile intensive care paramedic, licensed or certified in the state where the internship takes place, who has been designated the responsibility of supervision by the course medical director;

(C) the student is assigned to a unit that has the capability of voice communications with on-line medical direction and is equipped with equipment and medications necessary for advanced life support;

(D) the student's performance is evaluated by his or her preceptor at the end of each shift; and

(E) records are kept concerning the type and number of emergency care procedures performed and whether each emergency care procedure was performed acceptably.

(4) uses the curriculum approved by the board.

(5) has a full time program director whose primary responsibility and full time commitment is to the educational program at all times when the program is functioning;

(6) has an advisory board charged with assisting program and institutional personnel in formulating appropriate goals and standards, monitoring needs and expectations, and ensuring program responsiveness to change. The advisory board shall include the program medical director, the program director, a mobile intensive care paramedic, a registered nurse involved with the student's supervision or training and a physician from the emergency department of a facility where clinical training is performed;

(7) has a plan to verify the student's achievement of objectives stated in the curriculum. Evaluation methods must include assessment of student competencies in patient care environments; and

(8) is affiliated with the university or community college system.

(b) An application for course approval must be submitted to the board at least 120 days before the first day of the course. The application must include prospective class and laboratory schedules, and requirements for clinical and field internship rotations.

(c) An individual or organization conducting approved courses shall ensure that students are clearly identified by name plate, uniform, or other apparent means to distinguish them from graduate emergency medical services personnel, other health professionals, workers, or students. (Eff. / / , Reg.)

Authority AS 08.64.100
AS 08.64.107

12 AAC 40.325 is amended to read:

12 AAC 40.325 PARAMEDIC INTERNSHIP REQUIREMENTS. An internship for licensing as a mobile intensive care paramedic must meet the following requirements:

(1) all procedures performed by an intern must be under the direct supervision of a physician [SPONSOR OR ANOTHER PHYSICIAN], physician assistant, registered nurse, or mobile intensive care paramedic, licensed or certified in the state where the internship takes place, who has been designated the responsibility of supervision by the physician sponsor of the training program;

(2) the successful completion of the internship must be verified, on a form approved by the board, by the physician sponsor, attesting that the mobile intensive care paramedic intern is capable of performing the activities listed in 12 AAC 40.370(a) including any other emergency procedures authorized by the physician sponsor under 12 AAC 40.370(a)(7) [12 AAC 40.370(a)(8); and

(3) all internship sites in Alaska must be approved in advance by the board [VERIFICATION FROM THE SUPERVISING PHYSICIAN OF THE SUCCESSFUL COMPLETION OF 20 TWENTY FOUR HOUR SHIFTS, OR THE EQUIVALENT NUMBER OF HOURS, COMPLETED AT A LOCATION APPROVED BY THE BOARD]. (Eff. 5/11/85, Reg. 94; am / / , Reg. ____)

Authority AS 08.64.100
AS 08.64.107

12 AAC ~~40.330~~ is repealed:

12 AAC ~~40.330~~ PERSONS CURRENTLY PRACTICING AS MOBILE INTENSIVE CARE PARAMEDICS. (Repealed / / , Reg.)

12 AAC 40.350 is repealed and readopted to read:

12 AAC 40.350 RENEWAL OF LICENSE. (a) An applicant for renewal of a mobile intensive care paramedic license shall submit:

(1) a completed license renewal application provided by the board;

(2) satisfactory evidence of completion of continuing medical education consisting of not less than 60 classroom or clinical hours or any combination of hours for each complete 12 month period the applicant has held a mobile intensive care paramedic license during the concluding license period;

(3) evidence of current certification as an advanced cardiac life support provider or advanced cardiac life support instructor;

(4) evidence of certification in basic life support (adult, child and infant CPR and airway obstruction maneuvers) from the American Heart Association or American Red Cross;

(5) a written recommendation as to the applicant's fitness to practice as a mobile intensive care paramedic, made by the applicant's sponsor physician, which includes verification of skills performance in those skill areas required by the department; and

(6) the license renewal fee established by 12 AAC 02.250.

(b) If an applicant for renewal cannot meet the requirements for renewal under (a) of this section, the applicant shall apply and meet the requirements for initial licensure under 12 AAC 40.300-12 AAC 40.310.

(c) The board will, in its discretion, exempt a mobile intensive care paramedic from the requirements of (a)(2) of this section upon application giving evidence satisfactory to the board that he or she has been unable to comply with the requirements because of extenuating circumstances. No person will be exempted from more than 60 hours of continuing medical education in a four-year period. (Eff. 1/13/80, Reg. 73, am 8/20/87, Reg. 103; am / / , Reg.)

Authority AS 08.64.100
AS 08.64.107

12 AAC 40.352(a)(2) is amended to read:

(2) documentation that the continuing medical education requirements of 12 AAC 40.350(a)(2) [12 AAC 40.350(A)(1)] have been met for the entire period the license has been lapsed; (Eff. 8/20/87, Reg. 103; am / / , Reg.)

Authority AS 08.01.100(d)
AS 08.64.100
AS 08.64.107

12 AAC 40.355 is amended to read:

12 AAC 40.355 TEMPORARY PERMITS. (a) A member, or designee, of the board may issue a temporary mobile intensive care paramedic permit to an applicant who [(1)] meets the requirements of 12 AAC 40.310; [AND

(2) SUBMITS VERIFICATION OF SPONSORSHIP BY A PHYSICIAN SPONSOR.]

(b) A temporary permit is valid for eight months or until the board meets and considers the application, whichever occurs first.

(c) The board will, in its discretion, renew a temporary permit for good cause, one time only.

(d) A temporary permit will be withdrawn by the board if the physician sponsorship [OF THE PHYSICIAN SPONSOR] is withdrawn.

(e) In this section, "temporary permit" means a permit issued by a member, or designee, of the board to an individual who has applied for licensure, has fulfilled the requirements set out in 12 AAC 40.310, and is awaiting the next meeting of the board for consideration of the application. (Eff. 5/11/85, Reg. 94; am / / , Reg.)

Authority AS 08.64.100
AS 08.64.107

12 AAC 40.356 is repealed and readopted to read:

12 AAC 40.356: PROVISIONAL LICENSE. (a) The board will, in its discretion, issue a provisional license to an applicant for initial licensure who has met all requirements of 12 AAC 40.310 except for passing the examination required in 12 AAC 40.310(6). The applicant shall submit written verification from the National Registry of Emergency Medical Technicians that he or she is awaiting examination results or is scheduled to take the next examination.

(b) A provisional license is not renewable and is valid until the first meeting of the board after the results of the examination for licensure have been issued, or until the physician sponsor withdraws sponsorship, or until the board is notified that the provisional licensee has failed the examination for licensure, whichever occurs first.

(c) A provisional license is not renewable. (Eff. 5/11/85, Reg. 94; am 8/2/86, Reg. 99, am / / , Reg.)

Authority AS 08.64.100
AS 08.64.107

12 AAC 40.360 is amended by adding a new paragraph to read:

(6) practice without physician sponsorship. (Eff. 1/13/80, Reg. 73; am / / , Reg.)

Authority AS 08.64.100
AS 08.64.107

12 AAC 40.370 is amended to read:

12 AAC 40.370. SCOPE OF AUTHORIZED ACTIVITIES. (a) a licensed mobile intensive care paramedic, when under the supervision of a sponsoring physician, may perform the activities listed in this subsection. The direct supervision of these activities may be delegated when caring for a patient in a hospital under the direct supervision of a physician, or at the scene of a medical emergency when voice contact is monitored by a physician and direct communication is maintained, on the order of the physician, or when under the specific written standing order of a physician. The authorized activities are:

(1) electrocardiographic monitoring [PERFORMING CARDIOPULMONARY RESUSCITATION] and defibrillation;

(2) initiating and maintaining intravenous routes using approved intravenous techniques and solutions;

(3) performing endotracheal intubation and pulmonary ventilation by approved methods;

(4) performing gastric suction by intubation;

(5) obtaining blood for laboratory analysis;

(6) [APPLYING ROTATING TORNIQUETS

(7)] administering parenterally, orally, or topically any approved agents or solutions;

(7) use of pneumatic anti-shock devices; and

(8) performing other emergency procedures authorized by a sponsoring physician.

(b) A person enrolled in a mobile intensive care paramedic training program may perform the activities set out in (a) of this section insofar as:

(1) the activities are required as part of the training program;

(2) the activities which take place in a hospital are supervised by a physician, physician assistant or nurse; and

(3) the activities which take place outside a hospital are supervised by a licensed mobile intensive care paramedic, or a physician sponsor, or the physician medical sponsor's designee.

(c) A person who is completing the internship required by 12 AAC 40.310(5) [12 AAC 40.310(7)], in Alaska, may perform the activities in (a) of this section for no more than 480 hours, and for no more than six calendar months, without becoming licensed as a mobile intensive care paramedic by the board.

(d) The scope of authorized activities for a mobile intensive care paramedic does not include primary patient care, such as dispensing non-emergency medications, performing physical examinations for non-emergency purposes, and treatment of non-emergency medical conditions included in the scope of practice for a physician, physician assistant, or nurse, unless specifically authorized by the board. (Eff 1/13/80, Reg. 73, am / / , Reg. ___)

Authority AS 08.64.100
AS 08.64.107

12 AAC is repealed and readopted to read:

12 AAC IDENTIFICATION. (a) While performing the duties of a mobile intensive care paramedic, the licensee shall be clearly identified by name plate, uniform, or other apparent means to distinguish him, or her, from other health care professionals, workers, and students. (Eff 1/13/80, Reg. 73; am ___/___/___, Reg. ___)

Authority AS 08.64.100
AS 08.64.107

ADDENDUM C

MEDICAL BOARD FEE SCHEDULE

12 AAC 02.250. ALASKA ADMINISTRATIVE CODE 12 AAC 02.260

12 AAC 02.250. STATE MEDICAL BOARD. (a) The following fees are established for physicians, podiatrists and osteopaths:

- (1) application fee for initial license, \$50;
- (2) FLEX examination fee, \$500;
- (3) temporary permit fee, \$50;
- (4) locum tenens permit fee, \$100;
- (5) license fee for all or part of the initial biennial license period, \$400;
- (6) active biennial license renewal fee, \$400;
- (7) inactive biennial license renewal fee, \$200.

(b) The following fees are established for physician assistants:

- (1) application fee for initial registration, \$50;
- (2) temporary registration fee, \$50;
- (3) temporary authorization to practice fee, \$50;
- (4) locum tenens authorization to practice fee, \$50;
- (5) fee for establishing or changing a collaborative relationship, \$20;
- (6) registration fee for all or part of the initial biennial registration period, \$50;
- (7) biennial registration renewal fee, \$50.

(c) The following fees are established for mobile intensive care paramedics:

- (1) application fee for initial license, \$50;
- (2) temporary permit fee, \$50;
- (3) provisional license fee, \$50;
- (4) license fee for all or part of the initial biennial license period, \$50;
- (5) biennial license renewal fee, \$50. (Eff. 11/20/86, Register 100; am. 10/1/88, Register 107)

Authority: AS 08.01.065
AS 08.64.107
AS 08.64.315

12 AAC 02.260. MORTUARY SCIENCE. (a) A funeral director or embalmer license and a funeral establishment permit expires on December 31 of all even numbered years. The following fees are established for funeral directors, embalmers and funeral establishments:

- (1) application fee for initial license or permit, \$30;
- (2) license or permit fee for all or part of the initial license or permit period, \$60;
- (3) biennial license or permit renewal fee, \$60;
- (4) funeral director and embalmer examination fee, \$50.

(b) The following fees are established for funeral director or embalmer trainee permits:

ADDENDUM D

PROPOSED LEGISLATION - AS 08.64

MEMORANDUM

FROM: T.L. Conley, Chair, State Medical Licensing Board
TO : Legislature // Randall Burns, Director, Division of Licensure
DATE : February 8, 1989
RE : Proposed Legislation, explanation of provisions

The proposed legislation is designed to produce greater efficiency in interviewing candidates for licensure, afford liability protection to the impaired physician program volunteers, close some loopholes in present license provisions, effectively define the difference between temporary and locum tenens licenses, and create categories for retired licensees and for those accompanying sporting teams, especially those accompanying Olympic athletes. It also seeks to prevent diversion of amphetamines (speed) into illegitimate channels and prevent improper prescribing.

It is convenient to look at the bill by sections.

A. Sections 1 & 13 are to be read together. Under the provisions of HB 70 of the 15th Legislature the board was empowered to contract with a private professional agency to run an impaired professionals program. Such a contract was signed last June between the Board and The Division of Occupational Licensing and the Alaska State Medical Association. Members of the ASMA's Impaired Physician Committee (all unpaid volunteers) seek out individuals in trouble, confront them and get them into treatment. The program is working very well at this point and is a marvelous boon to the community in shortstopping problems before they go on to threaten the public health.

The volunteers who staff the effort have been concerned that though they are protected from civil liability in terms of arranging treatment that their very necessary activity in terms of identification and confrontation of those in need of help is not so protected. The provisions of Section 1 & 13 extend the protection of immunity from civil and criminal liability for these necessary activities. Such seems logical, appropriate and consonant with protection of the public's health.

B. Sections 2, 3, 6, 7 & 10 are to be read together.

Present statute requires that all licensees and permittees be interviewed by at least one board member. Present policy requires that should the interviewer feel unsure about granting the license after the interview that an interview by the whole board and appropriate investigation by the division be carried out before licensure.

The interview requirement is one that was set by the legislature many years ago. What the legislative intent was is unclear to the board and my research through older versions of the statutes back to 1948 doesn't clarify the issue. Our practical experience is that it has some utility in determining that the applicant is indeed who he says he is (documents & pictures match, etc), seems to be sober and not flagrantly psychotic, and seems to present a logical sequence of training. The board recognizes that the interview is of significantly less importance than careful review of notarized training, residency, hospital privilege, specialty board, testing and licensure (in other jurisdictions) documentation plus clearance by the DEA and National Federation of State Medical Boards.

Interviews are carried out by both physician and non-physician members of the board without distinction. There is no attempt to use the interview as a test of knowledge both for practical and statutory reasons.

The interviewing of permanent and temporary licensees (most of the latter are expected to go on to permanent license status) should appropriately remain with board members exclusively. It is being found however that interviewing residency and locum tenens candidates is placing a severe burden on board members' time especially in Anchorage and Fairbanks and leading to delays and resentment on the part of both candidates and volunteer board members. It seems appropriate then that our executive secretary should take on part of that task. That individual is trained in statute and regulation and is familiar with training and testing cycles and the methods of acceptable identification.

C. Section 4.

This section closes a loophole. At present, persons who have surrendered a license in another jurisdiction while under investigation are free to apply in Alaska (if they have had the license revoked they are not so permitted). It seems sensible to require that they clear up their problem one way or another in the prior jurisdiction before applying in Alaska.

D. Sections 5 & 7 should be read together:

In the past a temporary license was granted to an individual who had completed all the requirements for a permanent license including an interview and was waiting for the board to meet to confirm the material and grant permanent licensure.

The locum tenens license though statutorily designed to be used only by those substituting for another physician developed an expanded, and to the board uncomfortable, meaning. It was used as intended for substitute physicians but was also used to cover individuals who came to Alaska to work in seasonal jobs, emergency rooms, etc, and those coming up briefly to see if they wanted to relocate to Alaska. Often they were not actually substituting for an Alaskan physician but there seemed no other reasonable category in which to place them without requiring permanent licensure. Some individuals also seemed to acquire such permits on a regular basis and as it were acquire sort of a permanent license at a cut rate.

By coordinating AS 08.64.270 and AS 08.275 the board hopes to create two categories.

A. Temporary Permit - good for 6 months and requiring all the documentation required for a permanent license plus interview by a board member to be used

- 1) While waiting formal board action at the next regular meeting at which point it is converted to a permanent license.
- 2) By those filling a temporary slot in an emergency room, seasonal clinic, etc. but not substituting for an Alaskan physician.
- 3) By those moving to the state who have not yet decided if they wish to stay permanently.
- 4) Individuals in category 2 & 3 (or for that matter those who wish to get frequent locum tenens permits) can then move on to permanent licensure by paying the remnant 75% of the permanent licensure fee any time up to 6 months after getting the temporary as they will have complied with all the requirements. The

board would still have the discretion of putting a hold on this if the individual had gotten into trouble during the 6 month temporary period.

- B. Locum Tenens Permit - good for 60 days with one renewal and a limit of 240 days in any two years between new permits and renewals. It would require somewhat less documentation than a temporary (but demand a currently valid license in another jurisdiction and clearance by National Federation of State Medical Boards) plus an interview by either a board member or the board's executive secretary. It could be used only by one substituting for an Alaskan physician who would have to be specifically designated. An individual who chose to function repeatedly in the role (i.e. beyond 240 days in two years) would be expected to get a permanent license (either directly or through the temporary license route) in his own right, not as a substitute.

E. Section 8. Retired License.

This provision seeks to do a number of things. It is recognized that there are a number of physicians who retain licensure beyond the time it is reasonable for them to practice out of the sense of pride licensure brings them and because of an oddity in statute that prohibits them from using the "M.D." after their name if not licensed. (The statute, 08.02.010, is designed to prevent the unlicensed from deluding the public as to their qualifications).

It is felt that a permanent retired license status will serve their purposes and protect the public health. Retired status should also appeal to those who are effectively retired and presently faced with CME requirements they cannot meet because of age and infirmity. The CME statutes at present make no provision for people in this status.

The proposed statute while not precluding reactivation of retired licenses would empower the board to make very certain that the individual was competent to resume such practice.

F. Section 9. Courtesy License.

This would permit the board to grant courtesy licensure, under appropriate restrictions, to medical practitioners accompanying sports teams (such as the Olympic teams if Anchorage gets the nod for Winter Olympics).

G. Section 11. Amphetamines.

It is clear that 99+% of all amphetamines prescribed are for weight reduction. It is clear that while they may be beneficial for 2-3 weeks that after that they serve no purpose in that regard and lead to significant habituation. Amphetamine prescription in "weight reduction clinics" is the single most significant diversion point of these medications onto the illicit market.

The proposed legislation, adapted from Wisconsin statutes, recognizes the seven (7) valid uses of the medication (accounting for less than 1% of prescriptions) and makes other use subject to disciplinary sanction.

It will help us in slowing down diversion and will also help the ethical physician when importuned by individuals seeking such medications if he can inform those individuals that such prescribing is illegal.

Such provision have proved quite useful in other states. From the personal experience of 15 years of a general practice in Ketchikan I would remark that I have seen only two patients requiring amphetamines; one a patient with documented narcolepsy and one a patient with attention deficit

disorder (hyperactivity) who was intolerant of Ritalin (Methylphenidate), the drug usually used for that condition along with Cylert (Pemoline). (Though hyperactivity is clearly over-diagnosed it is a real condition and occasionally requires drug therapy).

It is our suggestion that statutory language of a similar nature be inserted into the pharmacy statutes to further control amphetamine use. The Division along with the boards of pharmacy, nursing and medicine, the DEA, the ASMA and State Troopers are presently engaged in a cooperative effort known as PADS (prescription abuse data system) to try to reduce diversion. The present statute will help in that effort.

The blank in the statute is to be filled in with a reference to statutory language defining Schedule II substances in Alaska law. I can't find the reference at present.

H. Section 12. Reports of Disciplinary Action or License Suspension or Surrender.

When this section was crafted for HB 70 in 1986-87 we neglected to insert the word permit. Since certain of our licenses (temporary, locum tenens) and our physician assistant authority are referred to as permits it could be argued we are prevented from reporting disciplinary and other actions concerning these licenses and permits. We have considered that such reports fall under the legislative intent of the statute so have proceeded to submit reports when appropriate but feel it would be best to clean up the language.

I. Section 14. Preserving Sanctions of the Board.

The division, the board, and the National Federation of State Medical Boards regard medical licensure as a privilege granted to individuals by the state for the convenience and health of its citizens. It is not an inherent right of individuals any more than is a drivers license. Thus when there is good and sufficient reason for the board to believe an individual is not practicing safely and endangering the public health, it seems reasonable to permit sanctions imposed to stand unless and until a court of competent jurisdiction overrules the board on appeal. It must be remembered the board acts cautiously and in full compliance with the administrative procedures act, assuring rights to a complete hearing, before acting on a license sanction. To then have a court stay the action for long periods of time while an appeal is heard seems to be significantly detrimental to the public's health and safety. In one particularly notorious case within the board's experience an incompetent practitioner who had caused a number of deaths was permitted to practice for seven years after the board revoked his license while he slowly pursued appeals all the way to the U.S. Supreme Court. The board's action was upheld at each level but the practitioner was permitted to endanger the public for an additional seven years after original revocation.

The present statute, with language which protects the licensee against arbitrary action by the board, seeks to correct this most unfortunate state of affairs.

The present proposal combines proposals from the board with proposals from the Governor's office relative to interviews so that there are not multiple bills concerning the medical board in the legislature simultaneously.

Any questions concerning the proposals can be directed to:

Juneau	Randall Burns, Director, Division of Occupational Licensing	465-2534
Anchorage	Pamela Ventgen, Executive Secretary, State Medical Board	561-2878
Ketchikan	Thomas L. Conley, Chairman, State Medical Board	225-5144
Kotzebue	Abigail Hensley, Secretary, State Medical Board	442-3669
Juneau	James Thompson, Member, State Medical Board	586-8447

Words underlined are new.

Words bracketed and capitalized are deleted.

BY THE _____ COMMITTEE
BY REQUEST OF THE GOVERNOR AND
THE STATE MEDICAL BOARD

_____ BILL NO.

IN THE LEGISLATURE OF THE STATE OF ALASKA

SIXTEENTH LEGISLATURE - FIRST SESSION

A BILL

FOR AN ACT ENTITLED: "An Act relating to medical licensure; and providing for an effective date."

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

Section 1. AS 08.64.101(6) is amended to read:

Sec. 08.64.101(6) coordinate with private professional organizations to establish an impaired medical professionals program to identify, confront and treat persons licensed under this chapter who abuse addictive substances.

Section 2. AS 08.64.225 is amended to read:

Sec. 08.64.225. FOREIGN MEDICAL GRADUATES. Applicants who are graduates of medical colleges not accredited by the American Medical Association or one of its agencies must [SHALL] meet the requirements of AS 08.64.200(a)(3), (4), and (5), and AS 098.64.255 and must have passed an examination and be certified by the Education Council on Foreign Medical Graduates, or be licensed by examination in another state or territory of the United States or province of Canada.

Section 3. 08.64.230 is amended to read:

Sec. 08.64.230. LICENSE GRANTED. (a) If the physician applicant passes the examination and meets the requirements of AS 08.64.200 and AS 08.64.255, the board shall grant a license to the applicant to practice medicine in the state.

(b) If the osteopath applicant passes the examination and meets the requirements of AS 08.64.205 and AS 08.64.255, the board shall grant a license to the applicant to practice osteopathy in the state.

(c) Each license shall be signed by the secretary and president of the board, and have the seal of the board affixed to it.

Section 4. 08.64.240(a) is amended to read:

Sec. 08.64.240. LICENSE REFUSED. (a) The board may ~~not~~ grant or license if

(4) The applicant has surrendered a license in another jurisdiction while under investigation and the license has not been re-instated in that jurisdiction.

Section 5. AS 08.64.270 is repealed and readopted to read:

Sec. 08.64.270. TEMPORARY PERMIT. (a) The board may issue a temporary permit to a physician applicant, osteopathic applicant, or podiatry applicant who meets the requirements of AS 08.64.200, 08.64.205, 08.64.209 or 08.64.225 and pays the required fee.

(b) A temporary permit issued under this section is valid for six months and must be approved by the board at the next regularly scheduled meeting of the board after it is issued.

(c) A temporary permit issued under this section may not be renewed. The fee for the permit shall be one quarter of the biennial licensing fee (plus the appropriate application fee). At the discretion of the licensee and with board approval the temporary license may be converted to a biennial license (permanent license) upon payment of the remainder of the fee due for such a license.

Section 6. AS 08.64.272(b) is amended to read:

(b) For the limited purpose of residency or internship, the board may issue a permit to an applicant without examination if the applicant meets the requirements of AS 08.64.200(a)(2) and applicable regulations of the board, meets the requirements of AS 08.64.278, pays the required fee, and has been accepted by an eligible institution in the state for the purpose of residency or internship.

Section 7. AS 08.64.275 is amended to read:

Sec. 08.64.275. TEMPORARY PERMIT FOR LOCUM TENENS PRACTICE. (a) A member of the board may grant a temporary permit to a physician or osteopath for the purpose of substituting for another physician or osteopath licensed in this state. The permit is valid for [120] 60 consecutive days. If circumstances warrant, an extension of the permit may be granted by the board.

(b) A physician applying under (a) of this section shall pay the required fee and shall meet the requirements of AS 08.64.200 and of AS 08.64.278. In addition, the physician shall submit evidence of holding a license to practice medicine in a state or territory of the United States or in a province of Canada.

(c) An osteopath applying under (a) of this section shall pay the required fee and shall meet the requirements of AS 08.64.205 and of AS 08.64.278. In addition, the osteopath shall submit evidence of holding a license to practice in a state or territory of the United States or in a province of Canada.

(d) Within 10 days after the permit has been granted, the board member shall forward to the department a report of the issuance of the permit.

(e) A limit of four such permits and/or extensions (limit of 240 days) may be granted to a single individual during a two year period.

Section 8. AS 08.64 is amended by adding a new section to read:

Sec. 08.64.276. RETIRED LICENSE. (a) on reaching the age of 65, and on payment of an appropriate one time fee, a licensee in good standing with the board may apply for the conversion of an active or inactive license to retired status.

(b) A retired license is issued for the remnant span of the licensee's life and does not require renewal.

(c) Individuals holding retired licenses are exempt from the provisions of 08.64.312.

(d) Individuals holding a retired license are prohibited from practicing medicine, osteopathy or podiatry, as the case may be, in the State of Alaska.

(e) Retired licensees may reapply for active licensure but are required to meet any reasonable criteria set by the board in the individual case including but not limited to demonstration of adequate CME credits, retaking of national examinations such as the FLEX exam, physical and psychiatric examination, interview with the board as a whole, and clearance by the National Data Bank of the National Federation of State Medical Boards.

Section 9. AS 08.64 is amended by adding a new section to read:

Sec. 08.64.277. COURTESY LICENSE. The State Medical Board may by regulation set criteria for issuing temporary courtesy licenses to medical and osteopathic physicians and podiatrists accompanying interstate and international sporting teams and international contingents participating in activities in Alaska. Such licenses shall be limited in time to that length of time the contingent or sporting team is present in Alaska and in any case no longer than 45 days. Such licensees will be limited to practicing on team or contingent members, their dependents and foreign nationals accompanying international groups.

Section 10. AS 08.64 is amended by add a new section to read:

Sec. 08.64.278. INTERVIEW REQUIRED FOR PERMITS. An applicant for an intern permit, a resident permit, or a temporary permit for locum tenens practice must be interviewed in person by at least one member of the board or by the executive secretary of the board.

Section 11. AS 08.64 is amended by adding a new subsection to AS 08.64.326 numbered AS 08.64.326(a)(14) to read:

Sec. 08.64.326. GROUNDS FOR IMPOSITION OF DISCIPLINARY SANCTIONS. (a) (14) Has prescribed, ordered, dispensed, administered, supplied, sold, or given any amphetamine, sympathomimetic amine drug or compound identified as a schedule II controlled substance under _____ to or for any person except for the treatment of narcolepsy, or for the treatment of attention deficit disorder (hyperkinesis), or for the treatment of drug induced brain dysfunction, or for the treatment of epilepsy, or for the differential diagnostic evaluation of depression, or for the treatment of depression shown to be refractory to other therapeutic modalities, or for the clinical investigation of the effects of such drugs or compounds in which case an investigative protocol therefore shall have been submitted to and reviewed and approved by the board before such investigation has been begun.

Section 12. AS 08.64.335 is amended to read:

Sec. 08.64.335. REPORTS OF DISCIPLINARY ACTION OR LICENSE SUSPENSION OR SURRENDER. The board shall promptly report to the Federation of State Medical Boards for inclusion in the nationwide disciplinary data bank license or permit refusals under AS 08.64.240, actions taken by the board under AS 08.64.331, and license or permit suspensions or surrenders under AS 08.64.332 or 08.64.334.

Section 13. AS 08.64.336(e) is amended to read:

Sec. 08.64.336. DUTY OF PHYSICIANS AND HOSPITALS TO REPORT. (e) A physician, hospital, hospital committee, or private professional organization designated under AS 08.64.101(6) to identify, confront and treat individuals licensed under this chapter who abuse addictive substances, that in good faith submit a report under this section or participates in an investigation or judicial proceeding related to a report submitted under this section is immune from civil or criminal liability for the submission or participation.

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

Sec. 08.64.369. PRESERVING SANCTIONS OF THE BOARD. A refusal of or a sanction of a license or permit issued under this chapter may not be temporarily enjoined nor an action of the board in refusing or sanctioning a license stayed pending appeal to a court of competent jurisdiction or temporarily enjoined or stayed pending appeal to superior appellate review unless the court granting such an injunction or stay does so on demonstration of reasonable cause to presume the board's refusal to grant a license or permit or sanction a license or permit may have been based on discrimination on the basis of race, creed, color, sex, national origin, or handicapping condition that does not impair safe practice, on conspiracy in restraint of trade, or malicious intent to injure the applicant or licensee or permittee.

Section 15. This Act takes effect immediately under AS 01.10.070(c).

STATE MEDICAL LICENSING BOARD

State of Alaska
Division of Occupational Licensing
Pouch D
Juneau, Alaska 99811

June 1, 1989

Representative Dave Donley
Chairman
House Labor & Commerce Committee
Capitol Building, Room 13
Pouch V
Juneau, Alaska 99811

Dear Representative Donley:

The State Medical Licensing Board, after reviewing the proposed CS for House Bill 146(L&C), would like to make some comments on the proposal and requests that they be added to the bill file for consideration during the second session of the Sixteenth Legislature.

Please find enclosed a proposal for legislation drafted by the board in February 1989 with a memorandum explaining its provisions. As can be seen the proposed legislation incorporates the provisions of HB 146 in its original form and adds several additional sections. These additions deal with extension of protection from civil liability for volunteers in the Impaired Physicians Program who act as agents of the board in confronting substance abuse, close several loopholes in the law, make some administrative changes that will improve board efficiency, create categories for licensure of retired physicians and those accompanying sports teams (such as Olympic teams), and tightens up on the prescribing of amphetamines. Finally the proposal would limit stays on board sanctions to prevent individuals whose licenses have been revoked, suspended or limited from practicing during a frequently prolonged appeals process.

In regard to this final point the board would be happy to consider other means to accomplish the same end. We have surveyed laws in the fifty states in this regard and have discovered that some jurisdictions solve the problem by limiting the granting of stays to situations where the respondent can demonstrate that he/she is not a danger to the public health or safety and is likely to prevail on the merits of the case during the appeals process.

In its discussions during its regular meeting of 22-23 May the board additionally decided to request revision of AS 08.64.380(7)(B) to read: to use or publicly display a title in connection with a person's name including "doctor of medicine," "physician," "M.D.," or "doctor of osteopathic medicine" or "DO" or a specialist designation including "surgeon," "dermatologist," or a similar title, in such manner as to show that the person is willing or qualified to diagnose or treat the sick or injured;

The change is requested as the board finds itself spending inordinate amounts of time and state legal funds pursuing individuals who have earned the academic title M.D., but who are not licensed and who "display" the title in other settings than in seeking patients (i.e., teaching, journal articles, legal consulting, out of personal pride, etc.). The proposed change would permit us to ignore such trivial matters while still empowering the board to pursue those using the title M.D. to dupe the public into believing they can legally diagnose and treat the sick and injured.

In regard to the provisions of the proposed CS for HB 146(L&C) the board enthusiastically supports Section 1, the amendment to AS 08.02.030, and would go one step further in revising AS 08.64.101(6) and AS 08.64.336(e), as presented above and in the accompanying documents. As to Section 3, the amendment to AS 08.64.190 we are pleased to inform you that the board has adopted these measures as policy--having it in law strengthens our position. Likewise the added sections under AS 08.64.200 place in law present board policy with the only difference being that the board requires, as does PL 99-660, submission of a list of malpractice judgements or settlements both at the time of initial licensure and biennial re-registration. To place such policy in law would be consonant with present board practice and in conformity with PL99-660. Requiring the submission of a list of malpractice claims filed does not meet with board approval as it would be time consuming and costly to investigate them, add little or no useful information to an application file and raises troubling constitutional questions. This will be discussed further below.

The State Medical Board, for reasons to be discussed below, does not support, indeed vigorously opposes Section 2 (amendments to AS 08.64.130) Section 14 (new 08.64.345) and Section 15 (required report to the Legislature).

It is the board's experience, as it is the experience of boards throughout the country, that civil liability litigation commonly referred to as malpractice litigation and impaired, incompetent, or illegal practice have little relationship to each other. Required by PL-660 and our own policies to inquire into liability judgments at the 1988 re-registration of licensees we received such reports on 40 re-registrants for the period 1984-88. Just how many claims, as opposed to judgments or settlements, this distillation represents we have no way of knowing but is likely a substantially larger number.

So far, and needless to say at substantial investigative expense to the state, we have investigated and cleared 35 of that number and the information on the remaining 5, slightly less than completely investigated, indicate we should be closing them out in August. All cases so far have been closed as without merit from a licensing standpoint on the recommendation of the State of Alaska. [Investigations are conducted by the Division of Occupational Licensing and presented to the board for action or closure.]

Contact with other state boards around the country confirms similar experiences. Lee Buckler, M.D., former president of the Delaware Board, informs me they have investigated settlements and judgments for the last 8 years, averaging 10 per month or 960 over the last 8 years [a small and rather more rural than typical enclave on the eastern seaboard, Delaware, with 2100 licensees, has only three times as many physicians as Alaska's approximately 700. However, the medical liability explosion has tended to move east to west so they have had a much larger experience to date in a proportional sense]. In only one of those cases has information derived from investigation led to licensure proceedings and even in this one case an independent complaint arriving two months after the case opened would have triggered investigation.

As far as I can determine the only jurisdiction investigating claims made is Maryland. This is still in its first year but according to board counsel who I spoke with in Chicago in April, it is consuming vast amounts of time with no appreciable results. The board is presently discussing the advisability of presenting a statistical review of the process, after two years experience, in an effort to shed itself of what it regards as a meaningless but onerous requirement.

None of this should be in the least surprising to anyone who has followed the growth of liability actions in this country. Analysis of the phenomenon especially in relationship to licensure and discipline lead to a number of inescapable conclusions.

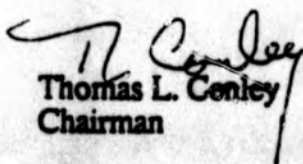
1. The growth of liability actions reflects a change in the ethos of society and in no way reflects a change in the level of competence or ethics of those being sued. As a society we have bought into the idea that no matter what goes awry there must be some human agency responsible who can be held to account at least in a monetary sense. Such an idea will of course eventually lead to societal chaos and clearly reflects an amazing hubris about human capabilities.
2. It is precisely the most competent active and innovative practitioners who stand the greatest chance of being sued for they are the ones seeing the difficult cases and practicing on the cutting edge of medicine where the likelihood of untoward results are greatest. Simultaneously it is the least competent, the sulkers who never seek hospital privileges or who engage in outpatient quackery, who run the lowest risk of malpractice litigation for they take no chances and engage in the provision of Dr. Feelgood services.
3. Two stratagems prove the most effective in detecting and pursuing malefactors. The first is to require that those loosing hospital privileges or having them limited be reported to the board -- this identifies those "falling from grace." The second consists of computerized tracking of excessive and questionable prescription writing through the PADS program presently being introduced to Alaska with active board support.
4. Most malpractice claims arise in two circumstances. The first is anger and frustration over the reality of the disease process and a need to find some individual or agency to blame. The second is anger at the perceived callousness and arrogance of care providers. Anyone who is around medicine for any length of time cannot fail to notice that a disproportionate number of physicians are arrogant and seemingly unfeeling individuals. It seems to go with the territory. Though it certainly doesn't equate to malpractice, indeed intellectually is in no way related, it nonetheless gives rise to a large number of suits that would otherwise not occur. Indeed one could defend the proposition that the maladroitness of physicians in the social realm is the greatest of boons to the malpractice lawyer or as one of my legal friends puts it, "if they didn't exist they should be invented and encouraged to practice medicine."
5. With the above in mind, tracking malpractice settlements, most of which are settled for fairly minimal amounts as these things go, is unlikely to yield useful information in the majority of cases. PL 99-660 requires this tracking as does a sense of rational public relations. Clearly however, tracking of claims made is a fools errand likely to yield little substantial information at enormous cost in terms of time and investigative expense.
6. It was strongly suggested by all those familiar with the situation, even the Inspector General of DHEW, Richard Kussorouth, that PL 99-660 set a dollar figure for reporting liability settlements. It was felt that suits settled for under \$25,000 were invariably nuisance suits that were settled to avoid the cost and irritation of going to court and invariably had no substance to them. Setting a dollar figure was felt to spare boards the requirement of investigating these matters since it was a foregone conclusion that the investigations, while expensive, would have no yield. Congress unfortunately did not see fit to set a figure though it was debated. The argument holds even more strongly for claims made then abandoned.
7. Investigating claims made rather than settlements or judgments and particularly using claims made as a rational for taking licensing action as suggested by CS-FIB 146(L&C) is extremely disturbing in a constitutional sense. To proceed in this fashion would be to elevate accusation to the level of proof of malfeasance and encourage the board and the State of Alaska to totally ignore the due process provisions of the constitution.

Representative Dave Donley
June 1, 1989
Page 4

8. The board assumes the good intentions of the drafter of the committee substitute but is seriously disturbed by his/her unfamiliarity with the realities of the present civil liability situation and apparent unfamiliarity with constitutional guarantees about the presumption of innocence in advance of the playing out of due process.

The board stands ready to help in redrafting the legislation as preparations proceed for the opening of the second session of the Sixteenth Legislature.

Sincerely,


Thomas L. Conley
Chairman

TLC:bjh

Enclosure

cc: Board/Randall Burns/Pam Ventgen
ASMA - Ray Schalow
Dave Johnson
Lloyd Jones
Robin Taylor
Cheri Davis

bcc: A. Lee Peterson, Esq.
Henry Storr, M.D.

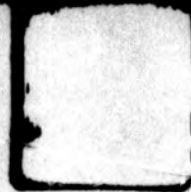
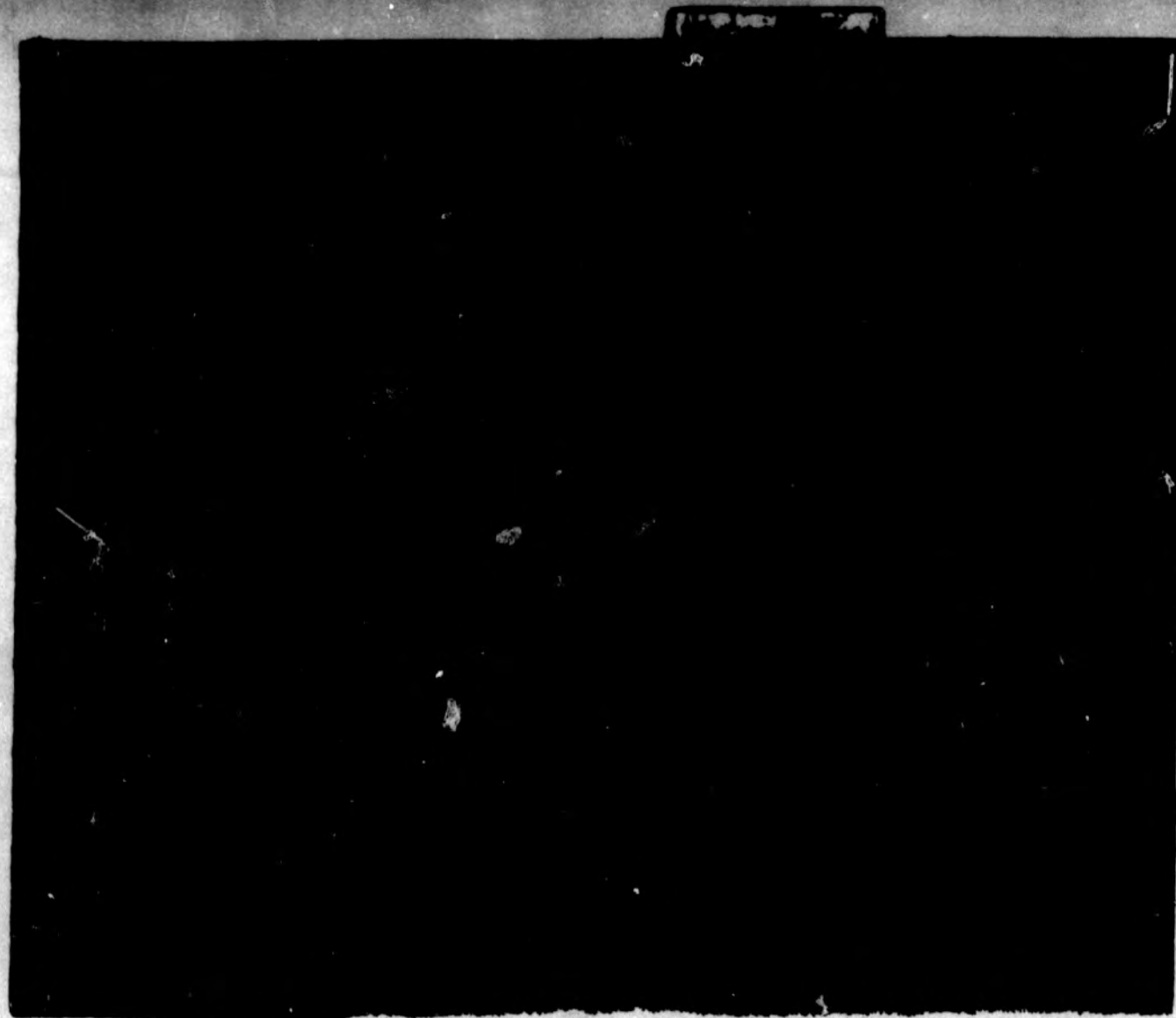


TABLE 2 REVENUE DISCIPLINARY FUNCTION - MANDATORY REPORTING OF VIOLATIONS, WHO MUST REPORT, PENALTY FOR FAILURE TO REPORT, CIVIL PENALTIES (FINES) FOR FAILURE TO REPORT.

	AL	CL	CRT	HSP	ONE	LIAB	LMS	LPS	OSA	SLE	SMS	SPS	PMD	PTP	OP	FA	CIV. PEN. Y-N
AL	X			X										X			
AL	X	X	X	X	X			X	X					X			
AZ-N	X		X	X	X	X	X	X		X	X	X		X			No
AZ-O	X			X		X	X	X			X	X					
AL	X			X													
CA-N			X	X	X	X											
CA-O	X	X	X	X	X	X	X		X	X	X						
CO	X	X		X		X											
CT-N	X			X		X					X						
DE	X	X		X	X	X	X	X		X	X	X	X	X			
DE				X													
FL-N	X			X		X	X	X	X		X	X	X		X		
FL-O	X	X		X		X	X	X			X	X					
GA				X		X											
GA-N	X	X	X					X	X								
HI-N	X	X	X	X	X	X	X	X			X	X					
ID	X			X													
IL			X	X	X	X		X	X	X							
IN			X					X									
IA	X	X		X		X											Yes (licensees only)
IS	X	X		X	X	X	X	X			X	X					
IT	X		X	X		X	X	X	X		X	X					
LA					X												
ME-N	X			X	X	X	X	X			X	X					
MD		X	X	X		X	X	X			X						Yes (HSP only)
MA		X	X	X	X	X	X	X	X	X	X	X			X		
ME-N			X	X		X											
ME-O			X	X		X											
MS	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X		
MS			X			X	X				X	X					
ND			X	X	X												No
NE	X																

*Key: AL = All licensees; CL = Licensee committing a violation; CRT = Courts; HSP = Hospitals (staff/adminis); ONE = Other health care provider entities (eg, HMOs, IPPs, unaffil. clinics); LIAB = Liab. ins. carrier(s); LMS = Local med/osteo societies; LPS = Local prof. societies; OSA = Other state agencies; SLE = State/local law enforce. agencies; SMS = State med/osteo societies; SPS = State prof. societies; PMD = Prof. review organizations; PTP = Physicians treating physicians for spec. disorders; OP = Other health care professionals; FA = Federal agencies

	AL	CL	CRT	HSP	ONE	LIAB	LMS	LPS	OSA	SLE	SMS	SPS	PMD	PTP	OP	FA	CIV. PEN. Y-N
NE																	
NY-N	X	X	X	X	X	X	X	X			X	X			X		No
NY-O				X			X										
OH	X	X	X	X	X	X	X	X		X	X	X					
OK				X		X											
OR-N				X		X											
OR-O																	
PV	X	X	X	X	X	X	X	X			X	X			X		
SC				X		X											No
SD	X	X															
OH	X	X	X	X		X	X	X			X	X		X		X	
OK-N				X	X	X	X	X			X	X	X				
(All bold marks are pursuant to PL 99-500)																	
OK-O						X											
OR	X			X		X	X	X			X	X	X	X	X		Yes
PA-N	X	X	X	X				X									No
PA-O	X	X															
PR						X											
RI		X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	No
SC				X	X												
SD				X													
TX-N					X												
TX-O					X												
TX	X	X	X	X	X	X	X	X			X	X			X		No
UT-N	X	X		X	X	X	X				X						
VT-N				X													
VA	X		X		X	X	X	X			X	X		X			
VI																	
WA-N	X		X	X	X	X	X		X	X	X		X			X	
WA-O	X	X				X											
WV-N	X	X	X	X	X	X	X	X	X		X	X	X				
WV-O	X	X		X					X	X	X						
WI				X		X			X								
WY	X	X		X	X	X	X	X			X	X					
Totals	36	26	22	51	27	39	30	24	17	12	30	23	8	9	8	3	Y = 3 / N = 7

TABLE 3 REVIEW AND EXPLANATION - MANDATORY REPORTING, WHAT HOSPITALS/LIABILITY CARRIERS MUST REPORT
 Privilege actions based on formal peer review activity that must be reported by hospitals; claims against licensees or payments on their behalf that must be reported by liability carriers (and self-insureds).

HOSPITALS						LIABILITY CARRIERS			
	PRIV REV	PRIV SUS	PRIV RESTR	VOL SURRE	VOL RESTR	ALL CL	ALL PAY	PAY OVER \$	SELF-INS OPT
AL	X	X	X	X	X	X	X		X
AK	X	X	X	X	X				
AZ-RI	X	X	X	X	X				
AZ-O	X	X	X	X	X				
AR	X	X							
CA-RI	X	X	X	X	X				
CA-O	X	X	X	X	X				
CO	X	X	X	X	X				
CT-RI	Hospitals must report to Board any physician hospital deems unable to practice w/reasonable skill & safety								
DE	X	X	X	X	X				
DC	No Information Provided								
FL-RI	X	X	X	X	X				
FL-O	X	X							
GA	X	X	X	X	X				
GM	No Information Provided								
HI-RI	X	X	X	X	X				
ID	X	X	X	X	X				
IL	X	X	X	X	X				
IN	X	X	X	X	X				
IA	X	X	X	X	X				
KS	X	X	X	X	X				
KY	X								
LA									
ME-RI	X	X	X	X	X				
MD	X	X	X	X	X				
MA	X	X	X	X	X				
MI-O	X	X	X	X	X				
MI-RI	X	X	X	X	X				
MS	X	X	X	X	X				
MT	X	X	X	X	X				
NY	No Information Provided								

*Key: PRIV REV = Privilege revocation; PRIV SUS = Privilege suspension; PRIV RESTR = Privilege restriction; VOL SURRE = Voluntary surrender of privileges; VOL RESTR = Voluntary restriction of privileges; ALL CL = All claims; ALL PAY = All liability payments made by carrier; PAY OVER \$ = Dollar amount above which all payments must be reported; SELF-INS OPT = Self-insureds must also report

HOSPITALS						LIABILITY CARRIERS			
	PRIV REV	PRIV SUS	PRIV RESTR	VOL SURRE	VOL RESTR	ALL CL	ALL PAY	PAY OVER \$	SELF-INS OPT
NE									
NH-RI	X	X	X	X	X	X		5,000	X
NH-O									
RI	X	X	X	X	X	X			X
NJ	X	X	X	X	X			25,000	X
ND-RI	X	X	X	X	X				
ND-O									
NY	X	X	X	X	X	X	X		X
NC	X	X	X	X	X	X	X		
NE									
NH									
RI	X	X	X					X	X
NE-RI	X	X	X	X	X	X	X	X	
NE-O									
OR	X	X	X			X	X		X
PA-RI	X	X	X	X	X				
PA-O	No Information Provided								
PR	No Information Provided								
RI	X	X	X	X	X	X	X		X
SC	X	X	X	X	X				
SD	X	X							
TD-RI									
TD-O									
TX	X	X	X	X	X	X	X		X
UT-RI	X	X	X	X	X				
VT-RI	X	X	X						
VA	X	X	X	X	X		X		
VI	No Information Provided								
WA-RI	X	X	X	X				20,000	
WA-O								20,000	
WY-RI	X	X	X	X	X	X	X		X
WY-O	X	X	X	X	X				
MI	X	X	X	X	X	X	X		
WV	X	X	X	X	X				
(only if hospital actions resulted from peer review)									
Totals									
50 40 45 42 41 22 24 10 20									

#1178

PUBLIC CITIZEN

Boycott Up ☐ Congress Watch ☐ Critical Mass ☐ Health Research Group ☐ Litigation Group

EMBARGOED UNTIL:
PM'S SEPTEMBER 27

For Further Information:
Sidney M. Wolfe, M.D.
Nicole Simmons
202-872-0320

PUBLIC CITIZEN HEALTH RESEARCH GROUP

State Medical Licensing Board Doctor Disciplinary Actions in 1987
(Latest Data Available)

SEPTEMBER 1989

**PUBLIC CITIZEN HEALTH RESEARCH GROUP REPORT:
STATE MEDICAL BOARD DOCTOR DISCIPLINARY ACTIONS: 1987**

Prompted by a spate of adverse publicity and state and federal legislation, state medical boards boosted the number of serious disciplinary actions they levied against physicians for the fourth year in a row.

The number of medical license revocations, suspensions and probations rose by 17 percent in 1987, to 1,495¹, the equivalent of 2.78 disciplinary actions for every 1,000 U.S. doctors.

Public Citizen believes those figures still aren't high enough. A physician could still operate drunk, commit a gross act of negligence or sexually assault a patient and receive a mere slap on the wrist from his or her state's medical board in most states.

We estimate that well over 100,000 Americans are injured or killed each year as a result of doctors' negligence. The absence in most states of the maximum effort to discipline these doctors is one of the most serious threats to the health of American patients.

American patients would be much more protected if every state would discipline as many doctors as West Virginia, the top state in our rankings for 1987, which had a rate of revoking the licenses, suspension or probation of 8.58 per 1,000 physicians, 19 times more doctor discipline than Kansas with only .45 actions per 1000 physicians. If all states had a rate of serious doctor disciplinary action equalling West Virginia's, the total number of M.D.'s with serious disciplinary actions in 1987 would have been 4,616, three times the number actually subject to those actions. This would mean that an additional 3,121 physicians would have been subjected to serious disciplinary action in 1987, significantly increasing the amount of protection of patients against incompetent or otherwise poorly-practicing physicians.

One bright note: During 1987 and 1988, 44 state legislatures, including those in Florida, Maryland and Illinois, enacted legislation to strengthen state oversight of physician behavior. It remains to be seen whether those laws will provide a further push to state medical boards to take incompetent doctors' licenses and other means of practice away.

OVERALL U.S. TRENDS

For the fourth time in the last five years, Public Citizen Health Research Group has analyzed the most recent (1987) data which state medical licensing boards forward to their national organization, the Federation of State Medical Boards. The three

types of serious disciplinary actions which we use as the basis for ranking the states are revocation of license, suspension of license and probation. A fourth category of disciplinary actions, which includes reprimands, voluntary surrender of license and a variety of other actions is not included because the Federation does not release the details as to what proportion are really serious and how many are not.

As can be seen in Table 1, in 1987, state licensing boards took 1,495 serious disciplinary actions against U.S. physicians (M.D.'s). This represented an increase of 218 such actions over the previous year or an increase of 17 percent. That rate of increase is the same seen between 1985 and 1986.

It is much smaller, however, than the improvement between 1984 and 1985, when the number of serious actions increased 344, from 745 to 1089, an increase of 46 percent.

With a total of 538,008 non-federal M.D.'s in the U.S. as of December 31, 1986, (the latest available figure)³ the average rate of doctor discipline for the country is only 2.78 serious disciplinary actions (revocation, suspension, or probation) per 1000 M.D.'s.

STATE BY STATE RANKING

The number and rate per 1000 M.D.'s of serious disciplinary actions for each state and the District of Columbia in 1987, compared to 1986, can be seen in Table 2. These rates are calculated by dividing the number of serious disciplinary actions (revocations, suspensions or probations) -- reported by each state to the Federation of State Medical Boards -- by the number of non-Federal M.D.'s in each state.

Better News

Six of the top 20 states in 1987 were not in the top 20 in 1986. These include Mississippi, South Dakota, Nevada, Delaware, North Dakota and Massachusetts.

Massachusetts continued a rapid rise in the rankings, from 39th in 1985 that came after the state passed legislation to strengthen doctor discipline in mid-1986. By 1986, the state had risen to 21st and, as of 1987, to 20th.

Other states with sizable increases in the number of serious disciplinary actions from 1986 to 1987 were West Virginia, Kentucky, Hawaii, Wisconsin, Louisiana, Washington, Michigan and Maryland.

Laudable progress has also been made in New York, the state with the largest number of disciplinary actions (though only the

15th highest rate). New York's 259 serious disciplinary actions represent a more than four-fold increase from 1985, when there were 60 serious disciplinary actions. New York's ranking went from 40th in 1985 to 16th in 1986 and, in 1987, to 15th.

New York City Council President Andrew Stein and Gov. Mario Cuomo deserve credit for focusing public attention and government resources on the discipline issue.

It should also be noted that Kentucky, Iowa, Georgia and Oklahoma have been in the top 10 states for doctor disciplinary rates for three straight years.

Worse News

At the other end of the scale, Kansas, which ranked 33rd among the states in 1986, fell to the bottom of the rankings in 1987, as the number of serious disciplinary actions it levied fell from 7 to 2. In addition, North Carolina, California, and Maine, which were not among the bottom 20 states in 1986 fell to the bottom 20 in 1987.

It is particularly sad that California, whose Board of Medical Quality Assurance was a model of doctor discipline in the late 1970's, now is apparently not putting a priority on patient safety. A recent University of California, San Diego study called physician discipline in that state "a code blue emergency," adding, "The system cannot and does not protect Californians from incompetent medical practice."⁴

Other declines were seen in Utah and Oregon -- though both remained in the top 20 -- Virginia, Ohio and particularly Indiana, where the number of serious disciplinary actions was nearly halved from 57 in 1986 to 30 in 1987.

Maintaining their abysmal rates of discipline in the bottom 10 states were Connecticut, Tennessee, and Pennsylvania.

IMPLICATIONS

Our estimate that at least 100,000 Americans are injured or killed each year by doctor negligence is based on three published studies.

The Joint Malpractice Commission estimated that 3.6 percent of all patients entering hospitals are injured and that 14.5 percent of the injuries were due to negligence.⁵ That estimate would indicate 203,000 injuries from doctor negligence in 1983.

A study of 5,612 surgical admissions at a Boston hospital showed 36 patients suffered adverse outcomes "due to error during care."⁶ Applied to all 1983 surgical admissions, that malpractice

rate would result in 136,000 injuries.

A California study found that 24,000 out of the 3 million admitted to hospitals there in one year appeared to be victims of malpractice.⁷ Applied to the entire U.S. in 1983, that would have resulted in 310,400 deaths or injuries.

Even though the 1987 total of 1,495 serious doctor disciplinary actions is better than in any previous year, it falls very short of catching most of the incompetent doctors in this country. In most states, the majority of disciplinary actions are for drug and alcohol problems, only a fraction being for incompetence.

Since there is no evidence that doctors settle in certain states depending on how competent they are, differences in the rate of doctor discipline reflect differences in how serious states are about disciplining doctors. The disparity between states with higher rates of doctor discipline and states with only a fraction of these higher rates is cause for alarm by the residents of the low-discipline states. People in these states are much more likely than people in high-rate doctor discipline states to be injured or killed by doctors still on the loose because they haven't been "caught." What might be unacceptable medical practice in one state just goes by the state licensing boards in another.

A further indication that the rate of doctor discipline by most state medical boards is too low comes from a recent Tufts University study.⁸ Those researchers found that physician-owned insurance companies terminated coverage of 6.6 out of every 1,000 policyholders in 1985 because of negligence-prone behavior, and restricted the practice or imposed other medical sanctions on an additional 7 of every 1,000 policyholders, whose performance was viewed as substandard. Thus, if the combined rates of malpractice insurance termination and other sanctions by physicians-owned insurance companies (13.6 per thousand physicians) were applied to all physicians in the U.S., this would be a rate which is almost 5 times higher than the actual rate of serious doctor disciplinary actions by state licensing boards.

DOCTOR DISCIPLINE AND MEDICAL MALPRACTICE

We continue to believe that until the rate of doctor discipline in this country significantly increases, there is no realistic possibility of a major decrease in the amount of medical malpractice. At the heart of the so-called medical malpractice crisis, other than the manipulative efforts of the insurance industry, is actual malpractice, patients being injured or killed by negligent physician behavior.

WHY IS WEST VIRGINIA NUMBER ONE IN DOCTOR DISCIPLINE?

Ronald Walton, Executive Director of the West Virginia Board of Medicine, attributes his state's success to several factors:

- 1) A new, dedicated group of board members have joined the board in the last four years. Their presence has greatly increased the visibility of the board, particularly after the State Supreme Court ruled four years ago that the Board must make all of its disciplinary actions public. The West Virginia Board of Medicine now sends press releases to local newspapers every time it disciplines a doctor. As a result, according to Mr. Walton, the board has received a much larger number of consumer complaints about questionable physicians.
- 2) The Board hired a full-time legal counsel in 1987 which enabled it to largely clean up its backlog of complaints and move forward to resolve most cases within a matter of months. Walton said, "We get a hell of a lot more done."
- 3) In addition, the Board's lone investigator noses out bad physicians by making the rounds of pharmacies throughout the state. "Pharmacists in small communities know pretty much what is going on. They know who the drug addicts are," he said.

Mr Walton also said that the number of doctor disciplinary actions taken by the Board has continued to increase in 1988 and 1989.

RECOMMENDATIONS FOR STATES

1. Increase doctor license fees to \$500 per year: all money going to finance doctor disciplinary actions. State medical boards now are chronically understaffed and underfunded; many have huge backlogs of complaints.
2. Require periodic recertification of doctors based on written exams and audits of doctor performance such as medical record review.
3. Grant subpoena power to state licensing boards to go after evidence necessary to evaluate doctors.
4. Grant state boards emergency powers to suspend a doctor's license to practice, pending investigation, when continued practice is considered to constitute a hazard to public safety.

5. Require all hospitals in your state to have a risk management program designed to prevent injury to patients. According to the American Hospital Association, only 60 percent of hospitals have such programs and only half of these are excellent programs.

6. Require all insurance companies to experience-rate doctors within subspecialties, whereby doctors with the best records pay the lowest premiums, and multiple malpractice loser doctors pay the most.

7. Require insurance companies to immediately publicly disclose and forward to the state licensing board the filing of malpractice claims, as well as the results of all malpractice settlements and adjudications.

8. Require hospitals or other institutions taking disciplinary actions against doctors to publicly disclose and forward to the state licensing board the details of such actions.

9. Provide immunity and confidentiality to all those reporting doctor malpractice, incompetence, substance abuse or fraud to state medical boards.

10. Provide strong consumer representation on state medical boards. Do not allow the state medical society to control membership on the boards.

11. Officials should make strong, public statements indicating a commitment to strong doctor discipline and protection of patients' safety.

TABLE 1
SERIOUS DISCIPLINARY ACTIONS
AGAINST U.S. PHYSICIANS (M.D.s)
1984-1987

YEAR	1984	1985	1986	1987
SERIOUS ACTIONS	745	1089	1277	1495
CHANGE FROM PREVIOUS YEAR	--	+345	+188	+218
PERCENT	--	+46%	+17%	+17%

1. Galusha, Bryant L. and Breaden, Dale G. Official 1987 Federation Summary of Reported Disciplinary Actions. Federation Bulletin, Sept. 1989, 275-280.

2. Intergovernmental Health Policy Project, State Oversight and Regulation of Physicians, George Washington University, Sept. 1988.

3. Physician Characteristics and Distribution in the U.S., 1987. Chicago, Ill., American Medical Association, 1987.

4. Fellmeth, Robert C., Physician Discipline in California: A Code Blue Emergency, Center for Public Interest Law, University of San Diego School of Law, April 5, 1989.

5. J. Legal Medicine, Feb. 1976.

6. New England J. Med. 1981, 304, 634-7.

7. Medical World News, July 22, 1985.

8. Schwartz, William B., and Mendelson, Daniel N., The Role of Physician-Owned Insurance Companies in the Detection and Deterrence of Negligence., JAMA, 1989; 260, 10:1342-1346.

TABLE 2
SERIOUS DISCIPLINARY ACTIONS AGAINST M.D.S (REVOCATIONS, SUSPENSIONS
AND PROBATIONS) BY STATE LICENSING BOARD 1987

RANK 1987	RANK 1986	STATE	SERIOUS ACTIONS PER 1000 M.D.S	SERIOUS ACTIONS 1987	ACTIONS 1986	NUMBER C DOCTORS
1	4	WEST VIRGINIA	8.58	29	19	3,381
2	19	ALASKA	6.91	5	2	724
3	9	KENTUCKY	6.63	41	22	6,188
4	26	MISSISSIPPI	6.15	21	8	3,416
5	11	HAWAII	5.99	15	8	2,506
6	44	SOUTH DAKOTA	5.98	6	1	1,004
7	3	IOWA	5.93	26	26	4,384
8	1	GEORGIA	5.70	60	73	10,524
9	24	NEVADA	5.37	9	4	1,676
10	7	OKLAHOMA	5.21	26	21	4,994
11	8	MISSOURI	4.90	49	38	9,996
12	18	WISCONSIN	4.87	45	26	9,234
13	34	DELAWARE	4.65	6	2	1,290
14	20	FLORIDA	4.60	128	75	27,851
15	16	NEW YORK	4.48	259	167	57,779
16	5	UTAH	4.16	13	17	3,128
17	6	OREGON	3.91	23	28	5,877
18	10	COLORADO	3.56	25	24	7,028
19	29	NORTH DAKOTA	3.52	4	2	1,136
20	28	MASSACHUSETTS	3.49	69	42	19,766
21	15	SOUTH CAROLINA	3.44	19	16	5,522
21	2	INDIANA	3.44	30	57	8,731
23	23	NEW JERSEY	3.12	59	49	18,883
24	13	MINNESOTA	2.94	28	30	9,535
25	17	ILLINOIS	2.62	67	73	25,537
26	35	LOUISIANA	2.48	21	13	8,453
27	25	D.C.	2.36	9	9	3,819
27	12	VIRGINIA	2.36	29	39	12,311
29	42	WASHINGTON	2.28	23	11	10,079
30	14	IDAHO	2.24	3	4	1,341
31	49	VERMONT	2.04	3	1	1,469
32	27	NORTH CAROLINA	1.95	23	26	11,783
33	47	MICHIGAN	1.94	34	14	17,549
34	50	NEW HAMPSHIRE	1.86	4	1	2,149
35	21	OHIO	1.79	39	58	21,744
36	48	MARYLAND	1.73	26	11	15,000
37	41	RHODE ISLAND	1.61	4	3	2,489
38	39	TEXAS	1.47	43	41	29,207
39	37	NEW MEXICO	1.46	4	4	2,735
40	38	NEBRASKA	1.45	4	4	2,762
41	51	WYOMING	1.42	1	0	706
42	30	CALIFORNIA	1.32	94	121	71,349
43	22	MAINE	1.30	3	6	2,306
44	40	ALABAMA	1.27	8	8	6,323
45	31	ARIZONA	1.23	9	12	7,303
46	45	PENNSYLVANIA	0.98	28	27	28,476
47	43	TENNESSEE	0.86	8	10	9,285
48	31	ARKANSAS	0.82	3	6	3,664
49	36	MONTANA	0.76	1	2	1,323
50	46	CONNECTICUT	0.71	7	9	9,833
51	33	KANSAS	0.45	2	7	4,460
			2.78	1495	1377	558008



**Defining,
Measuring,
Assuring**

Quality of Care

A Summary of AMA Policy

*Alaska State Medical Association
4107 Laurel Street
Anchorage, Alaska 99508
(907)562-2662 or FAX (907)561-2063*

A WORD OF INTRODUCTION

As government, business and other payors search for ways to lower their health care costs, and as competition increases in the health sector, efforts to preserve the quality of health care have become increasingly important. Pressure will grow for changes in delivery and financing system which may tend to reduce the quality of care provided. Public debate will increasingly focus on how to define and measure quality, as health professionals, payors and patients address such issues as:

- * ensuring quality care in contracting with provider groups;
- * deceptiveness of advertisements stating that certain providers give "the highest quality of health care available";
- * the feasibility of incorporating a measure of quality in reimbursing hospitals or any other health care providers; and
- * evaluating the effectiveness of various treatment modalities and delivery systems.

The American Medical Association's Council on Medical Service sees the challenge posed by this evolving health care environment as three-fold:

- * To develop guidelines regarding appropriate methods for assessing or measuring the quality of care.
- * To encourage wide and systematic use of quality assessment findings to improve the care delivered, and thus increase overall access to care of high quality.
- * To foster a broader public understanding of what is meant by the term "high quality medical care," and of the current mechanisms used to assess and assure quality.

This booklet brings together and summarizes some of the reports and recommendations developed by the AMA in its effort to respond to that challenge.

WHAT IS "HIGH QUALITY?"

Care of high quality can be conceptually defined in terms of its results, or patient outcomes. In 1984, the AMA characterized care of high quality as that "which consistently contributes to the maintenance or improvement of health and well being.

The definition recognizes that, when other variables which could affect outcome—such as patient age, sex, living environment, attitude toward illness, health history, severity of illness, and natural history of the disease—are adequately measured and accounted for, patient outcome reflects the degree of effectiveness with which health professionals combine their own skill and compassion with the use of technology for the patient's benefit. It encompasses both the effects of care on the patient, and the proficiency with which such care is provided. Also implicit in the definition is the need to develop more meaningful criteria as to what constitutes a "favorable" outcome.

There are other essential elements which characterize care of high quality. Such care should:

- * Emphasize health promotion, disease and disability prevention, and early detection and treatment.**
- * Be provided in a timely manner, without inappropriate delay, interruption, premature termination or prolongation of treatment.**
- * Seek the patient's cooperation and participation in the decisions and process of his/her treatment.**
- * Be based on accepted principles of medical science, and the skillful and appropriate use of other health professionals and technology.**
- * Be provided with sensitivity to the stress and anxiety that illness can cause, and with concern for the patient's and family's overall welfare.**
- * Use technology and other resources efficiently to achieve the treatment goal.**
- * Be sufficiently documented in the patient's medical record to allow continuity of care and peer evaluation.**

HOW CAN PATIENTS IDENTIFY HIGH QUALITY?

Some of the essential elements listed above can be very meaningful to the patient as indicators of quality-sensitivity and compassion, emphasis on prevention and health promotion and involvement in treatment decisions. Other meaningful indicators can include the caregiver's accessibility, and willingness to listen, explain and answer questions about treatment or charges, help find other needed services, or arrange for consultation when asked or needed. The degree to which the physician is sensitive to and attempts to respond to legitimate patient goals which may be different from those of the physician can also be important.

The physician's technical competence, as well as medical outcomes, have been the traditional indicators of quality. Recently, however, patient satisfaction has also gained credibility as a possible criterion by which quality of care can be identified. Patient satisfaction not only reflects the personal aspects of care, but there is some evidence that patients can adequately evaluate the technical aspects of care when such care is of a fairly routine nature.

HOW SHOULD QUALITY BE MEASURED?

The heart of any program to measure or assess the quality of medical care is peer review by practicing physicians of the quality of services ordered or performed by other practicing physicians. To facilitate the process of peer review, screening criteria may be developed and applied to identify those care episodes which should be subjected to indepth quality assessment by professional peers. However, such criteria should never be used as per se indicators of the quality of care provided.

Quality assessment programs should be conducted in accord with the following guidelines:

- * Criteria for assessing quality of care should be developed and agreed upon by the professionals whose performance will be reviewed.
- * Criteria can be based on the structure-the setting in which care occurs, and the process-the content of care, as well as on the outcome-or the effect of care on the patient. However, only those elements of structure and process that have a demonstrated and consistent relationship to favorable patient outcomes should be evaluated, to the extent they can be identified.
- * To better distinguish between the effects of care provided and other factors, outcome should be assessed prospectively as well as retrospectively. The identification of "expected" outcome prior to care and comparison with actual results allows such a distinction.
- * The evaluation of "intermediate" rather than "final" outcomes is acceptable. It is often more feasible to use immediate treatment results as indicators of quality rather than long-term morbidity and mortality data, particularly since the direct effects of care received are progressively obscured over time.
- * Blanket review of all medical care provided is neither practical nor needed to assure high quality of care. Review can be conducted on a targeted basis using "indicators" or "markets" of potential problem areas, a sampling basis, or a combination of both, depending on goals of the review process.
- * Both explicit and implicit criteria are useful in assessing the quality of care. Explicit criteria are highly structured, specific and written guidelines, and are needed to maintain consistency and objectivity in the assessment process. Implicit criteria are the less structured and individual expectations and judgment of an expert practitioner acting as an evaluator. They are needed to accommodate legitimate professional differences regarding optimal treatment for individual cases.
- * Traditional consultation with another physician prior to treatment, as well as concurrent and retrospective peer review are all valid aspects of quality assessment as long as their prime objective is to maintain and improve quality of care.
- * Quality assessment results should be used to improve practitioners' performance and thus improve quality of care. Practitioners reviewed should systematically receive the results of that review and should be assisted in improving their knowledge and in modifying their practice patterns where indicated.
- * The quality assessment process itself should be subject to continued evaluation and modification as needed.

HOW SHOULD PROBLEMS WITH QUALITY BE RESOLVED?

The integral complement to any program of quality measurement or assessment is a system for quality assurance, or physician-directed activity to help

professionals in modifying practice behavior found deficient by quality assessment, and to protect the public against incompetent practitioners.

Quality assurance activities should be consistent with the following guidelines:

- * The general policies and processes used in a quality assurance system should be developed and concurred with by the professionals whose performance will be monitored, and should be objectively and impartially administered.
- * Any attempt to improve the performance of an individual practitioner should be triggered by concern with that individual's overall practice patterns, rather than by deviation from specified criteria in a single case.
- * Before any remedial or corrective action is taken, the practitioner should have ample opportunity to explain observed deviations from accepted practice to professional peers.
- * The emphasis in quality assurance activities should be to help the practitioner correct deficiencies in knowledge or skills.
- * The quality assurance system should have the capability of offering or directing the practitioner to the appropriate educational resources needed to effect desired practice modifications.
- * Feedback mechanisms should be established to document needed changes in practice patterns, so as to evaluate the effectiveness of any remedial activities initiated.
- * Disciplinary action should be considered only for those professionals who do not respond to remedial activities. Such restriction or disciplinary actions should be imposed whenever the appropriate professional peers deem such action necessary to protect the public.
- * The imposition of restrictions or discipline should be timely, consistent with due process, and should be immediate when professional judgement perceives an imminent hazard to the health of patients.
- * Quality assurance systems should be structured so as to assure legal immunity for practitioners who are conducting such systems and are acting in good faith.
- * Quality assurance systems should attempt to recognize high quality care as well as to correct deficiencies in practice. Such systems should explore ways to identify and disseminate information on those treatment methodologies or protocols which consistently contribute to improved patient outcomes.

HOW CAN PHYSICIANS ENSURE ADHERENCE TO QUALITY MEASUREMENT AND ASSURANCE GUIDELINES?

When quality assurance and utilization review activities are conducted by other than physician-sponsored organizations-for example, by some PROs and by private third-party payors-there is a need to ensure physician involvement and influence in the conduct of such programs and in the development of criteria

used in the review process. Among the mechanisms which can help achieve such involvement are:

- * Interlocking or overlapping Boards in those states where PROs are medical society-sponsored.
- * Joint medical society-PRO liaison committees when the PRO is not medical society-sponsored, as well as individual member and staff contacts on an ongoing basis.
- * Medical society review and comment on PRO contract provisions affecting quality prior to their finalization. (Legislative or regulatory changes may be needed.)
- * Medical society sponsorship of quality review programs which could be offered to area employers and other private payors.
- * Medical society assistance and consultation to members in evaluating proposed contracts with private payors or managed care systems.
- * Medical society development of public information programs to alert health plan enrollees or beneficiaries of the existence of payor utilization controls which may affect their eligibility for benefits, and of enrollee rights under such programs.

IS QUALITY ASSESSMENT MOVING BEYOND THE HOSPITAL?

Over the past several years, a number of factors have combined to encourage the shifting of patient services from the inpatient to the outpatient setting. Chief among these have been changing practice patterns, technological advances, increased competition among health care providers, growing costs of capitalization, public demand for reduction in health care costs, and changes in third-party reimbursement requirements.

Accompanying this increased emphasis on ambulatory services has been a corresponding interest in assessing the quality of care provided in such settings. There has been an expansion of accreditation programs and recent attempts to assess more directly or review the quality of services provided in the ambulatory setting, by both the federally-mandated PRO program and in the private sector.

The AMA supports the conduct of voluntary, physician-directed review of services provided in all health care settings. Integral to conduct of accreditation or review programs for ambulatory care is an examination of the medical records of patients served, as well as the system for maintaining such records. Complete medical records will serve both as evidence of adherence to accepted practice patterns and as a criterion in themselves of high quality care. In general, an examination of records will seek to determine:

- (1) that appropriate information on the patient was obtained and recorded;
- (2) that appropriate care and services are provided based on the information obtained;

- (3) that information in the record is consistently organized; and
- (4) that an appropriate record system is in place.

Review of the types of requirements developed by various voluntary accreditation or review bodies, both for medical records and in other areas of practice, can be very informative to the practitioner who now or in the future, whether of his own volition or as required by law, may be involved in a review of the quality of care he or she provides in the ambulatory setting. An AMA report in June 1988 describes the requirements used by these different accreditation or review bodies.

HOW SHOULD REVIEW SYSTEMS BE ACCOUNTABLE TO THOSE REVIEWED? TO PATIENTS?

The guidelines for quality assessment and quality assurance activities summarized above address some elements of review system accountability, including due process requirements. With specific regard to accountability of physician reviewers, the AMA has urged that the PRO program be changed to require:

- * that all physicians reviewing a record and rendering a judgement on the care provided sign an attestation that a complete review was done, and that this attestation be made available to the physicians undergoing review; and
- * that in cases where a PRO denies benefits, a physician of the same specialty will review the case prior to a denial letter being sent.

With regard to payor accountability, the AMA has urged state medical societies to work for enactment of state legislation holding public and private payors liable for any patient harm resulting from unreasonable or negligent application of utilization review requirements.

ARE PHYSICIANS CONDUCTING QUALITY ASSESSMENT PROTECTED FROM LEGAL LIABILITY?

The recent Supreme Court opinion in *Patrick v. Burget* has caused concern about the legal liabilities associated with participating in peer review. Patrick affirmed a \$2.2 million antitrust verdict against physicians who allegedly misused the peer review process to eliminate a competitor. Physicians want to know whether they are at risk for similar verdicts when they participate in peer review. They also want to know what can be done to remove any unreasonable legal risks associated with participating in the peer review process.

An extensive report by the AMA in June, 1988 addresses the concerns raised by Patrick. It concludes that the risks of legal liability when a physician participates in peer review are minimal, provided that two conditions are met. First, the physician must be participating in peer review for the purpose of enhancing good quality medicine, and not for the purpose of damaging a competitor or some other bad faith motive. Second, proper procedures must be followed in the peer review to ensure fairness.

The AMA has also concluded that:

- * Physicians who have unfairly received an adverse peer review decision should have a means of redress should be in balance with the need to facilitate and encourage peer review.**
- * Accordingly, it is inappropriate to apply the triple damage antitrust law remedy to peer review, because of the chilling effect on the willingness of physicians to participate in the peer review process.**
- * Existing state and federal legislation which purports to immunize peer review from various legal liabilities is helpful, but inadequate to protect against antitrust lawsuits.**
- * Additional legislation could be passed by states to protect physicians from antitrust exposure by restoring the state action exemption under the guidelines furnished in the Patrick decision.**
- * Such legislation could provide alternatively for: review and reversal as appropriate by a state licensing board of any peer review decision on request of the aggrieved physician; peer review conducted by physicians or a committee of physicians designated by the licensing agency in any case where substantial loss of privileges is at risk or such external review is requested by one of the parties involved; or state agency review decisions. The AMA has provided more information on these legislative approaches to state medical societies, and at least one state-Oregon-has already enacted legislation of this type.**

Write Legibly

Careless writing of digits, decimal points, and test names can result in misinterpretation of results and are a liability in litigation. MIEC recommends that all lab test results be noted on a standard form, not written on loose slips of paper. Lab reports filed in one section of the chart, overlap style, are easier to find for review.

Correct Errors Properly

In court, written-over entries suggest that the record was deliberately altered. Do not write over an incorrect entry, which may obscure the correct entry. Instead, start a new slip; or cross out the error with a single line so that the error still is readable, write in the correct entry, and initial it.

Document and Report Incidents

Document unexpected incidents which occur in the course of drawing a specimen for lab tests, *even if there is no apparent injury*. If a patient falls or complains of an injury, a physician should examine the patient and document the findings. Documentation of incidents is helpful in defending a claim made long after the incident occurred. Any incident, such as a fall or a complaint expressed by a patient, should be reported to MIEC's Claims Department.

Maintain Equipment

Inspect and test laboratory equipment regularly. If equipment malfunctions, it should be checked by an appropriate technician or engineer before it is placed back in service. A preventive maintenance program prevents injury or error, and in litigation testifies to your care and caution. State and local regulations concerning the disposal of waste products must be followed. Contact your state's Health

Department for information about proper disposal.

Ensure the Safety of the Premises

Periodically inspect the lab premises to identify hazards. The test area should be furnished with sturdy, four-legged chairs. Do not permit patients to sit on chairs with wheels. Prescription pads, dangerous instruments and drugs should not be left in the test area. Avoid leaving patients alone in the area after drawing blood; some patients feel light-headed even after a minimal amount of blood is drawn. Assist elderly patients to their feet if they have been sitting or lying down for a long period of time.

Be Courteous

Some patients are fearful about any new medical procedure. Lab personnel can help to reduce a patient's fear and anxiety by being courteous and helpful. Never ridicule a patient who is anxious or upset. Instead, explain what you are doing and reassure the patient. Office staff are important for better patient relations.

If you have questions about MIEC's coverage of an in-office lab, if you want to report an incident, or need legal advice or assistance, please call MIEC at 415/428-9411; outside California, call toll free: 800/227-4527.

MIEC

Medical Insurance Exchange of California

6250 Claremont Avenue
Oakland, California 94618-1324

Avoiding Liabilities for In-Office Laboratories

RECOMMENDATIONS
FOR THE PHYSICIAN
AND MEDICAL OFFICE STAFFS

MIEC

Medical Insurance Exchange of California

This article is for physicians whose office staff performs laboratory tests on the premises or collects specimens for testing by an outside laboratory.

Liability Coverage for Office Laboratories

MIEC's professional liability policy includes coverage for a physician's incidental office laboratory. No premium is charged for this coverage, but to ensure that the coverage is extended, the policyholder must request it by writing or calling the Underwriting Department. If laboratory technicians are employed, MIEC must be advised to extend coverage to those individuals. *The coverage for an incidental laboratory does not extend liability protection to the policyholder if tests are performed for physicians other than the named policyholder(s).* Separate coverage is available from MIEC for laboratories owned by physician partnerships or corporations, including those operated in a physician's office.

Preventing Malpractice Claims

Ensure Adequate Orientation and Training of Staff

All staff who perform laboratory tests should be instructed in office laboratory policies. Policies should be written. New personnel should work under supervision of an experienced aide or physician until they demonstrate competence.

Identify the Patient

Misidentification of patients and of specimens can result in injuries and law suits. Identification errors occur when patients do not hear or misunderstand an aide and mistakenly answer, "Yes," when asked (for example), "Are you Mr. Jones?" Before drawing blood or accepting other specimens from a patient, aides should verify the patient's identity by saying, "Please tell me your name." Include the patient's full name on specimens and test result forms. If your office has more than one patient with the same name, flag requisitions and each patient's chart with a colored sticker or other code.

Communicate With the Patient

Some patients do not understand medical procedures and are fearful of lab tests, even though the drawing of blood involves little risk. Aides who draw blood can help the patient relax by explaining what is being done.

Don't Practice Medicine

Aides should not offer medical advice or interpret results of laboratory tests. Test interpretation should be provided only by a physician. If the patient has questions, inform the physician so that he or she can respond.

Protect the Patient's Privacy

All aspects of a patient's medical care are protected by confidentiality laws. Unauthorized release of medical information, including disclosure that laboratory tests have been performed or the results of such tests, expose the physician and his staff to a breach of privacy lawsuit if the patient is harmed by the disclosure. Such lawsuits are difficult to defend.

Office aides who draw blood for AIDS-related HIV tests should be familiar with the special laws protecting the con-

identiality of the tests and their results. [Ask for MIEC's *Claims Alert #11* on the liability associated with AIDS testing.]

Disclose Results to Patients

Make sure the person you are talking to is the patient. Ask patients at the time the tests are run to indicate when and where they can be called. If the patient calls the office for the results, an aide may ask the patient to cite a confidential lab slip number as a means of identification. Test results should be disclosed only to the patient, unless the patient has authorized disclosure to others. If the patient cannot be reached by telephone, messages for the patient to return the call should not inadvertently breach his or her privacy. Do not say, for example, "Please have her call Dr. Smith's office for the results of her pregnancy test."

Document Actions

Document the fact that laboratory results were reported to the patient. One way to ensure consistent documentation is a rubber stamp template (see below) which can be imprinted on each report and completed by an aide. The template also can be used to indicate the physician has reviewed the results before the slips are filed, to prevent inadvertent filing of lab slips before the physician has seen them.

Report reviewed by: _____
Report to patient? ☐ Yes ☐ No
Phoned to: _____
Comments: _____
Date/Time: _____
By: _____

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Avoiding Medical Record Deficiencies

RECOMMENDATIONS
FOR THE MEDICAL OFFICE STAFF

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d. Do not discuss a potential claim with other physicians. If you must discuss ongoing patient care with co-treating physicians, do not discuss the medical-legal aspects of the case. In litigation, such discussions are discoverable by the opposing attorney.

e. Do not cancel charges because of a threat of litigation. Obtain advice about further billing from an MIEC claims representative.

f. Do NOT release original records or x-rays until you have obtained advice from a claims representative or defense attorney.

MIEC's Claims Department welcomes your calls for advice or assistance. We look forward to assisting you. This is a service you pay for in your premiums, and we hope you will use it.

MIEC

6250 Claremont Avenue
Oakland, California 94618

How to Report a Possible Claim

MIEC

Medical Insurance Exchange of California

MIEC's Claims Department will answer your questions, provide access to legal advice, help prevent claims, and handle them when they occur.

Please call the MIEC Claims Department if you:

- Have a question about a request for medical records
- Want to report a claim or untoward medical incident
- Want advice about withdrawing from a patient's care
- Receive any legal papers, including a notice of intent to sue, or request for pre-litigation screening (outside California), or demand for arbitration of a claim
- Have received a deposition notice, or a request for a meeting or a report from an attorney representing a patient who may file a claim against you
- Need legal advice or attorney representation at a deposition
- Want to know the status of a pending claim against you

How to report a claim or incident:

In California: call 415/428-9411 (Outside 415 area code, call collect)

In Alaska and Nevada: call toll-free 800/227-4527

In Hawaii where we have a claims office: call 808/545-7231

In Idaho where we have a claims office: call 208/345-3040

And always available to our non-California insureds is the toll-free 800/227-4527.

When you call to report a new claim or incident, a claims assistant will ask your name, specialty, address and the nature of your call. When you call, please have available the patient's chart and any legal papers you have received. A claims representative will promptly return your call.

It is important that you personally report incidents or potential claims to MIEC. Do not delegate this to your office personnel.

We may ask you to send us a copy of the patient's chart, copies of legal documents you have received in regard to a patient, and a confidential summary of your treatment.

If you wish to discuss the status of or provide further information about an existing claim, please call the MIEC claims representative assigned to the case.

For Your Protection

a. **Get advice early.** Potential claims can be prevented if we know about them early and can obtain legal advice or representation for you, if indicated.

b. **Don't call a patient's attorney or the patient after receiving legal papers.** Such conversations are discoverable in court and may be used against you. MIEC's claims representative or defense counsel will contact the patient's attorney when appropriate.

c. **Do not alter the medical record.** It is against the law in most states and may affect your MIEC coverage as well as your license to practice. Charting changes can be used against you in court. If you discover errors or omissions in the record after you receive notice of a claim, call MIEC for advice on how to make appropriate corrections.

For the Medical Office Staff: MIEC's
purpose is to help you prevent, identify and
report medical malpractice. For advice
on malpractice, please call MIEC at
415-428-9431. Outside California, call
toll free, 800-227-4527.

Preventing Patient Injuries

RECOMMENDATIONS
FOR THE MEDICAL OFFICE STAFF

MIEC

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6250 Claremont Avenue
Oakland, California 94618-1324

MIEC

Medical Insurance Exchange of California

Physicians and their staffs can be liable for failing to exercise ordinary or reasonable care to prevent personal injuries to patients and visitors. The law defines ordinary or reasonable care as "care which persons of ordinary prudence would use in order to avoid injury to themselves or others." You can prevent personal injuries in your office by giving attention to possible safety defects. MIEC recommends:

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Premises

A gross inspection of the premises is conducted to identify and eliminate potential hazards. Among the premise inspection criteria are:

1. The physical premises are spacious, clean, and well-organized.
2. The reception area and treatment rooms are clean and comfortable.
3. Treatment rooms each have a four-legged chair for patient use.
4. Well-balanced stepping stools are available in each treatment room.
5. Drugs and syringes are secured in a locked area.
6. Prescription pads are out of sight and away from patient areas.
7. Equipment is safely stored out of walkways.
8. Escape routes are clearly marked and unencumbered.
9. There is an adequate maintenance program for biomedical equipment.
10. The staff periodically checks expiration dates on pharmaceuticals.

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Medical Office Claims Prevention Surveys



MIEC

Medical Insurance Exchange of California

MIEC's Claims Prevention Survey of a physician's office practice has five goals:

1. To identify potential areas of liability exposure in the practice and to offer constructive recommendations for eliminating or reducing the exposure.
2. To evaluate the quality of medical record documentation and to determine whether these records, needed in the physician's defense in litigation, will assist or jeopardize that defense.
3. To educate the physician about specific liability issues in his or her specialty, and to assure that the physician is knowledgeable about current laws affecting the delivery of medical services.
4. To educate the physician's office staff about liability issues, to ensure that the staff is adequately prepared and qualified to perform services requested by the physician.
5. To assess the risk of personal injury to patients or staff due to hazards on the premises.

No legal advice is given during the survey. Legal questions are referred to an attorney.

The Claims Prevention Survey does not evaluate a physician's competence or ability to practice medicine. Such determinations may be made only by other physicians.

Claims Prevention Surveys are never used punitively. A policyholder's insurance coverage is not terminated solely on the basis of a survey. If the results of the survey, together with other underwriting factors lead MIEC to recommend discontinuance of coverage, the policyholder may request peer review of any such decision, through his or her medical society, and ultimately to MIEC's Underwriting Committee.

Surveyor Selection: Claims Prevention Surveys are performed only by individuals experienced in either claims management or loss prevention. If an evaluation of a

physician's medical competence is required, an MIEC Liability and Risk Assessment (LARA) survey is conducted by a team of physicians.

Physician Selection: MIEC's Underwriting or Claims Department selects the physicians who might benefit from a Claims Prevention Survey. Typically, those who receive priority are physicians who:

- Are new in practice.
- Have multiple claims for which payments were made, or in which practice or procedural deficiencies (such as poor charting) adversely affected the disposition of the claims.
- Apply for insurance coverage and have been uninsured for a period of time immediately prior to their application.
- Request this service from MIEC.

In addition to surveys for individual practices, Claims Prevention Surveys may be conducted for group practices, multi-specialty practices, radiology departments, dialysis units, clinical laboratories, blood banks, outpatient surgery or emergency facilities, and urgent care centers.

Components of the Survey

Documentation Audit: Before meeting with the physician or staff, the surveyor reviews a random sampling of medical records to assess the doctor's charting practices. (See Documentation.)

Conference with the physician: There is a 90-minute conference at which the surveyor meets with the physician to discuss:

- Office policies (see listing below)
- The scope of the doctor's practice.
- Informed consent policies.
- Informed refusal.

- Approaches to patient education.
- Charting issues, including a summary of the findings of the documentation audit.
- Communication/consultation with other health care professionals.
- How to report claims and obtain legal advice or assistance.
- On-call coverage.
- Medication policies and factors related to litigation.
- The role of the office staff in the practice.
- The most frequent allegations in malpractice litigation against the physician's specialty.

The meeting provides the physician with an opportunity to ask questions about his or her practice and to learn about a number of liability issues. Statistical information, informative articles, and prototype forms are given to the physician. Each physician whose practice is surveyed receives a complimentary subscription to the private newsletter series, *Malpractice Prevention for Physicians*.

Conference with the office staff: There is a 30-45 minute discussion with the office staff to review the staff's role as the doctor's public relations department. Topics include:

- Telephone etiquette.
- Methods for ensuring that supervised staff have been adequately oriented and trained.
- Confidentiality of medical information.
- Retention and release of medical records.
- Legal papers and how to respond to them.
- Documentation by the staff.
- Maintaining the safety of the premises.
- Legal limitations against practicing medicine or dispensing drugs by medical assistants and nurses.

- Safety precautions for children and elderly patients.
- Ways to improve collections and avoid billing problems which could lead to patient dissatisfaction and litigation.
- Legal methods for discharging a patient from the practice.

Inspection of the premises: A walk-through inspection of the premises is done to identify potential hazards which could result in injury to patients or staff. (See Premises.)

Written report: A comprehensive summary of the survey findings is prepared for the physician. Documentation deficiencies are detailed, along with recommendations for improvements. The report commends those aspects of the doctor's practice, including good charting techniques, which reduce liability exposure. If the survey discloses practice or documentation deficiencies which make the physician an increased insurance risk, MIEC's underwriters encourage the physician to make the recommended improvements. A re-visit to assess the physician's response to the recommendations may be scheduled within a year.

What the Surveyor Reviews

Policies and Procedures

Information for Patients: The surveyor evaluates written information patients receive about the doctor's practice, and about policies concerning billing, insurance forms, limitations on medication refills, advice about on-call coverage when the doctor is not available, cancellation of appointments, and the patient's responsibilities in the doctor-patient relationship.

Staffing: The surveyor reviews the duties of aides the doctor employs, including nurses, medical assistants, nurse practitioners, midwives, physician's assistants, technologists,

and clerical staff. Also discussed are the staff's orientation, training, supervision, and evaluation. The surveyor reviews written protocols or guidelines for basic office policies and determines that the staff does not dispense medical advice or refill medications without the physician's specific approval. The surveyor determines if the staff knows how to handle legal forms, such as requests for medical records and subpoenas, how to contact MIEC for advice and assistance, and how to respond in emergencies.

Scheduling: Patient scheduling patterns are reviewed to determine if they are reasonable, if sufficient time is set aside for each patient visit, if patients wait too long to see the doctor, or if patients complain about waiting.

Documentation

The criteria for review of medical records vary according to the physician's medical specialty and type of practice. Basic criteria used for reviews include:

1. Current medication and allergy histories are recorded.
2. Allergies are prominently noted on the chart cover.
3. Progress notes are adequate and include the reason for the visit, physician's examination findings—including pertinent negatives—impression or diagnosis, treatment today and/or planned treatment.
4. Medication administered in the office (including dose, site, route, patient's response) is properly documented.
5. All handwritten entries in the charts are identified.
6. Questionnaires and health history forms are complete and include evidence the physician has reviewed them.
7. All entries are legible.

8. Evidence is documented that lab and x-ray reports were reviewed by the physician.
9. Evidence is documented that incoming correspondence was reviewed by the physician.
10. Each office visit note includes a recommended return date (or "return prn").
11. A Medication Control Record or another effective method is used for documenting all prescriptions and refills.
12. Important phone calls to and from patients are documented.
13. Strikeovers, crossouts, and improper corrections are avoided.
14. Operative, consultation, and discharge summary reports are promptly dictated.
15. Informed consent discussions are documented.
16. The patient's refusal of or failure to follow advice for treatment or diagnostic studies is documented.
17. Evidence is documented that the patient received educational materials or advice, including written information about prescribed drugs.
18. Failed or cancelled appointments are documented in the patients' charts.
19. Squeezed-in entries are avoided.
20. Referrals to other physicians are unambiguously documented.
21. Obstetrical charts include adequate prenatal records, including evidence of risk evaluation and prenatal testing.

Additional or alternative screening criteria are used for physicians in surgical specialties, obstetrics, dialysis, radiology, pathology, and emergency medicine.

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RECOMMENDATIONS
FOR THE MEDICAL OFFICE STAFF

Your telephone communication with a patient is important in shaping that patient's impression of your office. MHIC's Loss Prevention Department offers these suggestions for making that impression a positive one.

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12 Keep prescription pads away from patient care areas. Stolen prescription blanks may be negotiable and could be a liability problem for the physician.

13 Keep drugs and drug samples in a secured area away from patient care areas. Controlled substance samples must be kept in a locked container.

If you have questions about medication-related claims, if you want to report an incident, or need legal advice or assistance, please call MIEC at 415/428-9411; outside California, call toll free: 800/227-4527.

MIEC

Medical Insurance Exchange of California

6250 Claremont Avenue
Oakland, California 94618-1324

Preventing Medication-Related Malpractice Claims

RECOMMENDATIONS
FOR THE PHYSICIAN
AND MEDICAL OFFICE STAFFS

MIEC

Medical Insurance Exchange of California

Ten percent of the malpractice claims against physicians and hospitals involve medications. The average cost of a medication-related claim now exceeds \$25,000.

The following guidelines will assist physicians to reduce their liability for medication-related malpractice claims:

1 Use a medication control record, such as the sample in MIEC's claims prevention information packet. Staple the record to the inside cover of each patient's chart. Your staff can document all original prescriptions and refills. In the refill section on the form, space is provided for the date of the refill, the initials of the aide who passes the doctor's authorization to the pharmacist, the pharmacist to whom the refill authorization was given, changes in the original prescription, and the initials of the physician if there is more than one in the same office.

2 Take and document a complete medication and allergy history the first time the patient is seen, and periodically thereafter, especially if you do not see the patient frequently or if you are not the patient's primary doctor. Ask about over-the-counter medications, including vitamins. (This information can be obtained by an aide when patients arrive for their appointments.)

3 Ask patients to tell you when another doctor has prescribed a medication or if they develop an allergy not previously

reported to you. If patients indicate they are taking medication you did not prescribe, ask who prescribed it and why. In some cases, it may be prudent to contact other physicians who are treating your patient to ensure you have a complete medical as well as medication history.

4 Avoid prescribing medications for other doctors' patients, except in limited quantity or in an emergency. If you do prescribe for another doctor, be sure to tell him or her. These precautions are especially important in a group practice and when the medications prescribed can be habit-forming or harmful if taken in excess.

5 Don't prescribe medications for a condition being treated by another doctor. Your prescription may duplicate the other doctor's order or interfere with his or her planned therapy, including the reduction of medication.

6 Don't prescribe a medication indefinitely, unless in your judgment it is medically necessary. Support such a judgment with documentation of periodic evaluation of the patient's progress and the drug's efficacy.

7 According to the National Council on Patient Information and Education (NCPPIE), more than half of the 1.6 billion prescriptions doctors order each year are taken improperly or are not taken at all. Each year, says NCPPIE, 125,000 people die as the result of improperly-taken medications. Educating patients about the drugs you prescribe can prevent injury and a possible lawsuit against you when a patient improperly uses prescription drugs. To reduce your liability, dispense the AMA's Patient Medication Instruction

sheets (PMIs) or similar drug information materials. Written information should tell the patient: (a) what the drug is for, (b) how the drug works, (c) what the patient should do if a dose is missed, (d) what precautions the patient should follow while using the drug, (e) what liquids not to take the drug with, (f) what side effects are transient or minor and need not concern the patient, and (g) what side effects should be reported promptly to the physician.

8 Don't prescribe controlled substances or dangerous drugs without an adequate examination. Medical ethics and the law require physicians to perform a physical examination to verify the need for drugs prescribed.

9 Do not permit unlicensed office staff to prescribe or refill medications without your specific authorization. Laws in most states do not permit nurses, physician assistants, or other aides to prescribe medications. Standing orders which give authority to non-physicians to prescribe drugs may be illegal. Each state's medical licensing board can provide copies of laws concerning drug prescriptions.

10 On prescriptions and on hospital orders for medications, write legibly. Use accepted abbreviations and nomenclature. Be especially careful in writing digits and decimal points.

11 Consider an office policy of refilling medications only during regular office hours, except in emergencies. Many physicians ask patients and pharmacies to call for refills during certain hours of the day. That practice enables the staff to pull the patients' charts for the physician's review and for documenting the refill information.

RISK PREVENTION

The Doctor-Patient Relationship: Effective Defense Against Litigation

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RISK PREVENTION

The Doctor-Patient Relationship: Effective Defense Against Litigation

by David Karp

Malpractice defense attorneys and insurance experts know that a sound doctor-patient relationship is one of the best deterrents to litigation. Some lawsuits result from a breakdown in rapport which may be occasioned by non-medical events. Patients aren't as likely to sue physicians with whom they have a good relationship. Establishing an effective doctor-patient relationship is not difficult. Both the physician and his or her staff can contribute to the type of professional, friendly, and comforting practice every patient desires. These guidelines can help:

Carefully select office staff

Choose an office staff that views itself as your patient-relations department. Every patient's impression of you is influenced by the way he or she is treated from the first contact with your office through each subsequent association with your staff, by telephone or in person. The staff that treats patients courteously, respectfully, and patiently promotes your practice.

Avoid automatic first name familiarity. Many people, particularly senior citizens and women, object to being addressed by their first name the first time they call an office, or at anytime if the office staff is younger than they are. Getting on a first-name basis with patients is a desirable goal to achieve, but it should not be assumed. Have your staff ask patients the first time they come to the office how they want to be addressed. Don't be surprised to find many people initially prefer Mr., Mrs., Ms., or Miss.

Teach your staff how to use the telephone effectively. Some staff members do not appreciate how annoying it is to an ill patient to be put on hold for a long time, to be asked too many questions, or be made to feel that calling your office for help is an irritation. Check out your answering service's telephone etiquette by calling it after hours. If patients who reach the service do not receive the same courteous and attentive reception they receive from your staff, the answering service is harming your practice.

Encourage staff to report complaints

Ask your staff to let you know if a patient has a complaint. A doctor's office staff often know a patient's dissatisfaction long before the patient has the courage to talk with the doctor. Tell your staff to report seemingly innocuous complaints about your treatment, fees,

waiting time, test results, or other matters. With advance warning, you have an opportunity to discuss the problem with the patient before it interferes with doctor-patient rapport.

Also encourage your staff to inform you if they become aware that the patient is not following your advice. Patients sometimes confide in staff that they have not been taking their medication or restricting activities as the doctor directed.

Insurance carriers require prompt notification of potential claims. The patient's first complaint may be reason enough to inform the carrier and obtain legal advice.

Evaluate scheduling practices

Find out if patients are being kept waiting too long. This is the most common complaint about physicians that American patients have. Everyone believes his or her time is valuable. Parents, housekeepers, truck drivers, laborers, secretaries and professionals all have schedules to keep which are as important to them as the doctor's schedule is to him or her. Some patients may not be paid for the time they take off from work to come to the office. Others may have budgeted their time without allowing for an inordinate delay.

When you fall behind in your daily schedule—and one emergency or drop-in patient can upset the timing—avoid making other patients angry. Better

*Check out your
answering
service's telephone
etiquette by
calling it after
hours.*

scheduling techniques can keep delays to a minimum. Telephone 'triage' by the staff enables aides to set time for each patient depending on the reason for the visit. Creating an unscheduled time slot in the morning and afternoon allows extra time for unexpectedly extended appointments or emergency drop-ins. Even with good planning, delays occur and patients may have to wait. Tell your staff to inform patients upon their arrival if there will be a delay so that they can reschedule the appointment or do an errand or two. A simple apology from the doctor assuages resentment occasioned by a long wait.

Develop an informative patient brochure

Prepare a brochure for your patients that emphasizes the fact that the doctor-patient relationship is a two way relationship in which the patient as well as the physician has responsibilities. The brochure should include the following: (a) information about the doctor(s) including medical education, certification, hospital privileges and staff appointments, and areas of special interest; (b) office hours and preferred times for receiving non-emergency phone call or drug refill requests; (c) information about fees and billing cycles. (It is preferable to indicate that fee information is available from your receptionist rather than including details in the brochure.)

Mention charges for completing insurance forms, whether or not you accept insurance assignment, or if you require payment at the time of service; (d) list the names and phone numbers of doctors who cover for you and the hospital emergency department you prefer patients to go to if you or your colleague are not available; (e) describe the patients' responsibilities to keep appointments or to let the office know if they can't make it; to follow medical advice; to ask questions if they do not understand something; to report problems promptly; to let the doctor know if they are seeing other doctors or taking medications other doctors prescribed; and to report complaints.

Ask for patient feedback

Studies have shown that most patients are reluctant to voice dissatisfaction, except by changing doctors. One study, published in the November 28, 1985 *New England Journal of Medicine*, indicates that as many as 85 percent of the patients surveyed had changed doctors or had considered changing within the previous five years. Most of the reasons related to dissatisfaction with attitudes, poor communication, and other non-medical problems

Do not permit medical assistants or nurses to perform services which may be illegal...

which could be corrected if the doctor knew. An effective way to find out what your patients think is to use a questionnaire for patients to mail back anonymously. In the questionnaire, ask patients if they were treated courteously by the staff, what they like most about your practice, and how service could be improved.

Limit staff responsibilities

Do not permit medical assistants or nurses to perform services which may be illegal and for which you and they could be charged with criminal offenses and civil liabilities. California regulates what medical assistants can and cannot do. The Nurse Practice Act describes the responsibilities and limitations of nurses. Physicians who employ these specialists should be aware of their legal limitations. Do not permit staff to prescribe or refill medication. In California, only physicians, dentists, podiatrists,

and veterinarians are privileged to prescribe and refill medication. Do not permit staff to practice medicine. Develop written guidelines for what your staff can say when patients call with minor problems and request advice. Tell the staff what types of calls should be directed to you and when you should be interrupted to take a call from a patient.

Keep track of patients

Consider methods other physicians have developed to keep track of patients and promote their practices. An effective tickler file reminder card system was suggested in the November/December 1987 issue of *California Family Physician*: Prepare an index file box with monthly dividers. Each time a patient comes for an annual visit or serial test (complete physical exam, Pap smear, mammogram, EKG, blood pressure check, lab study, etc.) your staff should ask the patient to self-address an envelope while sitting in the reception room awaiting examination. The aide inserts a preprinted appointment reminder card, with check boxes to indicate the type of return visit needed, into an envelope and files it behind the appropriate monthly divider. At the beginning of each month, the aide pulls the pre-addressed envelopes for that month and mails them. The system takes virtually no time to manage. Some physicians use the tickler system to remind them to send a birthday, graduation, or anniversary card to patients, and to keep track of referrals to specialists.

Make sure staff knows collection laws and etiquette

If your office staff is responsible for collections, be sure aides are comfortable about money matters. Staff should know California's laws concerning collection practices, including the patient's right to privacy and confidentiality, prohibitions on harassment, and false threats. Collecting unpaid accounts can be highly successful without alienating patients. Additional suggestions on collection practices were offered in the March/April 1988 issue of *CFF*. ■

Lawyers

Article 1. The Alaska Bar Association.

Section

- 10. Creation of Alaska Bar Association
- 20. Members

Sec. 08.08.010. Creation of Alaska Bar Association. The created an instrumentality of the state known as the Alaska Association, referred to in this chapter as the Alaska Bar. The Alaska Bar shall have a common seal, may sue and be sued, and may, for purpose of carrying into effect and promoting the objects of the Alaska Bar, enter into contracts and acquire, hold, encumber and dispose of real and personal property. (§ 2 ch 196 SLA 1955)

NOTES TO DECISIONS

The Alaska Bar Act is valid and must be complied with. In re Paul, 17 Alaska 360 (1957).
 Quoted in In re Petition of Moody, Ct. Op. No. 1065 (File No. 2035), 524 P.2d 1261 (1974).

Sec. 08.08.020. Members. (a) Every person licensed to practice law in the state shall become a member in the Alaska Bar. All active and inactive members in good standing as of September 14, 1976, shall be considered to be members.

(b) A person licensed to practice law in the state who, on September 14, 1976, is not enrolled on the membership rolls, shall be reinstated as a member only in accordance with the Alaska Bar Rules. (§ 2 ch 196 SLA 1955; am § 2 ch 181 SLA 1976)

Cross references. — For eligibility to take the bar examination, see AS 08.08.205.

NOTES TO DECISIONS

Quoted in In re Petition of Moody, Sup. Ct. Op. No. 1065 (File No. 2035), 524 P.2d 1261 (1974).

Article 2. The Board of Governors and Officers.

Section

- 30. Governance of the Alaska Bar
- 40. Board of Governors of the Alaska Bar
- 50. Selection of the board
- 60. Election of officers
- 70. Vacancies on the board

Section

- 75. Meetings of the board
- 80. Powers of board
- 85. Annual report to legislature
- 90. Power of the bar to make or amend bylaws and regulations
- 100. Administrative Procedure Act

Bar Association.

Alaska Bar Association. There is a state known as the Alaska Bar Association as the Alaska Bar. The Alaska Bar Association is a corporation, may sue and be sued, and may, for the purpose of promoting the objects of the Alaska Bar Association, hold, encumber and dispose of real and personal property. (196 SLA 1955)

PROVISIONS

p. No. 255 (File No. 532), 395 P.2d 864 (1964).
Quoted in In re Petition of Moody, Sup. Ct. Op. No. 1065 (File No. 2035), 524 P.2d 261 (1974).

any person licensed to practice law in the Alaska Bar. All active members as of September 14, 1976.

any person in the state who, on September 14, 1976, was a member of the Alaska Bar Association shall be reinstated to the Alaska Bar Rules. (§ 4 ch 196 SLA 1976)

PROVISIONS

Governors and Officers.

- 1. Meetings of the board
- 2. Powers of board
- 3. Annual report to legislature
- 4. Power of the bar to make or change bylaws and regulations
- 5. Administrative Procedure Act

Sec. 08.08.030. Governance of the Alaska Bar. The Alaska Bar is governed by the Board of Governors of the Alaska Bar. The board has the powers and duties conferred by this chapter and by the Alaska Bar Rules. Members of the board do not receive a salary. (§ 6 ch 196 SLA 1955; am § 3 ch 181 SLA 1976)

Sec. 08.08.040. Board of Governors of the Alaska Bar.
(a) There is created a Board of Governors of the Alaska Bar to be elected under bylaws and regulations adopted by the board.
(b) The board consists of nine active members elected by the active members of the Alaska Bar and three persons appointed by the governor who are not attorneys. (§ 5 ch 196 SLA 1955; am § 1 ch 178 SLA 1960; am § 4 ch 181 SLA 1976; am § 2 ch 52 SLA 1981)

Sec. 08.08.050. Selection of the board. (a) Two members of the board shall be elected by and from among the members of the association resident in the first judicial district; four members of the board shall be elected by and from among the members of the association resident in the third judicial district; two members by and from among the members of the association resident in the combined area of the second and fourth judicial districts; and one member at large from the entire state. Three members who are not attorneys shall be appointed by the governor and are subject to confirmation by the legislature in joint session.

(b) Members of the Board of Governors shall hold office for three years and until their successors are elected or appointed and qualified.

(c) Four board members shall be selected on the following triennial rotation:

(1) in the first year, one member from the first judicial district, one member from the combined area of the second and fourth judicial districts, one member from the third judicial district, and one appointed member;

(2) in the second year, one member at large, two members from the third judicial district, and one appointed member; and

(3) in the third year, one member from the combined area of the second and fourth judicial districts, one member from the third judicial district, one member from the first judicial district, and one appointed member. (§ 5 ch 196 SLA 1955; am § 1 ch 178 SLA 1960; am §§ 1, 2 ch 9 SLA 1971; am §§ 3 — 5 ch 52 SLA 1981)

Sec. 08.08.060. Election of officers. The active members of the Alaska Bar who are in actual attendance at the association's annual convention shall elect by a majority vote during the convention the association's officers from the membership of the Board of Governors. (§ 5 ch 196 SLA 1955; am § 1 ch 178 SLA 1960)

Title 7
Boroughs

Sec. 08.08.070. Vacancies on the board. (a) The board shall fill a vacancy in the elected membership of the board until the next annual election.

(b) The governor shall appoint a member to fill a vacancy in the appointed membership of the board for the unexpired term. 196 SLA 1955; am § 1 ch 178 SLA 1960; am § 6 ch 52 SLA 1981

Sec. 08.08.075. Meetings of the board. AS 44.62.312 apply to the meetings of the board. Members of the Bar and the public shall be given 30 days' notice of meetings of the board except for emergency meetings. Meetings of the board shall be held at a place in the state. (§ 7 ch 52 SLA 1981)

Title 8
Business and Professions

Sec. 08.08.080. Powers of board. (a) Except as may be otherwise provided in this chapter or the Alaska Bar Rules, the board shall approve and recommend to the state supreme court rules

(1) concerning admission, discipline, licensing, continuing legal education, and defining the practice of law;

(2) providing for continuing legal education and for certification of a continuing legal education program;

(3) establishing a program for the certification of attorneys at law.

(b) The board may adopt bylaws and regulations consistent with this chapter and the Alaska Bar Rules

(1) concerning membership and the classification of members of the Alaska Bar;

(2) fixing the annual membership fees;

(3) concerning annual and special meetings.

(c) Consistent with this chapter and the Alaska Bar Rules, the board may

(1) provide for employees of the Alaska Bar, the time, place, method of their selection, and their respective powers, duties, term of office, and compensation;

(2) establish, collect, deposit, invest, and disburse membership admission fees, penalties, and other funds;

(3) sue in the name of the Alaska Bar in a court of competent jurisdiction to enjoin a person from doing an act constituting a violation of this chapter;

(4) provide for all other matters affecting in any way the organization and functioning of the Alaska Bar. (§ 7 ch 196 SLA 1960; §§ 2, 3 ch 178 SLA 1960; am § 5 ch 181 SLA 1976; am § 8 ch 52 SLA 1981)

a) The board shall have the power to suspend or disbar until the next meeting of the board.

to fill a vacancy in the term. (§ 5 SLA 1981 ch 52 SLA 1981)

l. AS 44.62.310 and 44.62.311. Members of the Alaska Bar shall have the right to attend the meetings of the board and to vote on the matters of the board.

except as may be otherwise provided by the Alaska Bar Rules, the board may make such rules as may be necessary for the proper conduct of the court rules and for the continuing legal education of the members of the bar.

and for certification of attorneys as specialists.

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Cross references. — See Alaska Bar Rules adopted by the Alaska supreme court.

NOTES TO DECISIONS

Final power and authority to determine standards for admission to the practice of law in Alaska resides in the supreme court, which has the inherent power to intercede at any time in admission matters. In re Luna, Sup. Ct. Op. No. 1503 (File No. 2789), 569 P.2d 789 (1977).

Practice of law not defined. — There is no rule defining the practice of law nor is there a statute defining the term except in the context of the requirements of active practice of law as a qualification for justices. In re Robson, Sup. Ct. Op. No. 1573 (File No. 3448), 575 P.2d 771 (1978). See also In re Babcock, Sup. Ct. Op. No. 178 (File No. 408), 387 P.2d 694 (1963), decided prior to the 1976 and 1981 amendments to this section.

For case construing board's power to define the practice of law prior to the 1976 amendment of this section, see In re Moody, Sup. Ct. Op. No. 1065 (File No. 2035), 524 P.2d 1261 (1974).

A superior court law clerk should be regarded as practicing law for the purposes of membership classification. In re Moody, Sup. Ct. Op. No. 1065 (File No. 2035), 524 P.2d 1261 (1974).

Activities constituted practice of law in violation of supreme court's suspension order. — Where a person held himself out as a lawyer; performed legal services and gave legal advice in set-

ting up a prepaid legal service plan, completing and filing necessary forms; signed a letter of the type usually written by an attorney with "attorney at law" printed aside his name; permitted another person to refer to him in court as his attorney without making any clarifying comments and typed and edited a newsletter indicating his availability to serve as attorney for a union and its members, the cumulative effect of these activities leads to the inescapable conclusion that he was engaged in the practice of law in violation of the supreme court's order suspending him from practice. In re Robson, Sup. Ct. Op. No. 1573 (File No. 3448), 575 P.2d 771 (1978).

Board exceeded its authority in requiring a cash deposit before allowing an unsuccessful applicant to the Alaska Bar to exercise his right to discovery in an appeal to the board. In re Luna, Sup. Ct. Op. No. 1503 (File No. 2789), 569 P.2d 789 (1977).

Applied in Horowitz v. Alaska Bar Ass'n, Sup. Ct. Op. No. 2059 (File Nos. 4310, 4311), 609 P.2d 39 (1980).

Quoted in In re Houston, Sup. Ct. Op. No. 129 (File No. 325), 378 P.2d 644 (1963).

Cited in Skuse v. State, Ct. App. Op. No. 582 (File No. A-885), 714 P.2d 368 (1986).

Collateral references. — Procedural due process requirements in proceedings involving applications for admission to bar. 2 ALR3d 1266.

Criminal record as affecting applicant's

moral character for purposes of admission to the bar. 88 ALR3d 192.

Violation of draft laws as affecting character for purposes of admission to the bar. 92 ALR3d 807.

Sec. 08.08.085. Annual report to legislature. (a) The Board of Governors shall report annually to the legislature on all matters concerning admissions, discipline of members, and disbarment proceedings, except for those matters defined as confidential by court rule.

(b) The annual report of the Board of Governors shall note

(1) each addition, modification, or repeal of a bylaw or regulation of the Alaska Bar;

(2) each addition, modification, or repeal of the Alaska Bar Rules proposed to or adopted by the state supreme court.

(c) The annual report of the Board of Governors may recommend the legislature changes to this chapter and to the provisions of law generally. (§ 6 ch 181 SLA 1976; am § 9 ch 52 SLA 1976)

Sec. 08.08.090. Power of the bar to make or change bylaws and regulations. Any bylaw or regulation adopted by the Board of Governors may be modified or rescinded, or a new bylaw or regulation may be adopted, by a vote of the active members of the association under bylaws and regulations to be adopted by the Board of Governors. (§ 7 ch 196 SLA 1955; am § 3 ch 168 SLA 1960; am § 7 ch 181 SLA 1976)

Sec. 08.08.100. Administrative Procedure Act. The bylaws and regulations adopted by the board or the members of the Alaska Bar Association under this chapter are not subject to the Administrative Procedure Act (AS 44.62). (§ 7 ch 196 SLA 1955; am § 3 ch 178 SLA 1960; am § 8 ch 181 SLA 1976)

NOTES TO DECISIONS

The language of this section exempts the bylaws and regulations themselves, not merely their method of adoption, from the Administrative Procedure Act, both by naming that act and by referring to the chapter number, AS 44.62. There is nothing in this language

which hints that the exemption is any narrower in scope. *Horowitz v. Bar Ass'n*, Sup. Ct. Op. No. 300 No. 4310, 4311, 609 P.2d 397 (1980). Stated in *In re Simpson*, Sup. Ct. No. 2517 (File No. 5963), 645 P.2d 1000 (1982).

Secs. 08.08.110 — 08.08.120. Admission, suspension and disqualification to hear disciplinary matters. [Repealed, § 11 ch 181 SLA 1976.]

Article 3. Admission to Alaska Bar.

Section
136. Assistance from law enforcement officers
137. Fingerprints

Section
201. Administration of bar examination
206. Eligibility to take bar examination
207. Law clerks

Sec. 08.08.130. Eligibility for admission. [Repealed, § 11 ch 181 SLA 1976.]

Sec. 08.08.135. Study of law in office of practicing attorney. [Repealed, § 2 ch 135 SLA 1967; § 11 ch 181 SLA 1976.]

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9 ch 52 SLA 1981)

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Sec. 08.08.136. Assistance from law enforcement officers. State and local law enforcement officers shall assist the Board of Governors in the processing of fingerprints of applicants seeking admission to the Alaska Bar Association and shall release the resulting information to the association. (§ 1 ch 8 SLA 1985)

Sec. 08.08.137. Fingerprints. The Board of Governors shall require an applicant for admission to be fingerprinted. The fingerprints shall be used to determine whether the applicant has a record of criminal convictions in this state or another jurisdiction. The Board of Governors may use the information obtained from the fingerprinting only in its official determination of the character and fitness of the applicant for admission to the Alaska Bar Association. (§ 1 ch 8 SLA 1985)

Cross references. — For effect of this § 2, ch. 8, SLA 1985 in the Temporary section on Alaska Bar Rules 3 and 5, see and Special Acts.

Secs. 08.08.140 — 08.08.200. Out-of-state attorneys; fee provisions; procedure for admission. [Repealed, § 11 ch 181 SLA 1976.]

Sec. 08.08.201. Administration of bar examination. (a) The Board of Governors shall administer the bar examination under the Alaska Bar Rules.

(b) The Board of Governors may contract with another state or a testing organization for the preparation and grading of a portion of the Alaska Bar examination.

(c) The Board of Governors shall contract with persons experienced in the administration of bar examinations for advice on the preparation and grading of the portion of the bar examination prepared under the direction of the board.

(d) The Board of Governors shall establish and maintain standards for experience and training of persons who administer the portion of the bar examination prepared under the direction of the board. (§ 10 ch 52 SLA 1981)

NOTES TO DECISIONS

Access to multistate bar examination. — The Alaska Supreme Court interpreted Alaska Bar Rule 4(5) to allow a failing applicant access to multistate bar examination questions and answers and to the applicant's own answers. In re Obermeyer, Sup. Ct. Op. No. 3040 (File No. S-950), 717 P.2d 382 (1986).

Challenge of examination administration and grading. — With the exception of the argument that he was entitled to a representative sampling of overall

passing and failing exams and to an opportunity to review multistate bar examination questions and answers, one who had failed the Alaska bar examination stated criticisms of the administration of the exam that amounted to no more than disputes with the Alaska Bar Association about the ideal way to handle the bar exam; they did not establish violations of equal protection or due process rights. In re Obermeyer, Sup. Ct. Op. No. 3040 (File No. S-950), 717 P.2d 382 (1986).

Access to sampling of overall passing and failing exams. — An applicant who fails the Alaska bar examination is entitled to a representative sampling of the examination papers of other appli-

cants who received overall passing and failing grades, not mark answers. In re Obermeyer Op. No. 3040 (File No. S-960) 382 (1986).

Sec. 08.08.205. Eligibility to take bar examination. Any person who has not graduated from an accredited law school but is otherwise qualified may take the bar examination if they have completed clerkship in the manner prescribed by AS 08.08.207. (§ 12 ch. 1976)

Cross references. — For admission to practice law, see Alaska Bar Rule 5, adopted by the Alaska supreme court.

NOTES TO DECISIONS

Thirty-day residency requirement unconstitutional. — The 30-day residency requirement of Alaska Bar Rule 2(1)(e) violates the privileges and immunities clause of U.S. Const., art. IV, § 2,

since it is a form of prohibited protectionism. *Sheley v. Alaska Bar Ass'n*, Sup. Ct. Op. No. 2191, 5148, 620 P.2d 640 (1980).

Collateral references. — Court review of bar examiners' decision on applicant's examination. 39 ALR3d 719.

Sec. 08.08.207. Law clerks. (a) Every person who desires to qualify as a general applicant for admission to the Bar without having been graduated from an approved law school may register as a law clerk as provided by this section. The person must present satisfactory proof that the person has been granted a bachelor's degree, other than bachelor of laws, by a college or university offering the degree on the basis of a four-year course of study, and has successfully completed the first year of studies at a law school.

(b) The applicant shall obtain regular and full-time employment as a law clerk in the office of a judge of a court of record or an attorney in a firm of attorneys licensed to practice law in Alaska and engaged in the general practice of law. The person by whom the applicant is employed, or, if the applicant is employed by a firm, the person in whose direction the applicant is to study, must have been admitted to practice law in this state for at least five years at the time the application for registration is filed, and be otherwise eligible to act as an attorney. Before the commencement of the study of law under this section, the applicant shall file with the university an application to register as a law clerk. The application shall be made on a form to be provided by the university and shall require answers to interrogatories the university may determine from time to time to be relevant to a con-

take bar examination. Applicants who graduated from an accredited law school but are otherwise ineligible for the examination if they have completed the requirements prescribed by AS 08.08.207. (§ 12 ch 181 SL 1997)

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NO DECISIONS

since it is a form of prohibited economic protectionism. *Sheley v. Alaska Bd. Ass'n*, Sup. Ct. Op. No. 2191 (File No. 5148), 620 P.2d 640 (1980).

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(a) Every person who desires sub-
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ation of the application. Proof of a fact stated in the application may be required by the university. If the applicant fails or refuses to furnish any information or proof or answer any interrogatory required by the application, or independently by the university, in a manner satisfactory to the university, the application may be denied.

(c) Accompanying the application there must be submitted a statement under oath of the person by whom the applicant is employed as a law clerk, or, if the applicant is employed by a firm, of the person under whose direction the applicant is to study, certifying to the fact of the employment and that that person will act as tutor for the applicant and will faithfully instruct the applicant in the branches of the law prescribed by the course of study adopted by the university. A person is not eligible to act as tutor while disciplinary proceedings (following the service of a formal complaint) are pending against the person, or if the person has ever been censured, reprimanded, suspended or disbarred. If a registered law clerk finds it necessary to change tutors during the period of study, a new application for registration as a law clerk is required and such credit given for study under a prior tutor as the university may determine.

(d) A law clerk whose registration has been approved by the university must pursue a course of study for three calendar years of at least 44 weeks each year, with a minimum each week of 35 hours of study (it being understood that the time actually spent in the performance of the duties of law clerk is to be considered as time spent in the study of law). The tutor must give personal direction regularly and frequently to the clerk, must examine the law clerk at least once a month on the work done in the previous month, and must certify monthly as to compliance with the requirements of this subsection and (e) and (g) of this section.

(e) The examinations shall be written and not oral, and shall be answered by the clerk without research or assistance during the examination. The monthly certificate of compliance submitted by the tutor shall be accompanied by the originals of all written examinations and answers given during the period reported. If the certificates, together with the required attachments, are not filed timely with the university, no credit may be given for any period of the default.

(f) If a registered law clerk does not furnish evidence of completion of law studies within a period of six years after registration, the university may cancel the registration.

(g) The course of study to be pursued by a registered law clerk shall cover subjects, text books, case books, and other material the university may from time to time require.

(h) A registered law clerk who has attended either an approved or a nonapproved law school may, in the discretion of the university, receive credit for work done and obtain advanced standing. In no event

will credit be given for fractional parts of semesters or term correspondence school work.

(i) In this section

(1) "law school" means a law school accredited, approved or the standards of the Council of Legal Education of the American Association or the Association of American Law Schools; or a Alaska offering a course of study which the university approve equivalent to a year's study in a law school under this sec

(2) "university" means the University of Alaska. (§ 12 ch 11 1976; am §§ 1 — 8 ch 119 SLA 1978; am § 4 ch 67 SLA

Cross references. — For effect of the 1978 amendment on Alaska Bar Rule 2, see § 9, ch. 119, SLA 1978 in the Temporary and Special Acts.

Effect of amendments. — The 1983

amendment in subsection (a) in the sentence deleted "must be a bona fide resident of the state and" following "son" and made other, minor changes.

NOTES TO DECISIONS

Quoted in *In re Urie*, Sup. Ct. Op. No. 2172 (File Nos. 4392, 4326, 4608), 617 P.2d 505 (1980).

Collateral references. — Activities of law clerks as illegal practice of law. 13 ALR3d 1137.

Article 4. Unlawful Acts.

Section

210. Who may practice law

230. Unlawful practice a misdemeanor

Sec. 08.08.210. Who may practice law. (a) A person may engage in the practice of law in the state unless the person is licensed to practice law in Alaska and is an active member of the Alaska Bar or a member of the bar in good standing in another jurisdiction and may appear in the courts of the state under the rules the supreme court has adopted.

(b) The practice of law shall be defined in the Alaska Bar Rules.

(c) This section and AS 08.08.230 do not apply to the practice of law for the legislature by a person employed by or under contract with the legislature until the results are released of the third Alaska Bar Examination following that person's employment.

(d) Employees of the Department of Law whose activities constitute the practice of law under this chapter and under the Alaska Bar Rules are required to obtain a license to practice law in Alaska no later than 10 months following the commencement of their employment.

parts of semesters or terms, or

of accredited, approved or meeting the standards of the American Bar Association; or a school of law which the university approves as a law school under this section. University of Alaska. (§ 12 ch 181 SLA 1978; am § 4 ch 67 SLA 1982)

amendment in subsection (a) in the sentence deleted "must be a bona fide resident of the state and" following "The person" and made other, minor punctuation changes.

DECISIONS

lawful Acts.

ice law. (a) A person may not practice law unless the person is licensed as an active member of the Alaska Bar or is licensed in another jurisdiction may practice under the rules the supreme court

defined in the Alaska Bar Rules. These rules do not apply to the practice of law employed by or under contract with the state or any agency thereof or any officer or employee of the third Alaska Bar Association or its employment.

it of Law whose activities were not covered by this chapter and under Alaska Bar Rules license to practice law in Alaska. The commencement of their employment

ment. (§ 12 ch 196 SLA 1955; am § 9 ch 181 SLA 1976; am § 5 ch 59 SLA 1982)

Cross references. — For provisions relating to practice in state courts by attorneys

from other jurisdictions, see Rule 81, Alaska Rules of Civil Procedure.

NOTES TO DECISIONS

Practice of law not defined. — There is no rule defining the practice of law nor is there a statute defining the term except in the context of the requirements of active practice of law as a qualification for justices. In re Robson, Sup. Ct. Op. No. 1573 (File No. 3448), 575 P.2d 771 (1978). Applied in Skuse v. State, Ct. App. Op.

No. 582 (File No. A-885), 714 P.2d 368 (1986).

Quoted in In re Houston, Sup. Ct. Op. No. 129 (File No. 325), 378 P.2d 644 (1963); In re Moody, Sup. Ct. Op. No. 1065 (File No. 2035), 524 P.2d 1261 (1974).

Stated in Noll v. Alaska Bar Ass'n, Sup. Ct. Op. No. 2546 (File No. 5782), 649 P.2d 241 (1982).

Collateral references. — 7 Am. Jur. 2d, Attorneys at Law, §§ 12-24.

7 C.J.S., Attorney and Client, §§ 19-24.

Validity and construction of statutes or rules conditioning right to practice law upon residents or citizenship. 53 ALR3d 1163.

Pardon as restoring public office or license or eligibility therefor. 58 ALR3d 1191.

Attorney's right to appear pro hac vice in state court. 20 ALR4th 855.

Right of attorney to act or become licensed to act as real estate broker. 23 ALR4th 230.

Sec. 08.08.220. Disciplinary proceedings and review. [Repealed, § 5 ch 94 SLA 1980.]

NOTES TO DECISIONS

Construction of former law. — For cases construing statutes, see United States v. Stringer, 15 Alaska 183, 124 F. Supp. 705 (D. Alaska, 1954), rev'd on other grounds, 16 Alaska 305, 233 F.2d 947 (9th Cir. 1956); In re Paul, 17 Alaska 360 (1957); In re Mackay, Sup. Ct. Op. No. 279 (File No. ABA 8), 416 P.2d 823 (1965), cert. denied, 384 U.S. 1003, 86 S. Ct. 1907,

16 L. Ed. 2d 1016, rehearing denied, 385 U.S. 890, 87 S. Ct. 11, 17 L. Ed. 2d 121 (1966); In re Mackay, Sup. Ct. Op. No. 596 (File No. ABA 8), 464 P.2d 304 (1970); In re Crosby, Sup. Ct. Op. No. 782 (File No. 1567), 495 P.2d 1270 (1972); In re Moody, Sup. Ct. Op. No. 1065 (File No. 2035), 524 P.2d 1261 (1974).

Sec. 08.08.230. Unlawful practice a misdemeanor. (a) Any person not an active member of the Alaska Bar and not licensed to practice law in Alaska who engages in the practice of law or holds out as entitled to engage in the practice of law as that term is defined in the Alaska Bar Rules, or an active member of the Alaska Bar who wilfully employs such a person knowing that the person is engaging in the practice of law or holding out as entitled to so engage is guilty of a class A misdemeanor.

(b) This section does not prohibit the use of paralegal personnel as defined by rules of the Alaska supreme court. (§ 13 ch 196 SLA 1955; am § 10 ch 181 SLA 1976; am § 11 ch 52 SLA 1981)

Title 7
Barreths

Revisor's notes. — The supreme court has never adopted rules defining the use of paralegal personnel under (b) of this section.

Cross references. — For sentences for misdemeanors, see AS 12.55.035 and 12.55.135.

Opinions of attorney general. — The

activity of presenting cases at an administrative hearing before the Human Commission or one of its hearing by a non-attorney staff member commission does not constitute the full practice of law. September 19 Op. Att'y Gen.

NOTES TO DECISIONS

Practice of law not defined. — There is no rule defining the practice of law nor is there a statute defining the term except in the context of the requirements of active practice of law as a qualification for justices. In re Robson, Sup. Ct. Op. No. 1573 (File No. 3448), 575 P.2d 771 (1978).

Lay representation not precluded.

— This section does not preclude the exercise of discretion by a court to allow representation. Skuse v. State, Op. No. 582 (File No. A-885), 714 P.2d 1 (1986).

Stated in Noll v. Alaska Bar, Sup. Ct. Op. No. 2546 (File No. 573), P.2d 241 (1982).

Sec. 08.08.240. Suspension upon conviction of certain crimes [Repealed, § 11 ch 181 SLA 1976.]

Article 5. General Provisions.

Section
250. Short title

Sec. 08.08.245. Definitions. [Repealed, § 3 ch 135 SLA 1965]

Sec. 08.08.250. Short title. This chapter may be cited as Alaska Integrated Bar Act. (§ 1 ch 196 SLA 1955)

Chapter 11. Audiologists.

Section
10. Qualifications for audiologist license
20. Temporary license to practice audiology as an audiologist
30. Renewal of license
40. Display of license
50. Fees
70. Dealing in hearing aids

Section
80. Grounds for imposition of disciplinary sanctions on an audiologist
90. Disciplinary sanctions
100. Prohibited acts
110. Penalty
120. Exemptions
130. Procedures
200. Definitions

Cross references. — For legislative findings and purpose related to this chap-

ter, see § 1, ch. 131, SLA 1965 Temporary and Special Acts.

ALASKA BAR

A S S O C I A T I O N

October 26, 1989

Representative Sam Cotton
Alaska State Legislature
Box 33932
Juneau, AK 99803

Attention: David Rogers, Esq.

RE: Attorney Discipline Statistics

Dear Mr. Cotton,

Last week, David Rogers called the Bar Association and asked if we could tell him whether a small percentage of lawyers were responsible for most of the attorney discipline problems.

The Bar Association maintains discipline statistics on all discipline cases in which some type of discipline was imposed. We converted from a manual system to a computer system in 1982 and have refined this system over the years to keep track of cases which have been dismissed and not accepted for investigation. When membership numbers were assigned, we became able to cross-reference complaints which had been filed against an attorney by his or her member number.

The following reflects historical information for disciplinary matters in which discipline was imposed, cases were dismissed, or cases were not accepted for investigation as that information presently exists on our computer records.

In the data studied, there were 1505 complaints against 710 attorneys. 57% of the attorneys had only one complaint against them which accounted for 27% of the complaint volume. 18% of the attorneys had two complaints against them which accounted for 17% of the complaint volume. The remaining 25% of the attorneys had three or more complaints against them and were responsible for 56% of the complaint volume.

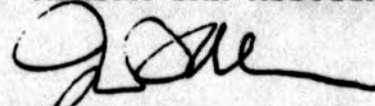
Representative Sam Cotton
October 26, 1989
Page 2 of 2

Mr. Rogers also asked for some information concerning the nature of complaints made against attorneys. In its quarterly report to the Supreme Court, the Bar Association lists the number of open cases by nature of the violation alleged. I have included a copy of the latest report for the period ending September 30, 1989. That report shows that 28% of the open disciplinary files alleged neglect, 28% alleged misconduct which interferes with the justice process, 11.5% alleged trust violations concerning client funds or property, 11.5% alleged misrepresentation or fraud, 10% alleged problems with the attorney/client relationship, 8% alleged conflict of interest, 2% alleged excessive fees, and 1% involved a criminal conviction.

If there is any further information which the Bar Association can provide the Liability Insurance Task Force concerning the attorney discipline process, please do not hesitate to contact us.

Sincerely,

ALASKA BAR ASSOCIATION



Jeffrey M. Feldman
President

Enclosure

BC: 17

III. DISCIPLINE OF MEMBERS

The activities of attorneys admitted to practice within the State of Alaska are governed by the Rules of Disciplinary Enforcement promulgated by the Alaska Supreme Court. As will be seen below, the substance and procedure of the rules of the Bar Association and the Supreme Court in regulating the practice of law within Alaska are entirely different from those of agencies of the State of Alaska charged with the regulation of legislatively controlled businesses and professions. For example, a ruling as to a permit or license issued by the Alcoholic Beverage Control Board is final and binding, subject only to the right of a party to appeal questions of law to the Superior Court and, thereafter, if desired, to the Supreme Court. In matters involving public censure, probation, suspension, or disbarment of attorneys, however, the Supreme Court is the decision maker, acting not as an appellate body but as the final forum with authority to make and enforce disciplinary decisions.

A thorough revision of the Rules of Disciplinary Enforcement was accomplished by the Board in 1984 and made effective by the Supreme Court on January 1, 1985. The most significant change is the opening of attorney discipline proceedings to the public after a Petition for Formal Hearing is filed. Now, the public is able to attend formal discipline hearings conducted before hearing committees and the Disciplinary Board in the same way as they have been able to attend court or other government proceedings. The following discussion reflects the revised procedures in effect.

A. The Supreme Court's Authority

The Supreme Court has held that an attorney's license to practice law is "a continuing proclamation by the Court that the holder is fit to be entrusted with professional and judicial matters...as an officer of the courts."

Attorneys are, therefore, bound to act in conformity with standards adopted or recognized by the Supreme Court of Alaska. The Supreme Court has also declared that any attorney admitted to practice in Alaska, or who appears or participates in legal matters within the State, is subject to the jurisdiction of the Supreme Court of Alaska and the Disciplinary Board which the Court established.

Due to the vastness of the size of the State of Alaska and the great distance between population centers, the Supreme Court has established three disciplinary areas: 1) the First Judicial District; 2) the combined Second and Fourth Judicial

Districts; and 3) the Third Judicial District. Charges of misconduct against a lawyer are assigned to be heard by members of the hearing committee established for the district in which the attorney lives or practices. Such charges may be based upon a violation of the Code of Professional Responsibility, Ethics Opinions adopted by the Board of Governors, criminal convictions, or misconduct within or arising from disciplinary proceedings themselves. Depending on the severity of the misconduct, violations may result in disbarment, suspension, probation, or public censure by the Court or, in less serious cases, in public or private reprimand by the Disciplinary Board or written private admonition by Bar Counsel.

B. The Disciplinary Board

As discussed above, the Board of Governors acts as the Disciplinary Board for the Supreme Court. The day-to-day workings of the disciplinary process have been delegated to Bar Counsel and Assistant Bar Counsel, attorneys hired by the Board, whose functions include assisting the public in the grievance process, maintaining records, investigating, processing, and prosecuting grievances and appeals.

The procedures for disciplinary enforcement begin upon the filing of a grievance by any person alleging misconduct on the part of any attorney. During this stage, grievances against attorneys are confidential by court rule. Bar Counsel reviews the grievance to determine whether it is properly completed and contains allegations which, if true, would constitute grounds for discipline. If Bar Counsel determines that the allegations are inadequate or insufficient to warrant an investigation, an investigation will not be opened. If a grievance is accepted for investigation, the attorney involved is required to provide full and fair disclosure in writing of all the facts and circumstances pertaining to the alleged misconduct.

If Bar Counsel determines that probable cause exists to believe that attorney misconduct as occurred, permission may be requested from a Hearing Committee member to issue a written private admonition (in less serious cases) or to file a Petition for Formal Hearing in serious matters. Once the petition is filed, the proceedings are open to the public.

SUMMARY OF PUBLIC DISCIPLINE ACTIONS IN 1989

The Alaska Supreme Court suspended three attorneys from the practice of law in 1989: (1) Scott D. Harless for four years effective March 2, 1989; (2) Homer L. Burrell for 90 days effective August 21, 1989; and (3) Ranauld H. Jarrell for four years effective November 3, 1989.

1989 DISCIPLINE CASE STATISTICS*

Open cases pending as of January 1, 1989 166

New cases opened in 1989 (+) 117

Cases closed in 1989:

Closed after disbarment by Supreme Court
Closed after suspension by Supreme Court 6
Closed after public censure by Supreme Court . . .
Closed after public reprimand
by Disciplinary Board
Closed after private reprimand
by Disciplinary Board 4
Closed after private admonition
by Bar Counsel 17
Closed after probation ended 4
Dismissed by Bar Counsel 91

TOTAL cases closed. (-) 122

Open cases as of December 31, 1989 161

STATUS OF OPEN CASES AS OF 12-31-89

Pending Supreme Court. 2
Pending Disciplinary Board
Pending Stipulation.
Pending Area Hearing Committee 2
Pending Petition Approval.
Pending Private Admonition 2
Attorney on Probation. 4**
In abeyance pending outcome of related
fee arbitration proceeding 1
In abeyance pending conciliation
In abeyance pending outcome of civil case 2
Under investigation by Bar Counsel 148

161

*All numbers reflect individual complaints filed and not the number of attorneys under investigation.

**There are two attorneys on probation: one attorney with three complaints, and one attorney with one complaint.

C. The Hearing Committee

Investigations which result in the filing of a Petition for Formal Hearing by Bar Counsel are referred to a Hearing Committee in the relevant geographical area. The attorney may thereafter file a written answer admitting or denying the charges, or setting forth a claim of mitigation. Hearings are then held before the Committee. At the hearing, Bar Counsel prosecutes the case on behalf of the Bar Association. The responding attorney may be represented by counsel. Either party may call, examine, and cross-examine witnesses and otherwise request the production of evidence. The burden of proving misconduct by clear and convincing evidence is placed upon Bar Counsel. The Committee may direct the submission of briefs.

At the conclusion of the hearing, the Committee must file a written report to the Board, together with the recorded transcript, briefs, findings, conclusions and recommendations. If either party appeals from the Committee's recommendation, briefs may be filed with the Board. If desired, the matter may be orally argued to the Board. The Board must then conduct a review of the record and briefs and enter its order or recommendation to the Court.

D. The Recommendation

If the Board's decision recommends either public censure, probation, suspension, or disbarment, the recommendation is filed with the Supreme Court, which makes the final decision. The Board must submit a case record, including the hearing transcript, to the Supreme Court. The parties are required to file briefs in accordance with the Supreme Court rules for regular civil and criminal appeals; oral argument is available. It is only after review of this record by the Court that the Court enters its order relating to the attorney's discipline. The Court may also issue an opinion published in the Pacific Reporter which becomes a precedent for future cases.

The Board may order public reprimand by the Board if it decides the matter can be resolved appropriately without referral to the Court. The Board may also consider stipulations of proposed discipline entered into between Bar Counsel and a respondent attorney and enter an order for a private reprimand by the Board or submit its recommendation on the stipulation to the Supreme Court.

As with civil litigation, many of the above procedures may be lengthy or protracted before the issuance of a Hearing Committee report or a Board order. Thus, a need exists -- and

a procedure has been formulated -- whereby either party can make an interlocutory appeal to the Supreme Court for review of the procedures and evidentiary rulings of the Hearing Committee.

E. Interim Suspension

The Rules of Disciplinary Enforcement anticipate situations requiring immediate action against an attorney for protection of the public pending the completion of the full disciplinary process. One such situation exists when an attorney is convicted of a serious crime, such as a felony or when he is convicted of certain other crimes including those relating to interference with justice, false swearing, fraud, deceit, misappropriation or theft.

Conviction of such a crime is conclusive evidence that disciplinary action is necessary. The sole issue for determination is the nature of the final discipline to be imposed. Such a conviction also requires interim suspension, regardless of whether the conviction is based on a jury verdict or a plea of guilty, and regardless of whether an appeal is pending. In the event the conviction is reversed, the suspension is lifted, but formal disciplinary proceedings may nevertheless continue to final disposition.

Further, if Bar Counsel shows that an attorney's conduct constitutes a substantial threat of irreparable harm to his or her clients or prospective clients or where there is a showing that the attorney's conduct is causing great harm to the public by a continuing course of conduct, the Court may impose interim suspension.

An attorney facing disciplinary charges cannot avoid the consequence of his misconduct by simply leaving the practice of law, thus leaving open the possibility of a future return to the profession. The Rules of Disciplinary Enforcement do permit discipline by consent of attorneys under disciplinary investigation but only upon the free and voluntary admission by the attorney that he is guilty of the charges, and with the consent of Bar Counsel, the Board and/or the Court.

F. The Court's Order

When either disbarment, suspension or probation is ordered by the Court, more is involved than a simple order to that effect. There are various notification requirements to that attorney's clients, to opposing counsel and other jurisdictions in which the attorney is admitted. Sworn proof that these

Notification requirements have been met must be filed Court. Proof of compliance with these requirements prerequisite to any subsequent reinstatement.

The Bar Rules, however, do not rely solely on notification by the disbarred, or suspended attorney. They also require the Board to publish notice of disbarment and suspension in a newspaper in Anchorage, Fairbanks and Juneau, the official Bar publication and a newspaper serving the community where the attorney practiced. The Board must also advise the presiding judges of all courts within the State and, through the Attorney General, all administrative agencies.

G. Reinstatement

Disbarred or suspended attorneys can, under certain circumstances and procedures, be reinstated to the practice of law. However, in cases of disbarment, a minimum of five years must pass before the attorney is eligible for reinstatement.

Petitions for reinstatement are filed with the Supreme Court and served upon the Executive Director for the initiation of reinstatement proceedings.* As with the imposition of discipline, the findings and recommendations of the Hearing Committee -- and thereafter the Board -- are only advisory, and the final determination on reinstatement is made by the Supreme Court. In order to be reinstated, a disbarred attorney or an attorney suspended for more than one year has the primary burden of establishing that he or she possesses the moral qualifications, competency, and knowledge of law required for admission to practice and that the attorney's resumption of practice will not be detrimental to the integrity and standing of the Bar, or to the administration of justice, or subversive of the public interest.

H. Disability

The Rules of Disciplinary Enforcement also anticipate circumstances where the need for protection of the public arises from an incapacitating illness, addiction to drugs or

*Attorneys who have been suspended for one year or less will be automatically reinstated by the Court unless Bar Counsel files an opposition to automatic reinstatement. Attorneys who have been disbarred or suspended for more than one year must appear before an appropriate Area Hearing Committee.

intoxicants, senility, death, disappearance, or judicially declared incompetence of an attorney, rather than actual misconduct by the attorney. Upon a finding by the Supreme Court that such a disability exists, an order is entered transferring the attorney to disability inactive status until further order of the Court during which time the attorney is prohibited from engaging in the practice of law. As with public discipline, notice of the Court's action must be published. Likewise, presiding judges of all courts and administrative agencies are also notified. However, while the Court's final order is public, the disability proceedings themselves are confidential.

Reinstatement of the right to practice can thereafter only be granted by the Supreme Court upon a showing by the attorney that the disability no longer exists and that he or she is fit to resume the practice of law.

While the above procedures are designed to remove the disabled attorney from active status, it is essential that the interests of the clients of the disabled, deceased or unavailable attorney are also protected. Thus, the Bar Rules provide for appointment by the Superior Court of Trustee Counsel to protect the interests of this unavailable attorney and his clients. Trustee Counsel, on behalf of the unavailable attorney, exercises powers similar to those of a personal representative of a deceased person, but does so only in those matters specifically provided in the rules and allowed by State law.

I. Alternative Proceedings

Some grievances do not rise to the level of professional misconduct warranting formal discipline. Nevertheless, two other forums are available to review the reasons for a client's dissatisfaction.

If the matter involves a dispute concerning the fee charged by an attorney, it is referred to a Fee Arbitration Panel. If the allegations involve a grievance which is not amenable to either discipline or fee arbitration, it is referred to a Conciliation Panel. Both are more fully discussed in Section VIII of this booklet.

J. Discipline Staff and Budget

The Discipline Section is currently staffed by Bar Counsel, Assistant Bar Counsel, a half-time assistant Bar Counsel, one part time Discipline Assistant, and two Discipline Secretaries. Bar Counsel has the overall responsibility for the review, investigation, prosecution and appeal of attorney grievance cases. This level of staffing is a reflection of the continued commitment by the Board to the efficient and thorough processing of grievance matters.

Expenditures for the Discipline Section totalled \$301,538 in 1989, a substantial commitment of Bar Association resources and a reaffirmation of the Bar Association's responsibility for the protection of the public through the attorney discipline process.

K. Bar Rule Changes in 1989

The Supreme Court revised Bar Rule 15(b) to prohibit disbarred or suspended attorneys from providing legal advice or preparing legal documents for another even if they are not compensated for the service. This change is effective January 15, 1990.

The Court amended Bar Rules 21(c) and 22(b) to authorize a trial judge to allow the discovery of discipline files under certain circumstances in criminal cases.

Bar Rule 38(c) of the fee arbitration rules was changed to explicitly authorize the fee arbitration executive committee to refer apparent violations of the Bar Rules for disciplinary investigation.

The Court approved a name change from "discipline counsel" to "bar counsel" for the attorneys employed by the Bar Association in the disciplinary process.

Finally, although not a Bar Rule, the court made an amendment to Disciplinary Rule 9-102 which requires an attorney to provide a notice of whether he or she intends to maintain an IOLTA trust account. IOLTA stands for Interest on Lawyer Trust Accounts. The program provides that interest on nominal sums or short term deposits in an attorney's care which would ordinarily be kept by a financial institution is instead paid to the Alaska Bar Foundation to provide funds for civil legal services to the poor. Further information on the IOLTA program can be found in this report under section IX, ADJUNCT INVOLVEMENT.

Report Date 3RD QUARTER 1989
Last Revision Date :89/10/05

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OTHER PROCEEDINGS REPORT

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STATUS

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PENDING HEARING COMMITTEE

FILE#	FILED	PROCEEDING TYPE	CASE NAME	ATY AS OF	#
86.005	861117	CLIENT SECURITY FUND	CONFIDENTIAL	CJA 890629	1

Subtotal

PENDING TC REPORT

86.002	860730	TRUSTEE COUNSEL	FYFE, EDWARD J. (JACK)	SVG 860805	2
86.003	860821	TRUSTEE COUNSEL	SHELLEY, ROBERT, R.	SVG 860826	3
88.003	880503	TRUSTEE COUNSEL	DENAUULT III, H. JOHN	SVG 880503	4

Subtotal

Grand Total

Report Date 3RD QUARTER 1989
Last Revision Date :89/10/05

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ADMISSIONS STATUS REPORT

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STATUS

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CLOSED BY DISMISSAL

FILE NO.	DATE FILED	COUNSEL	CODE AS OF	#
=====	=====	===	=====	=====
89.003	89/07/17	SVG	89/08/15	1

				1

Subtotal

PENDING BOARD

89.001	89/07/03	SVG	89/09/07	2

				1

Subtotal

PENDING HEARING MASTER

89.002	89/07/05	SVG	89/07/06	3

				1

Subtotal

3

Grand Total

Report Date 3RD QUARTER 9/89
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FEE ARB QUARTERLY REPORT

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STATUS

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DECISION FINAL

CASE #	FILED	JUD. DIST.	RED. ASKED	RED. AWRDED	STATUS CHNG	#
88.052	88/12/20	3	2,500.00	262.50	89/08/15	67
88.061	88/12/23	3	390.00	0.00	89/07/13	68
88.062	88/12/23	3	1,500.00	1,250.00	89/09/14	69
89.001	89/01/11	4	637.82	616.00	89/09/14	70

						10

Subtotal

DECISION APPEALED

82.023	82/07/21	1	20,000.00	9,814.45	84/08/27	71
87.052	87/09/30	4	5,500.00	1,215.00	89/03/20	72

						2

Subtotal

SUSTAINED ON APPEAL

87.021	87/04/29	3	6,436.00	5,936.34	89/08/18	73

						1

Subtotal

Grand Total

73

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Report Date 3RD QUARTER 9/89

Last Revision Date :89/10/04

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FEE ARB QUARTERLY REPORT

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CASE # FILED	JUD. DIST.	RED. ASKED	RED. AWRDED	STATUS CHNG	#
=====	=====	=====	=====	=====	=====

Subtotal

3

DISMISSED W/O PREJ.

89.030	89/06/02	3	3,500.00	89/09/20	47
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1

Subtotal

DECISION ISSUED

88.015	88/04/18	1	13,926.13	1,268.00	89/08/18	48
88.028	88/08/11	1	19,000.00	0.00	89/07/31	49
88.041	88/11/02	3	27,500.00	27,500.00	89/09/11	50
88.042	88/11/08	3	1,482.43	0.00	89/07/07	51
89.005	89/02/03	3	4,273.41	579.00	89/08/24	52
89.006	89/02/07	4	29,000.00	21,688.82	89/07/25	53
89.014	89/03/10	3	2,000.00	0.00	89/07/18	54
89.015	89/03/15	3	6,000.00	4,500.00	89/07/26	55
89.016	89/03/24	3	1,861.00	550.00	89/09/01	56
89.020	89/03/30	3	3,156.01	59.51	89/09/25	57
89.024	89/04/20	3	2,352.00	1,852.00	89/08/31	58
89.025	89/04/21	3	1,220.00	0.00	89/07/31	59
89.031	89/06/08	3	1,800.00	1,800.00	89/09/08	60

13

Subtotal

DECISION FINAL

86.027	86/07/09	3	500,233.33	385,233.33	89/08/17	61
88.022	88/06/03	3	250.00	769.84	89/07/08	62
88.023	88/06/10	3	3,771.50	0.00	89/08/07	63
88.025	88/07/14	3	5,906.16	0.00	89/08/30	64
88.031	88/09/12	1	3,600.00	2,411.74	89/07/27	65
88.046	88/11/15	3	954.35	954.35	89/07/09	66

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FEE ARB QUARTERLY REPORT

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STATUS

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PENDING DECISION

CASE #	FILED	JUD. DIST.	RED. ASKED	RED. AWRDED	STATUS CHNG	#
88.011	88/02/23	1	8,258.20		89/06/19	34
88.048	88/11/16	3	13,700.00		89/05/16	35
89.002	89/01/17	1	10,000.00		89/08/22	36
89.010	89/02/22	3	6,500.00		89/09/14	37
89.017	89/03/28	3	6,000.00		89/07/11	38
89.028	89/05/24	3	6,702.21		89/09/12	39
89.032	89/06/12	3	700.00		89/09/06	40

Subtotal

7

PETITION WITHDRAWN

89.036	88/09/23	3	35,000.00		89/08/07	41
89.034	89/06/21	3	920.00		89/07/25	42

Subtotal

2

PETITION REJECTED

89.051	89/09/05	3	1,752.00		89/09/14	43
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Subtotal

1

CLOSED: SETTLEMENT

89.026	89/04/24	3	700.00		89/07/07	44
89.027	89/05/22	4	0.00		89/08/16	45
89.038	89/07/20	4	1,105.06		89/08/29	46

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FEE ARB QUARTERLY REPORT

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STATUS

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PENDING STAY

CASE #	FILED	JUD. DIST.	RED. ASKED	RED. AWDED	STATUS CHNG	#
89.047	89/08/24	3	325.00		89/08/25	22
89.048	89/08/25	3	0.00		89/08/29	23
89.054	89/09/18	4	1,000.00		89/09/20	24
89.055	89/09/25	3	0.00		89/09/25	25

Subtotal

9

PET RET'D/COMPLETION

89.022	89/04/14	3	0.00		89/04/20	26
89.040	89/08/02	1	0.00		89/08/07	27

Subtotal

2

PANEL ASSIGNED

88.004	88/01/29	3	430.00		88/03/31	28
89.012	89/02/23	3	25,796.01		89/08/10	29
89.013	89/03/07	3	3,796.68		89/08/31	30
89.037	89/07/19	3	10,733.54		89/08/25	31
89.041	89/08/07	3	600.00		89/08/23	32

Subtotal

5

REMAND/RECONSIDERATN

89.003	89/01/09	3	3,945.39	1,496.00	89/07/18	33
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Subtotal

1

Report Date 3RD QUARTER 9/89

Last Revision Date :89/10/04

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FEE ARB QUARTERLY REPORT

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STATUS

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PANEL NOT ASSIGNED

CASE #	FILED	JUD. DIST.	RED. ASKED	RED. AWARDED	STATUS CHNG	#
89.004	89/01/30	3	10,000.00		89/01/30	1
89.011	89/02/23	3	2,000.00		89/08/25	2
89.021	89/04/07	1	17,000.00		89/04/20	3
89.029	89/05/26	3	5,042.28		89/06/19	4
89.035	89/06/26	3	10,000.00		89/06/26	5
89.039	89/07/26	1	720.09		89/08/07	6
89.043	89/08/15	3	9,333.33		89/08/17	7
89.045	89/08/18	3	1,000.00		89/08/18	8
89.049	89/08/31	3	1,279.00		89/08/31	9
89.050	89/09/05	3	2,500.00		89/09/06	10
89.052	89/09/13	3	242.00		89/09/14	11
89.053	89/09/18	1	600.00		89/09/20	12

12

Subtotal

UNDER REVIEW

89.056	89/09/29	3	75,000.00		89/09/29	13
89.057	89/09/29	3	392.40		89/09/29	14
89.058	89/09/29	1	10,651.74		89/09/29	15
89.059	89/09/29	1	155.00		89/09/29	16

4

Subtotal

PENDING STAY

89.033	89/06/19	3	4,977.27		89/06/19	17
89.036	89/06/28	3	1,300.00		89/06/29	18
89.042	89/08/09	3	752.31		89/08/09	19
89.044	89/08/16	1	2,129.22		89/08/18	20
89.046	89/08/18	3	11,132.25		89/08/22	21

FEE ARBITRATION REPORT

July 1, 1989 to September 30, 1989

Section A Summary

Open cases at beginning of quarter	49
Cases closed	(-) 18
New cases initiated	(+) 24
Open cases at end of quarter	55

Section B Description of Open Cases

Under Review	4
Pending Stay	9
Petition Returned For Completion	2
Panel not Assigned	12
Pending Settlement	0
Panel Assigned	5
Remand/Reconsideration	1
Pending Decision	7
Decision Issued	13
Decision Appealed	2
	55

Section C Description of Closed Cases

No Atty./Client Relationship	0
Fee Set by Court/Statute	0
Petition Withdrawn	2
Petition Rejected	1
Closed: Settlement	3
Dismissed w/o prejudice	1
Dismissed w/prejudice	0
Decision Final	10
Reversed on Appeal	0
Sustained on Appeal	1
	18

Report Date 3RD QUARTER 1989
Last Revision Date :89/10/05

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DISCIPLINE STATUS REPORT

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CODE NAME

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FILED/UNDER REVIEW

FILE NO.	DATE FILED	GRIEVANCE	BC	ABC	CODE AS OF	#
=====	=====	==	===	===	=====	=====
89.067	89/03/27	00	SVG		89/03/28	233
89.105	89/05/30	00	SVG		89/05/31	234
89.113	89/06/14	00	SVG		89/06/14	235
89.120	89/06/20	00	SVG		89/06/23	236
89.121	89/06/27	00	SVG		89/06/27	237
89.123	89/06/28	00	SVG		89/06/28	238
89.129	89/07/11	00	SVG		89/07/12	239
89.130	89/07/12	00	SBC		89/07/12	240
89.134	89/07/20	00	SVG		89/07/20	241
89.136	89/07/21	00	SVG		89/07/24	242
89.139	89/07/25	00	SVG		89/07/31	243
89.153	89/08/11	00	SVG		89/08/11	244
89.155	89/08/11	00	SVG		89/08/11	245
89.158	89/08/23	00	SVG		89/08/24	246
89.168	89/09/06	00	SVG		89/09/06	247
89.189	89/09/12	00	SVG		89/09/26	248
89.177	89/09/13	00	SVG		89/09/13	249
89.181	89/09/20	00	SVG		89/09/22	250
89.182	89/09/20	00	SVG		89/09/22	251
89.183	89/09/20	00	SVG		89/09/22	252
89.184	89/09/20	95	SVG		89/09/22	253
89.186	89/09/25	00	SVG		89/09/25	254
89.187	89/09/25	00	SVG		89/09/25	255
89.188	89/09/25	00	SVG		89/09/25	256
89.190	89/09/29	00	SVG		89/09/29	257
89.191	89/09/29	00	SVG		89/09/29	258

Subtotal

26

Grand Total

258
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DISCIPLINE STATUS REPORT

CODE NAME

UNDER INVESTIGATION

FILE NO.	DATE FILED	GRIEVANCE	BC	ABC	CODE AS OF	#
=====	=====	==	===	===	=====	=====
89.106	89/05/30	03	SVG	MW	89/06/23	201
89.109	89/06/01	07	SVG		89/06/27	202
89.108	89/06/02	04	SVG		89/09/07	203
89.110	89/06/07	07	SVG		89/09/14	204
89.111	89/06/07	03	SVG	CJA	89/09/01	205
89.114	89/06/21	07	SVG		89/09/14	206
89.115	89/06/21	07	SVG		89/09/14	207
89.117	89/06/22	03	SVG	MW	89/07/21	208
89.127	89/07/05	07	SVG	CJA	89/08/17	209
89.132	89/07/06	03	SVG	CJA	89/08/17	210
89.128	89/07/11	05	SVG	MW	89/08/17	211
89.133	89/07/18	03	SVG		89/08/18	212
89.142	89/07/26	03	SVG	CJA	89/08/21	213
89.143	89/07/28	03	SVG	CJA	89/09/01	214
89.144	89/07/31	03	SVG	MW	89/09/01	215
89.147	89/08/07	07	SVG	CJA	89/09/12	216
89.149	89/08/08	04	SVG	CJA	89/08/21	217
89.150	89/08/08	02	SVG		89/09/07	218
89.156	89/08/10	03	SVG	MW	89/09/07	219
89.159	89/08/24	03	SVG		89/09/25	220
89.160	89/08/24	03	SVG	CJA	89/09/12	221
89.161	89/08/25	07	SVG	MW	89/09/12	222
89.162	89/08/31	07	SVG		89/09/11	223
89.167	89/09/05	04	SVG	CJA	89/09/21	224
89.174	89/09/07	01	SVG	CJA	89/09/21	225
89.175	89/09/11	05	SVG	MW	89/09/26	226
89.170	89/09/12	04	SVG		89/09/26	227
89.171	89/09/12	01	SVG		89/09/20	228
89.173	89/09/12	01	SVG	MW	89/09/21	229
89.178	89/09/14	03	SVG	CJA	89/09/21	230
89.179	89/09/15	04	SVG	CJA	89/09/25	231
89.180	89/09/18	03	SVG	CJA	89/09/21	232

145

Subtotal

Report Date 3RD QUARTER 1989
Last Revision Date :89/10/05

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DISCIPLINE STATUS REPORT

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CODE NAME

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UNDER INVESTIGATION

FILE NO.	DATE FILED	GRIEVANCE	BC	ABC	CODE AS OF	#
=====	=====	==	===	===	=====	=====
88.240	88/12/02	05	SVG		89/03/31	164
88.241	88/12/02	05	SVG		89/03/31	165
88.242	88/12/02	05	SVG		89/03/31	166
88.246	88/12/07	03	SVG		88/12/30	167
88.247	88/12/08	05	SVG		88/12/14	168
88.253	88/12/15	07	SVG		89/02/09	169
88.261	88/12/15	07	SVG		89/02/09	170
88.258	88/12/27	03	SVG		89/02/01	171
88.259	88/12/29	02	SVG		89/02/01	172
89.001	89/01/03	07	SVG	MW	89/02/02	173
89.004	89/01/04	03	SVG	CJA	89/09/15	174
89.002	89/01/05	03	SVG	CJA	89/02/02	175
89.009	89/01/13	07	SVG		89/05/10	176
89.010	89/01/13	03	SVG		89/02/02	177
89.026	89/01/19	07	SVG		89/02/03	178
89.013	89/01/24	03	SVG	MW	89/02/02	179
89.023	89/01/24	01	SVG		89/02/03	180
89.025	89/01/24	04	SVG		89/02/03	181
89.027	89/01/27	07	SVG		89/03/16	182
89.028	89/01/27	07	SVG		89/03/17	183
89.031	89/02/10	01	SVG	CJA	89/02/28	184
89.039	89/02/23	07	SVG		89/02/28	185
89.043	89/02/27	03	SVG		89/03/17	186
89.045	89/03/01	01	SVG	CJA	89/03/17	187
89.047	89/03/03	07	SVG	CJA	89/03/17	188
89.048	89/03/06	02	SVG		89/03/17	189
89.053	89/03/15	03	SVG		89/03/23	190
89.054	89/03/16	03	SVG		89/04/18	191
89.057	89/03/16	02	SVG	MW	89/03/24	192
89.068	89/03/28	05	SVG		89/03/31	193
89.097	89/04/05	07	SVG	CJA	89/05/10	194
89.082	89/04/24	03	SVG	MW	89/05/12	195
89.091	89/05/01	03	SVG		89/05/09	196
89.095	89/05/03	03	SVG	CJA	89/05/15	197
89.098	89/05/04	05	SVG		89/05/12	198
89.083	89/05/22	03	SVG		89/05/26	199
89.101	89/05/22	03	SVG	MW	89/06/26	200

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Last Revision Date :89/10/05

DISCIPLINE STATUS REPORT

CODE NAME

UNDER INVESTIGATION

FILE NO.	DATE FILED	GRIEVANCE	BC	ABC	CODE AS OF	#
88.097	88/04/04	03	SVG	MW	88/04/27	127
88.088	88/04/06	04	SVG	CJA	88/04/27	128
88.098	88/04/27	03	SVG	MW	88/05/16	129
88.105	88/05/09	01	SVG		88/06/21	130
88.106	88/05/11	04	SVG		88/05/17	131
88.132	88/05/17	01	SVG	CJA	88/06/21	132
88.109	88/05/18	05	SVG	MW	88/05/18	133
88.111	88/05/19	07	SVG	CJA	88/06/21	134
88.117	88/05/26	01	SVG		88/05/31	135
88.118	88/05/26	02	SVG	CJA	88/06/20	136
88.125	88/06/03	05	SVG	CJA	88/06/22	137
88.126	88/06/03	07	SVG		88/07/27	138
88.141	88/06/30	07	SVG		88/07/20	139
88.145	88/07/06	03	SVG	MW	88/07/26	140
88.147	88/07/06	03	SVG		88/07/26	141
88.150	88/07/11	04	SVG		88/11/02	142
88.176	88/07/11	02	SVG	MW	89/03/24	143
88.153	88/07/13	07	SVG	CJA	88/07/26	144
88.157	88/07/15	01	SVG	CJA	88/07/26	145
88.158	88/07/18	03	SVG	MW	88/07/19	146
88.164	88/08/01	07	SVG		88/09/01	147
88.189	88/08/01	07	SVG		88/09/01	148
88.190	88/08/01	07	SVG		88/09/01	149
88.178	88/08/18	07	SVG	CJA	88/08/22	150
88.187	88/08/30	07	SVG	CJA	88/09/21	151
88.188	88/08/30	03	SVG		88/09/23	152
88.191	88/09/01	03	SVG	CJA	88/09/22	153
88.192	88/09/12	06	SVG		88/09/27	154
88.195	88/09/19	05	SVG		88/09/21	155
88.211	88/10/01	04	SVG		89/03/29	156
88.209	88/10/04	05	SVG		88/10/25	157
88.208	88/10/06	07	SVG		88/10/31	158
88.207	88/10/07	02	SVG	CJA	88/10/25	159
88.214	88/10/11	07	SVG		88/10/31	160
88.215	88/10/11	07	SVG		88/10/31	161
88.217	88/10/13	07	SVG		88/10/31	162
88.220	88/10/26	03	SVG		88/11/21	163

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DISCIPLINE STATUS REPORT

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CODE NAME

=====

UNDER INVESTIGATION

FILE NO.	DATE FILED	GRIEVANCE	BC	ABC	CODE AS OF	#
=====	=====	==	===	===	=====	=====
86.023	86/02/05	07	SVG	CJA	86/02/20	90
86.134	86/06/27	07	SVG		86/07/17	91
86.225	86/11/12	07	SVG		86/12/05	92
86.237	86/12/01	04	SVG	JRL	89/01/27	93
87.013	87/01/15	04	SVG		87/01/21	94
87.070	87/03/12	03	SVG	CJA	87/03/23	95
87.079	87/03/19	05	SVG		87/09/11	96
87.088	87/03/27	02	SVG	CJA	87/09/22	97
87.110	87/04/17	01	SVG		87/04/23	98
87.126	87/05/12	04	SVG		87/05/29	99
87.128	87/05/13	07	SVG	JRL	87/06/18	100
87.129	87/05/13	07	SVG	JRL	87/06/18	101
87.130	87/05/13	07	SVG	JRL	87/06/18	102
87.131	87/05/13	07	SVG	JRL	87/06/18	103
87.133	87/05/14	02	SVG	MW	87/05/21	104
87.139	87/05/27	04	SVG	CJA	88/12/30	105
87.146	87/06/01	03	SVG	MW	87/06/15	106
87.177	87/07/09	03	SVG	CJA	87/07/24	107
87.182	87/07/20	07	SVG		87/08/03	108
87.197	87/07/30	06	SVG		88/01/04	109
87.215	87/08/31	01	SVG	CJA	87/09/09	110
87.222	87/09/11	01	SVG		87/09/16	111
87.242	87/10/09	03	SVG		87/10/13	112
87.247	87/10/15	05	SVG		87/10/20	113
87.255	87/10/26	03	SVG		87/12/02	114
87.256	87/10/26	07	SVG		87/11/04	115
87.273	87/11/18	03	SVG		87/12/02	116
87.296	87/12/11	07	SVG		87/12/16	117
88.002	87/12/31	07	SVG		88/01/25	118
88.015	88/01/18	05	SVG		88/01/25	119
88.026	88/01/28	07	SVG		88/02/04	120
88.035	88/02/08	07	SVG		88/02/24	121
88.062	88/03/07	02	SVG		88/09/28	122
88.064	88/03/08	02	SVG	MW	88/03/25	123
88.063	88/03/09	06	SVG	CJA	88/03/10	124
88.067	88/03/11	01	SVG	CJA	88/03/24	125
88.078	88/03/22	01	SVG		88/04/27	126

Report Date 3RD QUARTER 1989
Last Revision Date :89/10/05

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DISCIPLINE STATUS REPORT

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CODE NAME

=====

PENDING ADMONITION

FILE NO.	DATE FILED	GRIEVANCE	BC	ABC	CODE AS OF	#
=====	=====	==	==	==	=====	=====
85.170	85/09/26	04	SVG	MW	89/08/21	77
86.169	86/08/13	03	SVG	JRL	89/04/20	78
88.011	88/01/14	01	SVG	MW	89/08/21	79
88.107	88/05/17	06	SVG	CJA	89/08/09	80
88.166	88/08/05	07	SVG	MW	89/08/28	81

						5

Subtotal

PENDING FEE ARB.

86.083	86/04/21	04	SVG		86/07/08	82
89.011	89/01/20	01	SVG	CJA	89/08/30	83

						2

Subtotal

ABEYANCE/ COURT CASE

83.327	83/05/24	03	SVG		86/05/06	84
84.139	84/08/20	03	SVG		86/05/07	85
87.087	87/03/27	05	SVG		87/11/05	86
87.236	87/09/29	01	SVG		88/03/11	87

						4

Subtotal

UNDER INVESTIGATION

85.186	85/10/11	02	SVG		85/10/11	88
86.011	86/01/14	02	SVG		86/05/08	89

Report Date 3RD QUARTER 1989
Last Revision Date :89/10/05

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DISCIPLINE STATUS REPORT

=====

CODE NAME

=====

ATTY ON PROBATION

FILE NO.	DATE FILED	GRIEVANCE	BC	ABC	CODE AS OF	#
=====	=====	==	===	===	=====	=====
86.076	86/04/14	03	SVG		88/03/18	70
86.209	86/10/13	05	SVG		88/03/18	71

						4

Subtotal

PENDING SUPREME CT.

86.184	86/09/12	05	SVG		89/09/11	72
87.078	87/03/19	05	SVG		89/09/11	73
87.159	87/06/22	03	SVG		89/03/30	74

						3

Subtotal

PENDING DISC. BOARD

88.010	88/01/14	09	SVG		89/07/13	75

						1

Subtotal

PENDING HRG. COMM.

88.225	88/11/07	07	SVG	CJA	89/08/09	76

						1

Subtotal

Report Date 3RD QUARTER 1989
Last Revision Date :89/10/05

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DISCIPLINE STATUS REPORT

=====

CODE NAME

=====

GR. NOT ACCEPTED

FILE NO.	DATE FILED	GRIEVANCE	BC	ABC	CODE AS OF	#
=====	=====	==	==	==	=====	=====
89.112	89/06/14	00	SVG		89/08/11	41
89.116	89/06/21	00	SVG		89/08/11	42
89.118	89/06/22	00	SVG		89/07/20	43
89.119	89/06/22	00	SVG		89/07/20	44
89.122	89/06/27	00	SVG		89/08/11	45
89.137	89/06/28	00	SVG		89/08/17	46
89.125	89/06/30	00	SVG		89/08/15	47
89.126	89/06/30	00	SVG		89/08/15	48
89.131	89/07/19	00	SVG		89/08/17	49
89.135	89/07/20	00	SVG		89/08/17	50
89.140	89/07/26	00	SVG		89/08/29	51
89.141	89/07/26	00	SVG		89/08/29	52
89.145	89/08/02	00	SVG		89/08/22	53
89.146	89/08/04	00	SVG		89/08/22	54
89.148	89/08/08	00	SVG		89/09/06	55
89.151	89/08/09	00	SVG		89/08/30	56
89.152	89/08/11	00	SVG		89/08/11	57
89.157	89/08/21	00	SVG		89/09/05	58
89.154	89/08/28	00	SVG		89/08/30	59
89.163	89/08/31	00	SVG		89/09/05	60
89.164	89/08/31	00	SVG		89/09/05	61
89.165	89/08/31	00	SVG		89/09/05	62
89.166	89/08/31	00	SVG		89/09/05	63
89.169	89/09/07	00	SVG		89/09/22	64
89.172	89/09/12	00	SVG		89/09/21	65
89.176	89/09/13	00	SVG		89/09/21	66
89.185	89/09/22	00	SVG		89/09/29	67

29

Subtotal

ATTY ON PROBATION

85.237	85/12/20	01	SVG	85/11/20	68
86.066	86/04/03	03	SVG	88/03/18	69

Report Date 3RD QUARTER 1989
Last Revision Date :89/10/05

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DISCIPLINE STATUS REPORT

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CODE NAME

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DISMISSED

FILE NO.	DATE FILED	GRIEVANCE	BC	ABC	CODE AS OF	#
=====	=====	==	===	===	=====	=====
86.243	86/12/15	07	SVG	MW	89/09/12	12
87.231	87/09/18	01	SVG	MW	89/09/21	13
87.251	87/10/20	01	SVG	MW	89/08/23	14
87.306	87/12/30	03	SVG	MW	89/09/29	15
88.025	88/01/28	05	SVG	MW	89/09/29	16
88.060	88/03/04	03	SVG	CJA	89/09/15	17
88.123	88/06/10	03	SVG	MW	89/09/29	18
88.161	88/07/25	07	SVG	MW	89/07/12	19
88.170	88/08/11	03	SVG	CJA	89/09/29	20
88.173	88/08/11	03	SVG	CJA	89/09/29	21
88.194	88/09/14	03	SVG	MW	89/09/13	22
88.251	88/11/25	04	SVG	CJA	89/09/14	23
89.006	89/01/09	01	SVG	CJA	89/08/09	24
89.015	89/01/26	07	SVG	CJA	89/09/14	25
89.042	89/02/27	04	SVG	CJA	89/08/09	26
89.071	89/04/10	03	SVG	MW	89/08/09	27
89.084	89/04/24	03	SVG	CJA	89/09/15	28
89.085	89/04/25	03	SVG	MW	89/08/09	29
89.088	89/04/25	04	SVG	CJA	89/08/22	30
89.089	89/04/25	04	SVG	CJA	89/08/22	31
89.090	89/04/25	04	SVG	CJA	89/08/22	32
89.092	89/05/01	05	SVG	MW	89/09/21	33
89.086	89/05/09	01	SVG	MW	89/07/19	34
89.102	89/05/26	02	SVG	CJA	89/08/22	35
89.107	89/06/01	07	SVG	CJA	89/08/22	36
89.124	89/06/29	03	SVG	CJA	89/09/29	37
89.138	89/07/24	07	SVG		89/09/29	38

27

Subtotal

GR. NOT ACCEPTED

89.073	89/04/14	00	SVG		89/07/20	39
89.074	89/04/14	00	SVG		89/08/25	40

SECTION G

Report Date 3RD QUARTER 1989
Last Revision Date :89/10/05

DISCIPLINE STATUS REPORT

CODE NAME

CLSD PROBATION ENDED

FILE NO.	DATE FILED	GRIEVANCE	BC	ABC	CODE AS OF	#
83.036	83/08/15	11	SVG		89/07/24	1
83.043	83/11/22	03	SVG		89/07/24	2
84.435	84/02/14	03	SVG		89/07/24	3
84.443	84/02/21	03	SVG		89/07/24	4
						4

Subtotal

CLOSED BY ADMONITION

87.278	87/11/23	08	SVG	CJA	89/08/04	5
88.183	88/08/24	07	SVG	CJA	89/07/14	6
88.232	88/11/14	03	SVG	MW	89/08/18	7
89.032	89/02/14	07	SVG	MW	89/08/16	8
						4

Subtotal

CLOSED BY REPRIMAND

88.095	88/04/21	05	SVG	MW	89/08/09	9
						1

Subtotal

CLOSED BY SUSPENSION

85.048	85/04/04	07	SVG		89/08/21	10
85.221	85/11/15	07	SVG		89/08/21	11
						2

Subtotal

DISCIPLINE STATUS REPORT

Section F

CASES BY AGE AND STAGE OF PROCEEDING - LAST QUARTER REPORT

	Pre-1987	1987	1988	1989	Subtotal
CLOSED OR DISMISSED CASES					
CLOSED BY PUB REPRIMAND	0	0	0	0	0
CLOSED BY ADMONITION	0	0	0	0	0
CLOSED BY REPRIMAND	0	0	0	0	0
CLOSED BY CENSURE	0	0	0	0	0
CLOSED BY SUSPEND	0	0	0	0	0
CLOSED BY DISBAR	0	0	0	0	0
DISMISSED	<u>1</u>	<u>5</u>	<u>5</u>	<u>10</u>	<u>21</u>
TOTAL	1	5	5	10	21
OPEN CASES					
<u>Discipline in Effect or Pending</u>					
ATTORNEY ON PROBATION	8	0	0	0	8
SHORT TERM SUSPEND	0	0	0	0	0
PENDING SUPREME COURT	2	1	1	0	4
PENDING DISC. BOARD	1	1	0	0	2
PENDING STIPULATION	0	0	1	0	1
PENDING HRG. COMM.	0	0	0	0	0
PENDING PET. APPROVAL	0	0	0	0	0
PENDING ADMONITION	<u>0</u>	<u>1</u>	<u>3</u>	<u>1</u>	<u>5</u>
Subtotal	11	3	5	1	20
<u>Other Proceedings</u>					
PENDING FEE ARB.	1	0	0	0	1
PENDING CONCILIATION	0	0	0	0	0
ABEYANCE	<u>2</u>	<u>2</u>	<u>0</u>	<u>0</u>	<u>4</u>
Subtotal	3	2	0	0	5
<u>Under Investigation</u>					
SPECIAL COUNSEL INV. INVESTIGATION	<u>2</u>	<u>4</u>	<u>0</u>	<u>0</u>	<u>6</u>
	<u>7</u>	<u>23</u>	<u>66</u>	<u>42</u>	<u>138</u>
Subtotal	9	27	66	42	144
TOTAL (Percentage)	23 (14%)	32 (19%)	71 (42%)	43 (25%)	169 (100%)

DISCIPLINE STATUS REPORT

Section E

CASES BY AGE AND STAGE OF PROCEEDING - CURRENT QUARTER REPORT

	Pre-1987	1987	1988	1989	Subtotal
CLOSED OR DISMISSED CASES					
CLOSED PROBATION ENDED	4	0	0	0	4
CLOSED BY PUB REPRIMAND	0	0	0	0	0
CLOSED BY ADMONITION	0	1	2	1	4
CLOSED BY REPRIMAND	0	0	1	0	1
CLOSED BY CENSURE	0	0	0	0	0
CLOSED BY SUSPEND	2	0	0	0	2
CLOSED BY DISBAR	0	0	0	0	0
DISMISSED	<u>1</u>	<u>3</u>	<u>8</u>	<u>15</u>	<u>27</u>
TOTAL	7	4	11	16	38

OPEN CASES

Discipline in Effect or Pending

ATTORNEY ON PROBATION	4	0	0	0	4
SHORT TERM SUSPEND	0	0	0	0	0
PENDING SUPREME COURT	1	2	0	0	3
PENDING DISC. BOARD	0	0	1	0	1
PENDING STIPULATION	0	0	0	0	0
PENDING HRG. COMM.	0	0	1	0	1
PENDING PET. APPROVAL	0	0	0	0	0
PENDING ADMONITION	<u>2</u>	<u>0</u>	<u>3</u>	<u>0</u>	<u>5</u>
Subtotal	7	2	5	0	14

Other Proceedings

PENDING FEE ARB.	1	0	0	1	2
PENDING CONCILIATION	0	0	0	0	0
ABEYANCE	<u>2</u>	<u>2</u>	<u>0</u>	<u>0</u>	<u>4</u>
Subtotal	3	2	0	1	6

Under Investigation

SPECIAL COUNSEL INV. INVESTIGATION	<u>1</u> <u>5</u>	<u>4</u> <u>20</u>	<u>0</u> <u>55</u>	<u>0</u> <u>60</u>	<u>5</u> <u>140</u>
Subtotal	6	24	55	60	145

TOTAL (Percentage)	16 (10%)	28 (17%)	60 (36%)	62 (37%)	165 (100%)
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DISCIPLINE STATUS REPORT.

Section D

OPEN CASES BY NATURE OF GRIEVANCE

<u>Code</u>	<u>Code Description</u>	<u>Number of Cases</u>
01.	<u>Trust violations</u> (co-mingling, mismanagement of client funds and property, failure to maintain records and to account to client, withholding client's property, embezzlement, conversion)	19
02	<u>Conflict of interest</u>	13
03	<u>Neglect</u> (failure to perform, delay, lack of communication)	47
04	<u>Relationship with client</u> (disclosing confidential information, failure to protect interests of client, improper withdrawal, refusal to release documents, abandonment)	16
05	<u>Misrepresentation/Fraud</u>	19
06	<u>Excessive fees</u>	4
07	<u>Interference with justice</u> (overzealous representation, failing to represent a client within bounds of the law, prosecutorial misconduct, communicating with one of adverse interest, threatening criminal prosecution to obtain advantage in civil matter, trial misconduct, trial publicity, improper communication with jurors, witnesses, officials, aiding unauthorized practice of law.	46
08	<u>Improper advertising and solicitation</u>	0
09	<u>Criminal conviction</u>	1
10	<u>Personal behavior</u>	0
11	<u>Wilful failure to cooperate with discipline authorities</u>	0
12	<u>Medical incapacity</u>	0
13	<u>Incompetence</u>	0
14	<u>No jurisdiction or referred to other agency</u>	0
15	<u>Other</u>	0
	TOTAL	165

DISCIPLINE STATUS REPORT

July 1, 1989 to September 30, 1989

Section A

Open cases at beginning of quarter		169
Cases closed or dismissed	(-)	38
New cases initiated	(+)	<u>34</u>
Open cases at end of quarter		165

Section B

Grievances Not Accepted	29
Filed/Under Review	26

Section C

New Grievances Received and Analyzed

(sum of new cases initiated and
grievances not accepted)

This Quarter	63
This Year To Date	187*
Last Year to Date	200

* corrected figure

The Honorable
Chief Justice Warren W. Matthews
October 5, 1989
Page 2 of 2

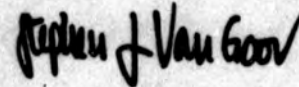
Section F reflects the number of open, closed or dismissed cases at each stage of the discipline process as of the last quarterly report.

Finally, Section G is a detailed listing of all cases under each procedural category by file number, date filed, grievance code, counsel assigned, and date the case was placed in that category.

If you have any questions concerning these reports, please contact me at your earliest convenience.

Sincerely,

ALASKA BAR ASSOCIATION



Stephen J. Van Goor
Bar Counsel

SVG:nlg

Enclosures

cc: Justice Jay A. Rabinowitz
Justice Edmond W. Burke
Justice Allen T. Compton
Justice Daniel A. Moore
David A. Lampen, Clerk of the Appellate Courts
Deborah O'Regan, Executive Director
(for distribution to Board of Governors)
John R. Lohff, Special Bar Counsel
Carol Jane Allen, Assistant Bar Counsel
Mark Woelber, Assistant Bar Counsel

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ALASKA BAR

ASSOCIATION

October 5, 1989

The Honorable
Chief Justice Warren W. Matthews
303 K Street, 5th Floor
Anchorage, AK 99501

RE: Quarterly Reports

Dear Chief Justice Matthews:

Enclosed with this letter are the Discipline Status Report, Fee Arbitration Report, Admission Report, and Other Proceedings Report for the third quarter: July 1, 1989 to September 30, 1989.

Section A of the Discipline Status Report reflects a summary of the period caseload: (1) open cases at the beginning of the period; (2) cases closed or dismissed during the period; (3) new cases initiated during the period; and (4) open cases at the end of the period.

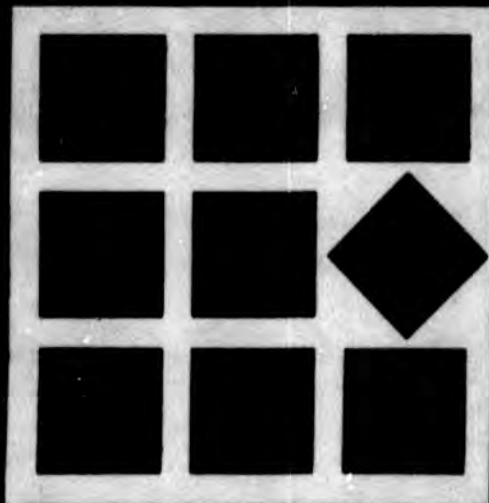
Section B reflects grievances which have been filed and are under review to determine whether an investigation should be opened. Section B also reflects grievances which have been filed but not opened because the allegations in the grievances were inadequate or insufficient to warrant an investigation.

Section C reflects new grievances which have been received and analyzed to determine whether an investigation should be opened. This section reflects the sum of "new cases initiated" reported in Section A and "grievances not accepted" reported in Section B. It also reports new grievances received and analyzed for the year to date and last year to date.

Section D reflects the uniform classification of grievances adopted by the National Organization of Bar Counsel and the number of open cases within each classification.

Section E reflects the number of open, closed or dismissed cases at each stage of the discipline process as of this report.

ethical grievances against attorneys



supervision of attorney conduct

All attorneys are governed by rules of ethics known as the Code of Professional Responsibility. An attorney who violates the Code of Professional Responsibility is subject to discipline. The Alaska Supreme Court exercises final authority over attorney conduct in Alaska.

The Disciplinary Board of the Alaska Bar Association has been given the responsibility by the Alaska Supreme Court and the legislature to process ethical grievances against attorneys and to recommend discipline when appropriate. The Disciplinary Board employs Discipline Counsel and staff to investigate and prosecute ethical grievances.

filing a complaint

Grievances must be written, signed statements, containing a clear explanation of the details of each act of alleged misconduct, including the approximate time and place of each. Copies of letters or other documents relating to the grievance should be included. A grievance must be sent to the Alaska Bar Association, where Discipline Counsel will review it and determine whether it contains sufficient factual allegations which, if true, would constitute ethical misconduct. Attorney Grievance forms, which may be used in filing a grievance, are available from the Alaska Bar Association.

examples of misconduct

The Code of Professional Responsibility covers a wide range of attorney conduct. Examples of misconduct are:

- conduct involving dishonesty, fraud, deceit, or misrepresentation
- revealing client confidences or secrets except under special circumstances
- charging a clearly excessive fee (generally a fee dispute is referred to the Attorney Fee Review Committee)
- withdrawing money from his/her office trust account for personal use unless it is undisputed that the attorney has earned the funds

If you have questions about an attorney's conduct you may call the Alaska Bar Association. The Code of Professional Responsibility is available at any court law library in the State of Alaska.

investigation

If review of a grievance indicates that ethical misconduct may have occurred, a copy of the grievance will be sent to the attorney for a response. If the response raises additional questions, the complainant may be asked to submit further comments.

The investigation of a complaint is confidential. All persons involved in the investigation of a complaint, including the complainant, must maintain confidentiality, but they may consult with an attorney. It is contempt of court to violate this confidentiality.

After investigation, Discipline Counsel will make one of the following decisions:

- dismiss the grievance if the evidence does not show unethical conduct
- issue a written private admonition to the attorney
- file a petition for formal hearing

appeal or dismissals

If a complainant disagrees with the dismissal of a grievance, (s)he may appeal the decision by writing a letter to the Bar Association specifically stating the reasons for appeal. The appeal and the file will be reviewed by a member of an Area Discipline Division.

hearings

Discipline hearings are public and are much like a courtroom trial, with witnesses testifying under oath. Complainants are generally called to testify at the hearing. A Hearing Committee of at least one non-attorney and two attorneys considers the evidence and makes a recommendation to the Disciplinary Board.

Three non-attorneys and nine attorneys sit on the Disciplinary Board. The Board reviews the record and considers the Hearing Committee's recommendation. The Board can 1) dismiss the matter if it finds insufficient evidence; 2) issue a public reprimand to the attorney; or 3) recommend that the attorney be disciplined by the Alaska Supreme Court. The Court can impose public censure, probation, suspension from practice for up to five years, or disbarment.

some things a complainant should not expect

You should not expect the Bar Association to provide you with legal advice or services. The Bar Association can only act to enforce the Code of Professional Responsibility and cannot represent you in civil or criminal matters.

You should not expect that your complaint will be decided solely on the basis of your statement of the facts, just as the attorney cannot expect that the matter will be decided solely on the basis of his or her version. The decision will be based on all the relevant evidence.

You should not expect, as a result of your complaint, that you will receive any money or reimbursement for loss.

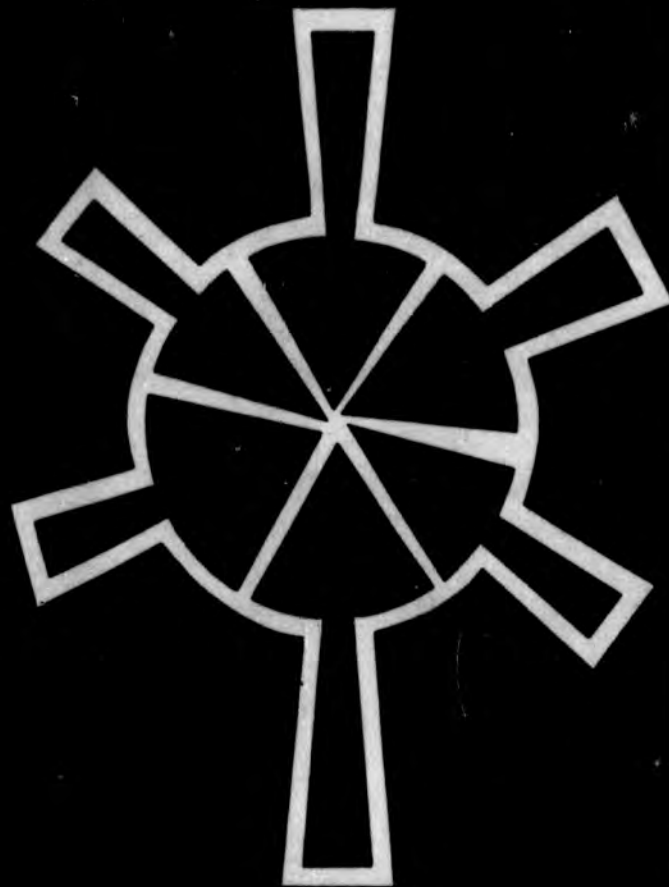
what a complainant can expect

You can expect that every attempt will be made to review your grievance in a manner which is timely and fair both to you and to the attorney.

You can expect to receive written notice of the final decision concerning your grievance, and the reasons for that decision.

**Direct inquiries to:
Discipline Counsel
Alaska Bar Association
P.O. Box 100279
Anchorage, AK 99510
907-272-7469**

fee arbitration



what is a fee arbitration?

Fee arbitration is a process which may be used to resolve a dispute over fees with an attorney. The dispute is decided by an impartial panel which renders a final and binding decision based on the facts and evidence presented by the parties.

a public service

The fee arbitration process is a service provided by the Alaska Bar Association without charge to the person or attorney.

disputes subject to fee arbitration

A person may have a fee dispute with an attorney arbitrated. The attorney must be licensed to practice in the State of Alaska or the services must have involved a legal matter conducted in Alaska. The person must make efforts to resolve the dispute directly with the attorney before the arbitration process is commenced. The fee arbitration process cannot be used if the fee was determined by a court decision, by a statute, or by court rule.

requesting a fee arbitration

A person may request a fee arbitration by filling out a form available through the Bar Association. The person must state on the petition form the efforts that he or she has made to resolve the dispute directly with the attorney, describe the dispute as specifically as possible, and state the remedy sought from the attorney.

putting court proceeding "on hold"

A party in a civil court proceeding involving the collection of attorney fees may seek a "stay," which puts the court proceeding on "hold" while a fee arbitration is pending with the Bar Association. In order to obtain a stay, a petition for fee arbitration must be filed with the Bar Association within thirty (30) days of receiving a "Notice of Client's Right to Arbitrate" from the attorney.

assignment of arbitration to hearing panel

If a dispute involves an amount less than \$2,000.00, the matter will be heard by a single member of the fee arbitration committee. Otherwise, a panel of three members, one of whom is a non-attorney, is convened from a local standing committee in the community where the legal services were provided. There are local standing committees in Anchorage, Fairbanks, Juneau, and Ketchikan. Special arrangements are made in communities which are not close to one of these.

hearing

Twenty days advance notice of the hearing will be given to the parties. The chairperson of the hearing panel conducts the hearing and decides what testimony and documents may be used as evidence. Relevant and reliable evidence will be admitted. If the client or the attorney fails to appear at the hearing, the hearing panel may proceed in that person's absence. Special procedures may be used by a client or the attorney to submit a written statement in addition to, or instead of, testimony at the hearing; to submit witness affidavits instead of presenting their testimony in person, and to participate by conference call. The cost of the call will generally be paid by the party requesting it.

confidentiality

Fee arbitration proceedings are confidential. Hearings and records relating to the arbitration are only open to the parties to the dispute and not to the public.

decision

The hearing panel will make its decision within thirty days after the close of the hearing. The decision must be agreed to by a majority of the hearing panel members. The panel may decide that an attorney should refund fees already collected; should collect only a reduced fee; or that the fees are reasonable under the circumstances.

fee arbitration binding

All parties are bound by the decision of the fee arbitration panel, unless the decision is set aside by the superior court on appeal, as discussed below. A party may apply to the courts for an order "confirming" the arbitration decision. The decision is confirmed by the court without any further evidentiary proceeding, and may be enforced in the same manner as a court judgment.

appeal

Either party may appeal a decision of the fee arbitration committee within thirty days of the date that the decision is mailed or delivered. There are limited grounds for appeal, which are set out in Alaska Statutes 09.43.120-180. Procedures for appeal are set out in the Rules of Appellate Procedure 601-609.

assistance in filing

The Bar Association is here to provide assistance to persons seeking an opportunity to have their fee dispute arbitrated and is more than happy to provide clients with information and assistance in the processing and handling of their fee dispute.

Contact the:

**Alaska Bar Association
P.O. Box 100279
Anchorage, Alaska 99510
907-272-7469**

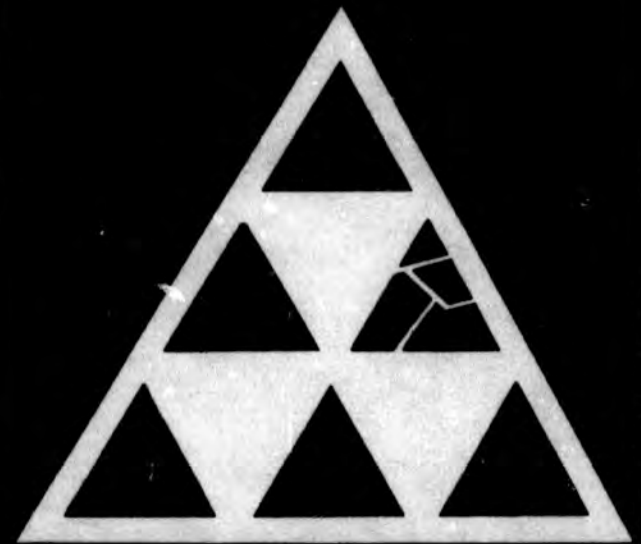
what to expect after a claim is filed

Each application for reimbursement will be reviewed and investigated. Applications which fail to make a case for reimbursement will be rejected. The reasons for the rejection will be set forth in a written report. Applications which are not rejected will be considered by the Client Security Fund Committee. Based upon its consideration, the Committee will make recommendation to the Board of Governors of the Alaska Bar Association. The Board will determine, in its discretion, whether and to what extent to reimburse the applicant. The decision to reimburse the applicant will depend on the amount of money available to the Fund, the number of claimants seeking reimbursement, and the degree of hardship suffered by each claimant.

Claims will generally not be awarded until the completion of the disciplinary action against the attorney. It is important, therefore, that a claimant report dishonest conduct to Discipline Counsel immediately and cooperate with any investigation by the Alaska Bar Association.

**Direct inquiries to:
Discipline Counsel
Alaska Bar Association
P.O. Box 100279
Anchorage, AK 99510
907-272-7469**

**client
security
fund**



client security fund

The Client Security Fund was established by the Alaska Bar Association to provide a remedy for clients who have lost money or other property as a result of the dishonest conduct of attorneys. The Fund is a remedy of last resort for clients who cannot get reimbursement from other sources, such as insurance or the attorney involved.

purpose of fund

The legal profession depends upon the trust of clients. Very few attorneys breach that trust. Nonetheless, it is important that the profession's reputation for honesty be maintained and protected. The Client Security Fund serves this function by providing reimbursement to clients whose money or property has been wrongfully taken by attorneys admitted to practice law in Alaska.

financing the fund

No tax dollars are used. The Client Security Fund is financed by judges and attorneys licensed to practice law in Alaska.

losses covered by the client security fund

The Client Security Fund Committee, under rules established by the Supreme Court, administers the Fund and it may recommend reimbursement of losses caused by the dishonest conduct of attorneys admitted to the practice of law in Alaska, up to a maximum of \$10,000.00 for each claim and \$50,000.00 per attorney. Dishonest conduct means the wrongful taking of a client's money or other property. A situation in which an attorney did not complete work for which the client has paid or did not perform to the client's satisfaction does not, alone, constitute a claim. A claim for reimbursement must be filed with the Committee within three years after the client discovers the loss.

The Client Security Fund Committee does not have authority to discipline attorneys for misconduct, resolve fee disputes or determine legal malpractice claims. Fee disputes, complaints of misconduct or malpractice should be pursued by notifying the Alaska Bar Association or by civil lawsuit. In addition to filing a claim with the Client Security Fund Committee, a claimant should report the attorney's conduct to the Alaska Bar Association. A claimant should also report illegal acts, such as theft or embezzlement, to the local District Attorney.

how to file a claim

A claim form and other information and assistance is available by writing the Client Security Fund Committee or calling the Alaska Bar Association. A claimant is not required to be represented by an attorney in order to process a claim with the Fund.

ALASKA BAR

A S S O C I A T I O N

January 16, 1990

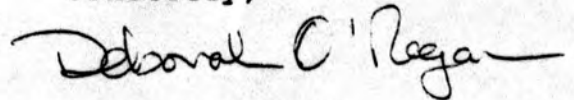
David Rogers
Liability Insurance Committee Task Force
P.O. Box 33932
Juneau, AK 99803

Dear David:

As requested, enclosed is the section from the Alaska Bar Association 1988 and 1989 Annual Reports covering the Bar's Continuing Legal Education (CLE) program. I've also enclosed some sample brochures from CLE seminars.

Please let me know if there is any further information which I can provide.

Sincerely,



Deborah O'Regan
Executive Director

Enclosures
ed115

IV. CONTINUING LEGAL EDUCATION

Continuing Legal Education programs and activities are an important part of the work of the Alaska Bar Association and are in furtherance of its goal of serving and assisting the legal profession in the State of Alaska. Programs and activities presented for Continuing Legal Education (CLE) purposes are for the professional development and enhancement of the membership of the Alaska Bar Association. It is of the utmost importance that the Bar Association provide sufficient CLE seminars to allow attorney members to keep abreast of new developments in the field of law.

The supervisory responsibility for presenting and administering all CLE programs and activities is placed upon the Continuing Legal Education Committee and the Association's Director of Continuing Legal Education. The CLE Committee is composed of 13 Bar Association members: 12 attorney members representing the various geographic areas of the state, and 1 judicial representative. All members serve staggered 3-year terms.

The 16 substantive law sections of the Bar Association are responsible for sponsoring one CLE seminar a minimum of every two years. Most sections sponsor one CLE activity per year, in addition to holding regular monthly section meetings and an annual meeting at the yearly Bar convention. Other CLE seminars not sponsored by a particular Substantive Law Section are sponsored by the CLE Committee itself.

In 1989 the CLE program sponsored 24 live programs in Anchorage and 1 live program in Fairbanks with a total member attendance for the year of 1,335 (970 members/365 non-members). Average attendance at a CLE was 71. The most challenging CLE presented in 1989 was the National Institute of Trial Advocacy (NITA) Skills Course, an intensive 8-day program for 48 attorneys presented by a faculty of 17 practitioners and judges from across the United States. Local and Outside faculty provided a program of one-on-one training for our members which culminated in 12 simultaneous mock trials presided over by local volunteer judges, and augmented by over 100 local community volunteer jurors and witnesses.

Overall program income exceeded this year's target; however, the general CLE budget, which includes indirect costs of staff time and overhead, experienced a shortfall. This shortfall is significantly lower than in past years. The general fund of the Bar Association covers the indirect costs of CLE programs, including staff time. This financial arrangement allows the bar to offer programs at lesser registration fees than if administrative indirect costs had to be covered by direct program income. The Bar also offers a

registration fee credit option of up to 50% to members traveling into Anchorage via commercial carrier for a CLE program.

An expanded 2-day "Bridge-the-Gap" program for new admittees to the practice of law in Alaska was also presented in 1989. Ten sections participated in this program designed to help "bridge-the-gap" between the theory of law school and the practice of law, with emphasis on Alaskan legal practice.

In addition, updates to the 3rd edition of the "Bridge-the-Gap" manual were received from ten sections, and included for the first time were the topics of "Criminal Defense," "Criminal Prosecution," "Paralegal Profitability," "Collections and Executions," "Discovery," "Fast Track Rule," "Professional Conduct for the Non-Attorney," and "Tort Claims."

Group video replays of live programs are regularly scheduled in Juneau, Fairbanks and Kodiak, to meet the educational needs of bar members outside Anchorage, the usual venue for live programs. There is an average attendance of 5 bar members at each of these programs. Bar members receive CLE credit for attending a group video replay. A bar member in each city serves as the volunteer coordinator for these programs and handles scheduling, logistics, and registration.

A CLE Policy Statement and Guidelines was adopted by the Board of Governors in 1989. This Policy Statement and Guidelines aids the Bar in administering the CLE program and provides assistance to the CLE Director, CLE Committee, and Sections in developing CLE activities. The policy requires, for example, that the ethical content of every CLE topic be addressed at least peripherally at every CLE seminar, and clarifies the procedures for developing and sponsoring programs.

At the 1989 Annual Convention in Juneau, a resolution was passed to draft a proposed Mandatory Continuing Legal Education (MCLE) Rule requiring members to accrue a minimum number of CLE credits for seminars attended over a given period. A MCLE Committee was appointed to draft the Rule, and after consideration of comments by the CLE Committee, finalized a draft to be presented to the Board of Governors at their January 1990 meeting.

The CLE Library is now administered by the CLE Assistant and has dramatically improved service to bar members. The library contains videotapes (1/2" VHS) of all live programs, copies of course materials for each CLE, copies of Annual Section Updates, and a small number of audiotapes of short CLE programs. The library receives an average of 5 videotape rental and/or course materials requests per day, and usual response time to the request is 24 hours. Tape rental is normally \$10.00 per person plus \$25 per set of course materials. Priority is always given to bar members outside of

Anchorage. Library materials are also available for purchase including CLE course materials and Section Annual Updates. A CLE Library Catalog is scheduled for distribution in January 1990, and a CLE Calendar and Video Replay Calendar are routinely distributed and published in the Bar Rag.

In an effort to enhance the image of our CLE programs and create a more identifiable "look" for CLE brochures, as well decrease our printing costs, the CLE program now has a standard brochure designed by a graphic artist, and nearly all brochures are photocopied, rather than offset printed. Response to the new format has been excellent.

Over 125 attorney and non-attorney lecturers served as faculty for the 24 CLE programs presented live in 1989:

ALASKA BAR ASSOCIATION CLE CALENDAR

Programs are full day unless otherwise noted.

1989

#01 January 26 Lunch Program 1 CLE credit	Review of the New Recording Act	Hotel Captain Cook
#02 February 15 7.2 CLE Credits	Forensic Engineering: Testimony, Demonstrative Evidence and Exhibits	Anchorage Hilton
#03 February 24 AM Miniseminar 4.5 CLE Credits	Wrongful Discharge (ABA Tape Series & local commentary)	Hotel Captain Cook
#12 Feb 27,28 & Mar 1 22.8 CLE credits	Courtroom Procedures (Law Enforcement Coordinating Comm. & Crim. Pros. Section)	Egan Conv. Ctr.
#11 March 3 Afternoon 4.5 CLE Credits	Tax Aspects of Bankruptcy & Insolvency(ASCPA, AATC,ASIA)	Clarion Hotel
#96 March 7-9 9.6 CLE Credits	Hawaii CLE: Unorthodox Trial Techniques	Sheraton Kauai
#04 March 14 7.2 CLE Credits	Loan Documentation	Hotel Captain Cook
#04 March 16 7.2 CLE Credits	Loan Documentation (Live repeat of Anchorage program)	Sophie's Station, Fairbanks

#05 March 27 Half Day 3.3 CLE Credits	Securities Law for Non-Securities Lawyers	Hotel Captain Cook
#07 April 20-22 Half Day on Th and Fri -- Full Day on Sat 19.8 CLE Credits	Bridge the Gap	Hotel Captain Cook
#09 May 25-26 18 CLE credits	5th Annual Alaska Tax Conference (with APU & Ak Society of CPAs)	Anchorage Hilton
#08 June 8-10 6 CLE credits 3 CLE credits	Annual Convention - CLE: Negotiations Skills (1 day) Media and the Law (3-hr.)	Juneau
#16 July 12 7.2 CLE credits	Alaska Corporate Code	Hotel Captain Cook
#13 July 18 7.2 CLE credits	Foreclosure Issues in AK	Hotel Captain Cook
#06 Sept 7 Half Day 4.2 CLE credits	Adoption Issues	Hotel Captain Cook
#17 Sep 7-8 12 CLE credits	Fed. Sentencing Guidelines (in coop. with US Dist. and Probation Office)	Federal Bldg.
#10 Sep 16-23 63 CLE credits	NITA of the North - 8-day Intensive Trial Advocacy Program	Hotel Captain Cook
#15 Oct 27 4.4 CLE credits Half day	Maritime Personal Injury	Hotel Captain Cook
#18 Oct 31 & Nov 2 10.8 CLE credits 2 Half days	Fed. & State Sentencing Guidelines	Anchorage Hilton
#25 Nov 8 3.4 CLE credits Half day	Malpractice Survival	Hotel Captain Cook
#19 Nov 16 8.4 CLE credits	2nd Annual AK Native Law Conference	Hotel Captain Cook

**#28 Nov 29
1.8 CLE credits
AM Miniseminar**

Off the Record

**Hotel Captain
Cook**

**#22 Dec 5
2.7 CLE credits
AM Miniseminar**

**Basic Nuts & Bolts of
Foreclosures**

**Hotel Captain
Cook**

A total of 24 live programs were presented in 1989.

A small number of CLE programs each year are presented on a cooperative basis with organizations outside the Bar Association, such as Professional Education Group and ALI-ABA. Generally, Bar CLE programs are developed in-house with volunteer faculty from the Bar Association.

IV. CONTINUING LEGAL EDUCATION

Continuing Legal Education programs and activities are an important part of the work of the Alaska Bar Association and are in furtherance of its goal of serving and assisting the legal profession in the State of Alaska. Programs and activities presented for Continuing Legal Education (CLE) purposes are for the professional development and enhancement of the membership of the Alaska Bar Association. It is of the utmost importance that the Bar Association provide sufficient CLE seminars to allow attorney members to keep abreast of new developments in the field of law.

The supervisory responsibility for presenting and administering all CLE programs and activities is placed upon the Continuing Legal Education Committee and the Association's Director of Continuing Legal Education. The CLE Committee is composed of 13 Bar Association members: 12 attorney members representing the various geographic areas of the state, and 1 judicial representative. All members serve staggered 3-year terms.

The 15 substantive law sections of the Bar Association are responsible for sponsoring one CLE seminar a minimum of every two years. Most sections sponsor one CLE activity per year, in addition to holding regular monthly section meetings and an annual meeting at the yearly Bar convention.

In 1988 the CLE program sponsored 24 live programs in Anchorage and 1 live program in Juneau with a total member attendance for the year of 2,115. Average attendance at a CLE was 71.* Program income exceeded this year's target; however the general CLE budget, which includes indirect costs of staff time and overhead, experienced a shortfall. This shortfall is significantly lower than in past years. The general fund of the Bar Association covers the indirect costs of CLE programs, including staff time. This financial arrangement allows the bar to offer programs at lesser registration fees than if administrative indirect costs had to be covered by direct program income. The Bar also offers a registration fee credit option of up to 50% to members traveling into Anchorage via commercial carrier for a CLE program.

**This figure does not include 1) 1988 Convention CLE Attendance which is normally far higher than that of a regularly scheduled CLE or 2) the 100 non-bar members who attended the "1991" CLE sponsored by the Alaska Native Law Section.*

Group video replays of live programs are regularly scheduled in Juneau, Fairbanks, and, as of 1988, Kodiak, to meet the educational needs of bar members outside Anchorage, the usual venue for live programs. There is an average attendance of 5 bar members at each of these programs. Bar members receive CLE credit for attending a group video replay. A bar member in each city serves as the volunteer coordinator for these programs and handles scheduling, logistics, and registration. Ketchikan is exploring the possibility of doing group video replays in 1989.

The CLE program received for the first time a \$500 grant from the American Bar Association to assist in presenting a "Special Domestic Relations Issues" CLE sponsored by the Family Law Section in November 1988. The Bar CLE program will continue to apply for this type of grant in an effort to assist the CLE budget.

The draft of a CLE Policy Statement and Guidelines was developed in late 1988 for submission to the Board of Governors for adoption in 1989. This Policy Statement and Guidelines will aid the Bar in administering the CLE program and will provide assistance to the CLE Director, CLE Committee, and Sections in developing CLE activities. The CLE Committee reviewed the policy in 1988 and it was placed on the January 1989 Board agenda.

The CLE Library is now administered by the CLE Assistant and has dramatically improved service to bar members. The library contains videotapes (1/2" VHS) of all live programs, copies of course materials for each CLE, copies of Annual Section Updates, and a small number of audiotapes of short CLE programs. The library receives an average of 5 videotape rental requests per day, and normal response time to the request is 24 hours depending on tape availability. Tape rental is normally \$10.00 per person plus \$25 for course materials. Priority is always given to bar members outside of Anchorage. Library materials are also available for purchase including CLE course materials and Section Annual Updates. Work is progressing on the revised CLE Library Catalog, and for the first time this year we have published a video replay schedule. The replay schedule and live schedule are also printed in the Bar Rep.

In an effort to enhance the image of our CLE programs and create a more identifiable "look" for CLE brochures, as well decrease our printing costs, the CLE program now has a standard brochure designed by a graphic artist, and nearly all brochures are photocopied, rather than offset printed. Response to the new format has been excellent.

Over 100 attorney and non-attorney lecturers served as faculty for the 25 CLE programs presented live in 1988:

1988 CONTINUING LEGAL EDUCATION PROGRAMS

DATE	COURSE	LOCATION	CREDITS
January 23	Civil Jury Instructions	Anchorage	3.3
February 10	Broker Liability	Anchorage	1.8
February 26	Drug Testing in the Workplace	Anchorage	7.5
March 3, 10, & 17	Medical Malpractice Litigation	Anchorage	7.5
March 21-27	Deposition Skills	Hawaii	9.9
April 7	Will & Trust Drafting	Anchorage	7.2
April 13, 10 & 27	Corporate Law Mini-Seminars (2.1 credits each)	Anchorage	6.3
April 15	Lawyer Malpractice	Anchorage	6.6
May 20	Listening & Memory Skills for Judges & Lawyers	Anchorage	7.2
June 9	New Wave Litigation	Anchorage	3.0
June 10	Constitutional Issues	Anchorage	3.0
June 11	Unorthodox Trial Techniques	Anchorage	3.0
June 13-14	Tax Conference, Pt. I	Anchorage	14.7
June 24	Off the Record	Fairbanks	3.0
July 27-29	Bankruptcy Law (ALI-ABA)	Anchorage	18.8
September 9	Lender Liability	Anchorage	7.2
September 16	Tax Conference, Pt. II	Anchorage	8.4
September 23	Maritime Liens & Mortgages	Anchorage	3.9
October 14	Hazardous Waste	Anchorage	8.4

November 4-5	Preserving the Settlement: 1991	Anchorage	12
November 10	Special Domestic Relations Issues	Anchorage	5.4
November 17 & 21	Estate Planning (ALI-ABA Video Replay)	Anchorage	4.4
November 30	Retainers & Trust Accounts	Anchorage	2.4
December 8	Lawyer Trust Accounting	Anchorage	7.2
December 7 & 14	Straight Talk for Attorneys	Anchorage	7.4

A small number of CLE programs each year are presented on a cooperative basis with organizations outside the Bar Association, such as Professional Education Group and ALI-ABA. Generally, Bar CLE programs are developed in-house with volunteer faculty from the Bar Association.

FROM THE PRESIDENT

Jeffrey Feldman

As we began the New Year, I gave some thought to the state of the Alaska Bar Association, and where the organization will be at the close of the next decade. The following is a proposed blueprint for the activities of the Bar Association and the changes that may be considered to meet the challenges we will face. In drafting this agenda, I have focused on the following goals:

1. To advance the administration of justice in our state.
2. To increase public confidence in both the system of justice and the self-regulation of the practice of law by the Alaska Bar Association;
3. To improve the professional competence of the members of the Alaska Bar Association;
4. To better serve the professional needs of the members of the Alaska Bar Association;
5. To maintain the institutional independence of the Alaska Bar Association; and
6. To increase the opportunities of participation by the membership in the Alaska Bar Association.

With these goals in mind, I propose the following:

Bar Examination

1. Speed up the bar examination process. With an applicant pool as small as Alaska's, we should aim at releasing results of the examination within sixty days of each administration of the test. We should relieve applicant's of the unnecessary anxiety and burden of having to wait several months for exam results.

2. Review the bar examination process. The last modification and experimentation with the bar examination was in 1982, when the research question was added to the test. The research question has been a success and has been demonstrated to have a high level of reliability (the results of the research question correlate highly with the results of the test, overall). We should consider:

- Expanding the research question component of the test to an additional day;
- Abandoning the multistate examination entirely;
- Encouraging further experimentation with the test with an eye towards arriving at a test that mirrors as closely as possible those skills required to be an effective lawyer.

Because of the small number of applicants in Alaska, we have the luxury of being able to experiment with testing alternatives. We should encourage creativity in this area.

3. The Alaska Bar Association should administer a mandatory ethics orientation class (much like a CLE program) which each successful Bar applicant should be required to take before being admitted to the Bar. The ethics program should cover such topics such as client relations, trust account problems, neglect, relations with the courts and the various ethical problems that arise on a regular basis and which give way to a substantial number of the grievances that are filed each year against Alaska lawyers.

Discipline

4. Speed up the grievance process. We should aim at reducing the time that expires from the filing of an initial grievance to the completion of the investigation by the Bar Association to sixty days. The period from filing a formal complaint until the hearing should not exceed 120 days and all area hearing committees should be required to deliver their

decisions within thirty days. Meeting this schedule will require that the Bar Association allocate additional resources to the discipline process. This will include an additional assistant discipline attorney, an investigator, and a secretary. Failure to allocate these resources, will limit the Bar's ability to keep pace with the grievance filings and additionally, will erode the confidence of the public, the legislature and the court in the Bar's ability to administer a system of self discipline.

5. Establish a grievance "fast-track" for quicker resolution of simple grievance cases until such time as the additional resources are allocated to increase the speed in which a grievance proceeding is handled. This will have the effect of reducing backlog substantially.

6. Make all portions of the discipline process open to the public. At present, proceedings are open only after a formal complaint has been filed. Opening earlier portions of the proceedings will increase public confidence in the integrity of the proceedings and reduce suspicions that the Bar Association only protects the interest of lawyers.

CLE

7. Aggressively extend the CLE program state-wide, and provide for a minimum of 6 live CLE programs in Juneau and 6 in Fairbanks each year. CLE is one of the statutorily mandated functions of the Association, and it is long time that we recognize that members outside of Anchorage have received second-hand treatment in the area of CLE.

8. Adopt a mandatory CLE rule as a demonstration of the commitment the Association has to professional competence and to foster confidence on the part of the public in the Association's commitment to this important function.

Board of Governors

9. Expand the Board of Governors to a total of sixteen persons (four additional members). The increase is merited by the growing workload of the board in matters relating to discipline, admissions, rule making and administration of the organization. The four new members should be comprised as follows:

- One additional lay member to be appointed by the Governor;
- One attorney member to be appointed from the second judicial district (presently unrepresented);
- One additional statewide at-large attorney member; and
- One attorney member from the third judicial district not residing in Anchorage (also presently unrepresented).

10. Decisions by the Board of Governors on discipline matters and admissions appeals should be by written opinion, which should be maintained and indexed.

11. Publish the minutes of the Board of Governors in the Bar Rag.

12. Publish the proposed and adopted budget of the Bar Association in the Bar Rag.

Better status and support

13. The Bar Association should devise a more effective and faster way of handling requests for ethics opinions. Several ethics sub-committees should be constituted to render opinions quickly so that attorneys that are conscientious enough to seek ethics advice can be provided with a

timely response.

14. Satellite Bar Association offices and improved tele-communications facilities should be developed to provide better services to attorneys outside of Anchorage.

Trust accounts

15. The Alaska Bar Association should randomly audit trust accounts to ensure proper accounting and compliance with ethical requirements. The actual number of accounts audited each year should be determined by auditors selected by the Bar Association. Mandatory audit procedure will require a bar rule change.

16. Participation in the IOLTA Program should be mandatory (Interest on Lawyer's Trust Accounts).

Law review

17. Produce a Manual on Civil and Criminal Practice in Alaska. Unlike many states, Alaska lacks a treatise on civil and criminal practice in our State. Commercial publishers have declined to publish such volumes because of the small number of sales that could be expected in Alaska. We should ask the Duke Law Review to cover several areas of civil and criminal practice in Alaska each year in a series of articles. The actual topics and the sequence of publication should be coordinated between the Law Review and a committee to be appointed by the Bar Association. Over the course of five years, most of the important areas of civil and criminal practice could be covered with scholarly treatment and by 1995 all of the articles could be edited, updated and assembled into what will become a Manual on Civil and Criminal Practice in Alaska. The edited materials could be published either by Duke and sold at a nominal cost to Alaska Lawyers, or, if necessary, could be published by the Bar Association (subject to working out copyright issues with Duke). Many members of the Bar Association have expressed a desire that the Law Review cover topics that are important and are relevant to practice in Alaska. This plan would insure that each edition of the Law Review would be of interest and helpful to many Alaska lawyers and would generate a product which, over a period of time, most lawyers would find very useful. If for some reason, Duke declines to cooperate with us on this project, we should re-negotiate the law review contract with another university willing to meet our needs.

Minority issues

18. The Alaska Bar Association and the Alaska Court System remain almost exclusively white institutions. A joint Judicial-Bar committee should be appointed, to examine issues relating to minority participation in both organizations to identify participation, goals and the means by which those goals can be realized.

Financing/fees

Adoption of some of these changes will generate significant costs to the Association. Consideration should be given to absorbing those costs by some or all of the following:

19. Review the current level of membership dues.

20. Review the level of surplus funds that are legitimately needed by the Association and consider a plan for use of any identified excess.

21. Identify services and items (membership directories, ethics opinions, etc.) that reasonably can be distributed by the Bar Association with a user fee that includes a modest profit.

22. Award costs and fees to the prevailing party in all grievance proceedings. This will have the salutary

effect of reimbursing the Bar Association in cases in which the Association prevails and, likewise, reimbursing the attorney/respondent who prevails in the grievance proceeding.

23. Assess costs against non-prevailing attorneys in fee arbitration proceedings.

Bar-Bench relations

24. Appoint a permanent bar-bench committee charged with the responsibility of constantly identifying the sources of bar-bench problems and convening programs aimed at improving bar-bench relations.

BAR PAC

25. As a unified, mandatory bar association, the Alaska Bar Association does not participate in political issues. Yet, there are a number of issues each year that arise (judicial pay raises, court system services, various legislation, etc.) that has an impact on the administration of justice. As lawyers, we have an obligation and a responsibility to participate in the public debate on these important issues and members of the bar should independently organize a political action committee to provide a means by which they may have a voice on these issues.

Reciprocal Conference with the USSR

26. Alaska will be hosting the 1990 Northern Justice Conference in June with lawyers and judges participating from the USSR. We should coordinate a reciprocal conference with the Soviet Union in 1991 or 1992 and consider institutionalizing relations and communications between our respective organizations.

There is no doubt that many of the proposals suggested above will spark vigorous debate and controversy. Yet, I believe that these changes will strengthen the organization and help us better realize the goals set out at the beginning of this column.

THE BAR RAG

Board of Governors
Alaska Bar Association
1989-1990

President: Jeffrey M. Feldman
President-elect: Daniel R. Cooper Jr.
Vice President: Alex Young
Secretary: Sandra Strasser
Non-Attorney Member:
Treasurer: Law M. Williams
Non-Attorney Member:

March 23 and 24, 1990
June 4-6, 1990
June 7-8, 1990, Annual Convention
Hotel Captain Cook, Anchorage

President: Jeffrey M. Feldman
President-elect: Daniel R. Cooper Jr.
Vice President: Alex Young
Secretary: Sandra Strasser
Non-Attorney Member:
Treasurer: Law M. Williams
Non-Attorney Member:

Members:
Bruce A. Bookman
Andonia Harmon
Elizabeth "Pat" Kennedy
Ardith Lynch
John M. Menagh
Michael A. Thompson
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Michael J. Schlander
Dorothy F. Willard
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Computer Composition
(907) 379-0752

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FEDERAL AND STATE SENTENCING PROCEDURES AND ISSUES

This seminar is designed to inform criminal defense attorneys of changes in sentencing procedures at both the state and federal levels and of current sentencing issues at both levels. It is intended to provide a practical approach to handling criminal sentencings at both the state and federal levels with an emphasis on recognizing and dealing with significant issues when they arise during sentencings.

Federal Sentencing Issues

Tuesday, October 31, 1989

9:00 a.m. — 5:00 p.m.

State Sentencing Issues

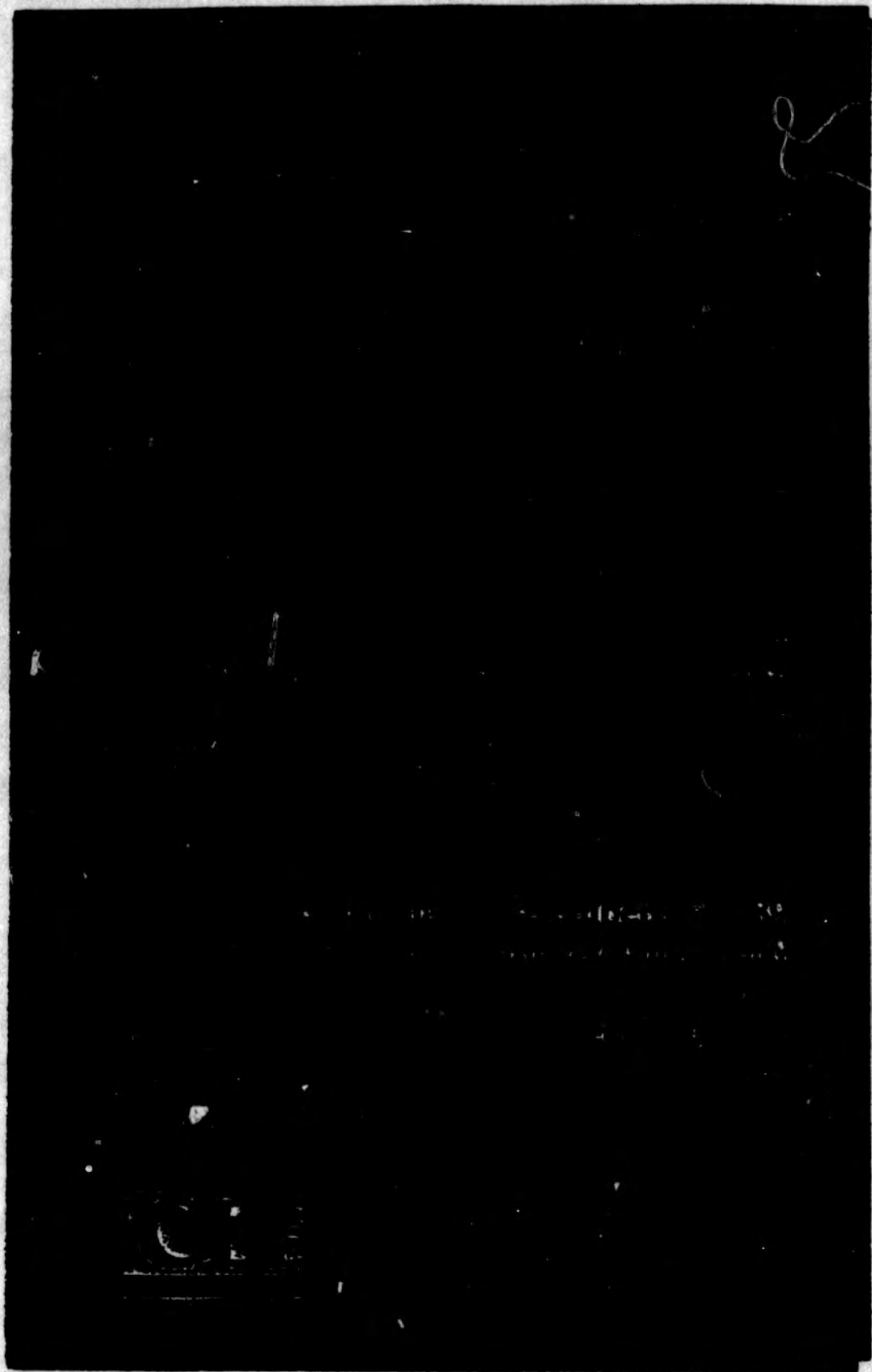
Thursday, November 2, 1989

2:00 p.m. — 5:00 p.m.

Anchorage Hilton Hotel



Sponsored by the
Criminal Defense Section of the
Alaska Bar Association



BASIC NUTS AND BOLTS OF NONJUDICIAL FORECLOSURES

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Nurses, etc.

**CHAPTER 68.
NURSING.****Article**

1. Board of Nursing (§§ 08.68.010—08.68.150)
2. Examination and Licensing
(§§ 08.68.160—08.68.276)
3. Nursing Education Programs
(§§ 08.68.280—08.68.330)
4. Unlawful Acts (§§ 08.68.340—08.68.390)
5. General Provisions (§§ 08.68.400—08.68.410)

**ARTICLE 1.
BOARD OF NURSING.****Section**

10. Creation and membership of Board of Nursing
60. Qualifications of registered nurse and licensed practical nurse board members
70. Election of officers
80. Meetings
90. Quorum
100. Duties and powers of board
111. Executive secretary of board
140. Applicability of Administrative Procedure Act
150. Expenses

Sec. 08.68.010. Creation and membership of Board of Nursing. There is created a Board of Nursing, consisting of seven members appointed by the governor. One member shall be a licensed practical nurse currently involved in institutional nursing service, one member shall be a registered nurse engaged in baccalaureate nursing education, three members shall be registered nurses at large, and two members shall be persons who have no direct financial interest in the health care industry.

Sec. 08.68.060. Qualifications of registered nurse and licensed practical nurse board members. The five members of the board who are nurses shall be licensed in the state, and shall have been actively engaged in nursing for not less than four years before appointment, three years of which were within the five years immediately preceding appointment.

Sec 08.68.070. Election of officers. The board shall annually elect a chairman and secretary from among its members.

Sec 08.68.080. Meetings. The board shall meet at least four times a year.

Sec. 08.68.090. Quorum. A majority of the board constitutes a quorum.

Sec. 08.68.100. Duties and powers of board. (a) The board shall

(1) adopt regulations necessary to implement this chapter, including regulations pertaining to practice as an advanced nurse practitioner and a nurse anesthetist;

(2) approve curricula and adopt standards for basic education programs that prepare persons for licensing under AS 08.68.190;

(3) provide for surveys of the basic nursing education programs in the state at the times it considers necessary;

(4) approve education programs that meet the requirements of this chapter and of the board, and deny, revoke, or suspend approval of education programs for failure to meet the requirements;

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

(6) prescribe requirements for competence before a former nurse may resume the practice of nursing under this chapter;

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

(8) define by regulation the qualifications and duties of the executive secretary and delegate authority to the executive secretary that is necessary to conduct board business;

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

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

(b) The board may

(1) conduct hearings upon charges of alleged violations of this chapter or regulations adopted under it;

(2) invoke, or request the department to invoke, disciplinary action against a licensee;

(3) prescribe requirements for competence to continue practice.

Sec. 08.68.111. Executive secretary of the board. (a) The Department of Commerce and Economic Development, in consultation with the Board of Nursing, shall employ a licensed, registered nurse, who is not a member of the board, to serve as executive secretary of the board.

(b) The executive secretary shall perform duties as prescribed by the board.

(c) [Repealed, § 29 ch 14 SLA 1982.]

(d) [Repealed, § 1 ch 129 SLA 1974.]

Sec. 08.68.140. Applicability of Administrative Procedure Act. The board shall comply with the Administrative Procedure Act (AS 44.62).

Sec. 08.68.150. Expenses. Members of the board are entitled to the per diem and travel expenses allowed by law.

ARTICLE 2.

EXAMINATION AND LICENSING

Section

160. License required

170. Qualifications of registered or practical nurse applicants

180. Qualifications of practical nurse applicants

190. License by examination

200. License by endorsement

210. Temporary permits

220. Fees

230. Use of title and abbreviation

240. Nurses licensed or holding temporary permits under previous law

251. Lapsed licenses

265. Scope of practice of practical nurses

270. Grounds for denial, suspension, or revocation

275. Disciplinary sanctions

276. Continuing competence required

278. Immunity for certain reports to the board

Sec. 08.68.160. License required. A person practicing or offering to practice professional or practical nursing in the state shall submit evidence of qualification to practice, and shall be licensed under this chapter.

Sec 08.68.170. Qualifications of registered or practical nurse applicants. An applicant for a license to practice registered or practical nursing shall submit to the board on forms and in the manner prescribed by the board, written evidence, verified by oath, that the applicant has successfully completed

(1) a registered or practical nursing education program accredited by the board; or

(2) a registered or practical nursing education program outside the state which, in the opinion of the board, meets the minimum requirements of the board for an accredited program of study in this state at the time the applicant graduated; or

(3) a registered or practical nursing education program accredited by the National League for Nursing at the time the applicant graduated.

Sec. 08.68.180. Qualifications of practical nurse applicants. (a) [Repealed, § 29 ch 14 SLA 1982.]

(b) A qualified student of the Mt. Edgecumbe School of Practical Nursing who was graduated before January 1, 1959, and had eighth grade pretraining is eligible for a license.

Sec 08.68.190. License by examination. The applicant shall pass a written examination as prescribed by the board. The board shall issue a license to an applicant who passes the examination to practice registered or practical nursing provided the other qualifications outlined in AS 08.68.170 and 08.68.180 are also met. The board shall conduct examinations annually and as often as it considers necessary at locations designated by the board.

Sec. 08.68.200. License by endorsement. The board may issue a license by endorsement to practice as a registered or practical nurse, whichever is appropriate, to an applicant who

(1) is licensed as either a registered or practical nurse under the laws of another state, if in the opinion of the board the applicant meets the qualifications required for licensing in the state, and meets the requirements of AS 08.68.170;

(2) meets the requirements of AS 08.68.170 and has successfully completed the Canadian Nurses' Association Testing Service examination if the board determines it is comparable to the examination administered by this state; or

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

Sec. 08.68.210. Temporary permits. (a) The board may issue a temporary permit, nonrenewable and valid for a period not exceeding four months, to an applicant for a license by endorsement if the applicant

(1) submits proof satisfactory to the board that the applicant is currently licensed in another state or Canadian province that administers an examination approved by the board under AS 08.68.200(2);

(2) meets the requirements of AS 08.68.170, and

(3) pays the required fee.

(b) The board may issue a nonrenewable permit to an applicant for license by examination if the applicant

(1) meets the qualifications of AS 08.68.170; or

(2) is a graduate of a foreign school of nursing and has successfully completed the examination administered by the Commission on Graduates of Foreign Nursing Schools. The permit will be valid for a period not extending beyond the time when the results are published of the first examination the applicant is eligible to take after the permit is issued, however, if the applicant does not take the examination for which the applicant is scheduled, the permit lapses on the day of the examination.

Sec. 08.68.220. Fees. The Department of Commerce and Economic Development shall set fees under AS 08.01.065 for each of the following:

(1) registered nursing:

(A) application;

(B) license by examination;

(C) license by endorsement;

(D) license renewal;

(2) for practical or vocational nursing:

(A) application;

(B) license by examination;

(C) license by endorsement;

(D) license renewal;

(E) temporary permit.

Sec. 08.68.230. Use of title and abbreviation. (a) A person licensed to practice registered nursing in the state may use the title "licensed professional nurse," "registered nurse," and the abbreviation "R.N."

(b) A person licensed to practice practical nursing in the state may use the title "licensed practical nurse," or "licensed vocational nurse," and the abbreviation "L.P.N." or "L.V.N."

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

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

Sec. 08.68.240. Nurses licensed or holding temporary permits under previous law. A person holding a license to practice registered or practical nursing in the state under prior law is considered licensed as a registered or practical nurse.

Sec. 08.68.251. Lapsed licenses. (a) A lapsed license may be reinstated if it has not remained lapsed for more than five years by payment of the license fees for the current renewal period and the penalty fee. The person seeking reinstatement shall meet the continuing competency requirements of the board.

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

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

(2) if the board determines that the person applying for reinstatement was actively employed in nursing in another state during the time that the license has lapsed in this state, the license that has lapsed may be reinstated by payment of fees as required by (a) of this section.

Sec. 08.68.265. Scope of practice of practical nurses. A practical nurse shall work under the supervision of a licensed registered nurse, a licensed physician, or a licensed dentist.

Sec. 08.68.270. Grounds for denial, suspension, or revocation. The board may deny, suspend, or revoke the license of a person who

- (1) has obtained or attempted to obtain a license to practice nursing by fraud or deceit;
- (2) has been convicted of a felony or other crime if the felony or other crime is substantially related to the qualifications, functions or duties of the licensee;
- (3) habitually abuses alcoholic beverages, or illegally uses controlled substances;
- (4) has impersonated a registered or practical nurse;
- (5) has intentionally or negligently engaged in conduct that has resulted in a significant risk to the health or safety of a client or in injury to a client;
- (6) practices or attempts to practice nursing while afflicted with physical or mental illness, deterioration, or disability which interferes with the individual's performance of nursing functions;
- (7) is guilty of unprofessional conduct as defined by regulations adopted by the board;
- (8) has willfully or repeatedly violated any of the provisions of this chapter or regulations adopted under it;
- (9) is professionally incompetent;
- (10) denies care or treatment to a patient or person seeking assistance if the sole reason for the denial is the failure or refusal of the patient or person seeking assistance to agree to arbitrate as provided in AS 08.55.535(a).

Sec. 08.68.275. Disciplinary Sanctions. (a) The board may take the following disciplinary actions singly or in combination:

- (1) permanently revoke a license or permit to practice;
- (2) suspend a license for a stated period of time;
- (3) censure a licensee;
- (4) issue a letter of reprimand;
- (5) impose limitations or conditions on the professional practice of a licensee;
- (6) impose peer review;
- (7) impose professional education requirements until a satisfactory degree of skill has been attained in those aspects of professional practice determined by the board to need improvement;
- (8) impose probation and require the licensee to report regularly to the board upon matters involving the basis for the probation;
- (9) accept a voluntary surrender of a license.

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

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

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

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

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

Sec. 08.68.276. Continuing competence required. A license to practice nursing may not be renewed unless the nurse has complied with continuing competence requirements established by the board by regulation.

Sec. 08.68.278. Immunity for certain reports to the board. A person who, under oath and in good faith, reports information to the board relating to alleged incidents of incompetent, unprofessional, or unlawful conduct of a nurse is not liable in a civil action for damages resulting from the reporting of the information.

ARTICLE 3. NURSING EDUCATION PROGRAMS

Section

280. Nursing education program prohibited unless approved

290. Application for accreditation

330. List of Accredited Programs

Sec. 08.68.280. Nursing education program prohibited unless accredited. A person, institution, or agency may not conduct a nursing education program that prepares persons for examination or licensing unless the program is approved by the board. A program may be approved by the board only if it is established through an approved postsecondary educational institution.

Sec. 08.68.290. Application for accreditation. An institution desiring to conduct a nursing education program to prepare

registered or practical nurses shall apply to the board and submit evidence that

- (1) it is prepared to carry out the curriculum approved by the board for registered nursing or for practical nursing, and that
- (2) it is prepared to meet other standards established by law and by the board.

Sec. 08.68.330. List of approved programs. The board shall prepare, maintain, and from time to time publish a list of approved nursing education programs in the state.

ARTICLE 4. UNLAWFUL ACTS.

Section

- 340. Violations
- 360. Unlicensed practice a public nuisance
- 370. Application for injunction
- 380. Issuance of injunction
- 390. Remedy not exclusive

Sec. 08.68.340. Violations. (a) It is a class B misdemeanor for a person to

- (1) practice nursing under a diploma, license, or record that is unlawfully obtained, signed, or issued;
- (2) practice or offer to practice nursing without a license, unless the person gives necessary aid to the ill, injured, or infirm in an emergency;
- (3) employ as a nurse a person who is not licensed to practice nursing;
- (4) use in connection with the person's name a designation that implies that the person is a licensed nurse unless the person is licensed;
- (5) practice nursing during the time that the person's license is suspended or revoked;
- (6) practice nursing with knowledge that the person's license has lapsed;
- (7) conduct a nursing education program and represent or imply that it is accredited by the board, unless the program has been accredited by the board.

(b) It is a class A misdemeanor for a person to knowingly or intentionally do any of the acts described in (a)(1)-(5) and (7) of this section.

(c) It is a violation for a person to practice nursing during the time that the person's license has lapsed if the person does not know that the license has lapsed.

Sec. 08.68.360. Unlicensed practice a public nuisance. The practice of professional or practical nursing for compensation by a

person who is not licensed, or whose license is suspended, or revoked, or expired, is declared to be inimical to the public welfare and to constitute a public nuisance.

Sec. 08.68.370. Application for injunction. The board may apply for an injunction in a competent court to enjoin a person not licensed or whose license is suspended or revoked, or expired, from practicing professional or practical nursing. The court may issue a temporary injunction enjoining the defendant from practicing professional or practical nursing.

Sec. 08.68.380. Issuance of injunction. If it is established that the defendant has been or is practicing professional or practical nursing without a license or has been or is practicing nursing after the defendant's license has been suspended or revoked, or has expired, the court may enjoin the defendant from further practice.

Sec. 08.68.390. Remedy not exclusive. If a person violates an injunction issued under this section, the person may be punished for contempt of court. The injunction proceeding is in addition to other penalties and remedies provided in this chapter.

ARTICLE 5. GENERAL PROVISIONS.

Section

- 400. Exceptions to application of chapter
- 410. Definitions

Sec. 08.68.400. Exceptions to application of chapter. (a) This chapter does not apply to

- (1) a qualified nurse licensed in another state employed by the United States Government or a bureau, or agency, or division of the United States Government while in the discharge of official duties;
- (2) nursing service given temporarily in the event of a public emergency, epidemic, or disaster;
- (3) the practice of nursing by a student enrolled in a nursing education program accredited by the board when the practice is in connection with the student's course of study;
- (4) the practice of nursing by an individual enrolled in an approved program or course of study approved by the board to satisfy the requirements of AS 08.68.251;
- (5) the practice of nursing by a nurse licensed in another state who engages in nursing education or nursing consultation activities, if these activities and contact with clients do not exceed 20 working days within a licensing period; or
- (6) the practice of nursing by a nurse licensed in another state whose employment responsibilities include transporting patients

into, out of, or through this state; however, this exception is valid for a period not to exceed 48 hours for each transport.

(b) For purposes of this section the word "nurses" includes registered and practical nurse, and "nursing" means registered and practical nursing.

Sec. AS 08.68.410. Definitions. In this chapter,

(1) "advanced nurse practitioner" means a registered nurse authorized to practice in the state who, because of specialized education and experience, is certified to perform acts of medical diagnosis and the prescription of medical, therapeutic, or corrective measures under regulations adopted by the board;

(2) "board" means the Board of Nursing;

(3) "incompetent" means that a nurse does not possess the skills, knowledge, and awareness of the nurse's limitations and abilities to safely practice nursing;

(4) "licensed practical nurse" is equivalent to the title "licensed vocational nurse" and to the name suffix abbreviations L.P.N. and L.V.N.;

(5) "licensed registered nurse" is equivalent to the common title "registered nurse" and the name suffix abbreviation R.N.;

(6) "nurse anesthetist" means a registered nurse authorized to practice in the state who, because of specialized education and experience, is certified to select and administer anesthetic and give anesthesia care under regulations adopted by the board;

(7) "practice of practical nursing" means the performance for compensation or personal profit or nursing functions that do not require the substantial specialized skill, judgment, and knowledge of a registered nurse;

(8) "practice of registered nursing" means the performance for compensation or personal profit of acts of professional service that requires substantial specialized knowledge, judgment, and skill based on the principles of biological, physiological, behavioral, and sociological sciences in assessing and responding to the health needs of individuals, families, or communities through services that include

- (A) assessment of problems, counseling, and teaching
 - (i) clients to maintain health or prevent illness; and
 - (ii) in the care of the ill, injured, or infirm;

(B) administration, supervision, delegation, and evaluation of nursing practice;

(C) teaching others the skills of nursing;

(D) execution of a medical regimen as prescribed by a person authorized by the state to practice medicine;

(E) performance of other acts that require education and training that are recognized by the nursing profession as properly performed by registered nurses;

(F) performance of acts of medical diagnosis and the prescription of medical therapeutic or corrective measure under regulations adopted by the board.

**CHAPTER 44.
BOARD OF NURSING**

Article

1. Nursing Education of Registered and Practical Nurses (12 AAC 44.010—12 AAC 44.140)
2. Nursing Education of Practical Nurses (12 AAC 44.150—12 AAC 44.280)
3. Examination and Licensure (12 AAC 44.290—12 AAC 44.320)
4. Advanced Nurse Practitioner (12 AAC 44.322—12 AAC 44.490)
5. Registered Nurse Anesthetists (12 AAC 44.500—12 AAC 44.560)
6. Continued Competency (12 AAC 44.600—12 AAC 44.660)
7. Disciplinary Guidelines (12 AAC 44.700—12 AAC 44.785)
8. General Provisions (12 AAC 44.900—12 AAC 44.990)

**ARTICLE 1.
NURSING EDUCATION OF
REGISTERED AND PRACTICAL NURSES**

Section

10. Purpose of accreditation
20. Types of accreditation
30. Survey
40. Establishment of nursing education program
50. Discontinuance of program
52. Denial, revocation, and reinstatement of accreditation
60. Organization and administration
72. Resources, facilities, and services
90. Faculty
130. Curriculum requirements
140. Reports

12 AAC 44.010. PURPOSE OF ACCREDITATION. The purpose of accreditation is

(1) to assure the safe practice of nursing by setting minimum requirements for the conduct of nursing education programs that prepare the nurse for practice;

(2) to assure the graduate of educational eligibility for admission to the licensing examination for nurses in Alaska; and

(3) to assure within the nursing education program the implementation of a comprehensive plan for the on-going evaluation of that program.

12 AAC 44.020. TYPES OF ACCREDITATION. (a) Full accreditation is granted to a nursing education program that has met the requirements set out in 12 AAC 44.010 — 12 AAC 44.140.

(b) Provisional accreditation is granted to a nursing education program that has not been in operation long enough to meet the requirements set out in 12 AAC 44.010 — 12 AAC 44.140.

(c) Conditional accreditation is granted to a nursing education program that has failed to maintain minimum standards and has been notified it must meet the requirements of the board within one year after the date of notice.

12 AAC 44.030. SURVEY. (a) The completed application for provisional accreditation must be submitted to the board when the nursing education program is ready for a survey visit.

(b) A survey of each nursing education program including affiliations and statewide facilities, is required for the purpose of full accreditation. The survey must be made by one or more representatives of the board, and may include an educational consultant, as designated by the board.

(c) Each nursing education program shall permit periodic surveys by the board or its designated representative for the purpose of determining compliance with accreditation standards. Each nursing education program shall permit a representative of the board to be included in national accreditation survey visits.

(d) Prior to a survey visit, specific information will be requested by the board.

(e) Repealed 4/2/86.

12 AAC 44.040. ESTABLISHMENT OF NURSING EDUCATION PROGRAM. (a) A university or college wishing to establish a nursing education program shall inform the board in writing during its initial planning period.

(b) There shall be information on the availability of clinical facilities and job opportunities for graduates.

12 AAC 44.050. DISCONTINUANCE OF PROGRAM. If a university or college with a nursing education program plans on discontinuing its program it shall notify the board in writing as soon as the decision is made.

12 AAC 44.052. DENIAL, REVOCATION, AND REINSTATEMENT OF ACCREDITATION. (a) After a hearing under AS 44.62, the board will, in its discretion, deny accreditation of a nursing education program if it determines that the program fails substantially to meet the standards for nursing education defined by the board.

(b) After a hearing under AS 44.62, the board will, in its discretion, revoke accreditation if

(1) the program has been unable to achieve minimal standards within one year of conditional accreditation; or

(2) the board determines that a nursing education program has not provided sufficient evidence that the standards of nursing education are being met.

(c) The board will, in its discretion, consider reinstatement of accreditation of a nursing education program upon submission of satisfactory evidence that the program meets the standards of nursing education.

12 AAC 44.060. ORGANIZATION AND ADMINISTRATION. (a) A nursing education program must be an integral part of an accredited institution authorized by the state to confer credentials in nursing.

(b) A nursing education program must have statements of purpose, philosophy, and objectives that are consistent with the law governing the practice of nursing.

(c) A nursing education program must be organized with clearly defined authority, responsibility, and channels of communication.

(d) A nursing education program must be administered by a registered nurse who is currently licensed in Alaska and who has at least a master's degree in nursing, and preparation or experience in administration, education, and clinical nursing practice.

(e) The administrator of a nursing education program is responsible for:

(1) the development and implementation of the curriculum;

(2) preparation and administration of the budget;

(3) recommendation for appointment, promotion, tenure, and retention of faculty; and

(4) notifying the board of any major changes in the program or its administration.

12 AAC 44.072. RESOURCES, FACILITIES, AND SERVICES. (a) Written agreements with cooperating agencies must be mutually developed and maintained, and periodically reviewed.

(b) Cooperating agencies must be approved by any existing appropriate accreditation, evaluation or licensing bodies.

12 AAC 44.090. FACULTY. (a) There must be a sufficient number of qualified faculty to meet the purposes and objectives of the nursing education program.

(b) Unless waived by the board, the minimum ratio of faculty-to-students in clinical areas involving direct care of patients or clients is one faculty member to 10 students.

(c) Nursing faculty who teach in a program offering the practical nurse certificate shall

- (1) be currently licensed as a registered nurse in Alaska;
- (2) have a minimum of a baccalaureate degree in nursing; and
- (3) have one year of clinical nursing experience relevant to areas of responsibility.

(d) Nursing faculty who teach in a program offering the associate degree or the baccalaureate degree in nursing shall

- (1) be currently licensed as a registered nurse in Alaska;
- (2) have a minimum of a masters degree in nursing; and
- (3) have one year of clinical nursing experience relevant to areas of responsibility.

(e) Adjunct faculty may be used for instruction of nursing courses and shall

- (1) be currently licensed as a registered nurse in Alaska;
- (2) have a minimum of a baccalaureate degree in nursing;
- (3) have one year of clinical nursing experience relevant to areas of responsibility;

(4) be supervised by qualified nursing faculty; or

(f) Faculty with comparable education will, in the board's discretion, be considered to have met the degree requirement of (c)(2), (d)(2), or (e)(2) of this section.

(g) Faculty are responsible for developing, implementing and evaluating the purpose, philosophy and objectives of the nursing program.

12 AAC 44.130. CURRICULUM REQUIREMENTS. (a) Curriculum must reflect the philosophy, conceptual framework, purpose, and objectives of the nursing education program, and must be consistent with laws governing the practice of nursing.

(b) The ratio between nursing and nonnursing credit must be based on a rationale to ensure sufficient preparation for the safe and effective practice of nursing;

(c) Learning experiences and methods of instruction must be selected to fulfill curriculum objectives.

(d) Curriculum must be evaluated by the faculty with provisions for student participation.

(e) Support courses must be taught by academic faculty prepared in those disciplines.

(f) Curriculum for programs offering the practical nurse certificate must include

(1) theory and practice in nursing encompassing the attainment and maintenance of physical and mental health and the prevention of illness for individuals and groups throughout the life process;

(2) concepts of anatomy, physiology, chemistry, physics, and microbiology;

(3) concepts of communication, growth and development, interpersonal relations, and cultural diversity;

(4) ethics, nursing history and trends, vocational and legal aspects of nursing;

(5) concepts of pharmacology, nutrition, and diet therapy; and

(6) concepts of the nursing process.

(g) Curriculum for programs offering the associate degree or baccalaureate degree in nursing must include

(1) theory and practice in nursing, encompassing the attainment and maintenance of physical and mental health and the prevention of illness for individuals and groups throughout the life process;

(2) concepts of anatomy, physiology, chemistry, microbiology, and physics;

(3) sociology, psychology, communications, growth and development, interpersonal relations, group dynamics, and cultural diversity;

(4) concepts of pharmacology, nutrition and diet therapy, and pathophysiology;

(5) concepts of ethics, nursing history and trends, and the professional and legal aspects of nursing;

(6) concepts of patient education;

(7) concepts of the nursing process.

12 AAC 44.140. REPORTS. By September 1 of each year, unless otherwise designated by the board, nursing education programs shall submit to the board reports related to faculty, students and current curriculum as follows:

(1) changes or new developments in the purpose, philosophy, objectives, conceptual framework, and subsequent curriculum changes;

(2) changes in the administrative structure;

(3) update on faculty membership;

(4) student enrollment statistics;

(5) resources and facilities data update;

(6) a program evaluation and plan for program improvement;

(7) projected changes for the school of nursing and curriculum for the next year;

(8) results of studies of postgraduate activities relative to ongoing employment and accomplishments of graduates.

ARTICLE 3. EXAMINATION AND LICENSURE

Section

- 290. Application for examination
- 300. Examinations
- 305. License by endorsement
- 310. Licensure of graduates of foreign schools of nursing
- 320. Temporary permits

12 AAC 44.290. APPLICATION FOR EXAMINATION. (a)

All applicants for license by examination in Alaska must

- (1) make written application, on a form provided by the department, for approval to take the licensing examination;
- (2) pay the application fee and the license by examination fee specified in 12 AAC 02.280;
- (3) provide the board with a complete certified transcript of his or her nursing education to the mailed directly to the department from the school of nursing; and
- (4) repealed 4/27/83;

(5) provide the nursing program verification form, completed by an official of the school of nursing attended, and mailed directly to the department from the school of nursing.

(b) The application and fees required under (a)(1) and (2) of this section must be post-marked no later than 60 days before the date of the examination except that applications post-marked after that date may be accepted on a showing of good cause. All supporting documents required under (a)(3) and (5) of this section, must be on file with the department no later than 21 days before the date of the examination.

12 AAC 44.300. EXAMINATIONS. (a) Candidates for a license by examination shall take the National Council Licensing Examination.

(b) Registered nurse candidates who receive a standard score of at least 1,600 on the examination will be issued a license by the board, provided all other qualifications and requirements outlined in AS 08.68 are also met.

(c) Practical nurse candidates who receive a standard score of at least 350 on the examination will be issued a license by the board, provided all other qualifications and requirements outlined in AS 08.68 are also met.

(d) Registered nurse candidates or practical nurse candidates who fail the examination may repeat the examination. A candidate who fails to retake the examination within five years after a first or second exam fail, must pursue a remedial course approved by the board. After a third exam fail or failure to retake the examination

within five years after receiving a failing grade on the examination, both a registered nurse and practical nurse candidate must submit to the board a proposal for a remedial course defined in relation to needs. The candidate must provide proof of having fulfilled the requirements of the remedial course before attempting to retake the examination.

12 AAC 44.305. LICENSE BY ENDORSEMENT. (a) All applicants for license by endorsement in Alaska must

(1) make written application on forms provided by the department;

(2) pay the application fee and the license by endorsement fee specified in 12 AAC 02.280; and

(3) submit, on a form provided by the department and verified by the endorsing state's licensing jurisdiction, proof of

(A) a license to practice as a registered nurse or a practical nurse issued by another state's licensing jurisdiction either

(i) before July 1, 1982 where licensure was obtained by successful completion of the State Board Test Pool examination with a score of 350 on each section for registered nurses and 350 on the examination for licensed practical nurses; or,

(ii) after June 30, 1982, where licensure was obtained by passing the National Council Licensing Examination with a standard score of 1600 for a registered nurse candidate or a standard score of 350 for a practical nurse candidate; or

(iii) before 1953, where licensure was obtained by passing the issuing state's constructed examination with a minimum score of 75 percent; and

(B) successful completion of an accredited nursing program;

(4) submit proof of employment in a nursing capacity within the five years preceding the date of application in the form of a reference letter from his or her past employer.

12 AAC 44.310. LICENSURE OF GRADUATES OF FOREIGN SCHOOLS OF NURSING. (a) Applicants shall submit all required documents accompanied by certified English translations if the original documents are not in English.

(b) Unless otherwise provided by this section, nurses who have received nursing education outside the United States shall write the National Council Licensing Examination.

(c) Applicants who have successfully completed the National Council Licensing Examination elsewhere will be licensed by endorsement.

(d) If an applicant was licensed in Canada either before August, 1980 as a result of passing the national Canadian examination with a score of at least 350 on each of the five parts of the examination, or after July, 1980 with a score of 400, an applicant may receive a license by endorsement in the manner provided by AS 08.68.200.

12 AAC 44.320. TEMPORARY PERMITS. (a) The board will, in its discretion, issue a temporary nonrenewable permit to an applicant for license by examination who

(1) applies on a form provided by the department in accordance with 12 AAC 44.290;

(2) pays the application fee, the license by examination fee, and the temporary permit fee specified in 12 AAC 02.280; and

(3) has taken the National Council Licensing Examination one time and is awaiting the results, or is scheduled to take the next National Council Licensing Examination.

(b) The board will, in its discretion, issue a temporary nonrenewable permit to an applicant for license by endorsement who

(1) applies on a form provided by the department;

(2) pays the application fee, the license by endorsement fee, and the temporary permit fee specified in 12 AAC 02.280; and

(3) submits verification of a current license to practice as a registered nurse or a practical nurse issued by another state licensing jurisdiction.

(c) A temporary permit issued under (a) of this section is valid until the results of the National Council Licensing Examination are made available to the board and notification of the results is received by the temporary permit holder.

(d) A temporary permit issued under (b) of this section is valid for four months from the date of issuance or until a permanent license is issued or denied, whichever occurs first.

ARTICLE 4. ADVANCED NURSE PRACTITIONER

Section

- 400. Requirements for initial authorization
- 420. Recognized certification bodies
- 430. Scope of practice
- 440. Legend drug prescriptive authority
- 445. Controlled substance prescriptive authority
- 450. Temporary and nonrenewable advanced nurse practitioner permits
- 460. Preceptorship permits
- 465. Identification
- 470. Renewal of authorization
- 490. Applicability

12 AAC 44.400. REQUIREMENTS FOR INITIAL AUTHORIZATION. (a) An applicant for initial authorization to practice as an advanced nurse practitioner as defined in AS 08.68.410(1)

(1) must have satisfactorily completed

(A) a formal one-academic-year educational course of study which

(i) prepares registered nurses to perform an expanded role in the delivery of health care;

(ii) includes a combination of classroom instruction and a component of supervised clinical practice; and

(iii) awards a degree, diploma or certificate to persons who successfully complete the course of study; or

(B) a formal course of study which does not necessarily meet the requirements of (A) of this paragraph and

(i) have been performing an expanded role in the delivery of health care for at least 12 months during the 18 months immediately preceding January 13, 1980; and

(ii) authorized in Alaska as an advanced nurse practitioner on 12/1/84; and

(2) must hold a current license to practice as a registered nurse in Alaska; and

(3) must hold a current certification of nurse practitioner in a speciality area of nursing granted by a national certification body recognized by the board; and

(4) shall, in the absence of a continuing education requirement of the certifying body, submit documented evidence of having obtained 30 contact hours of continuing education in the speciality area of the nurse practitioner every two years; and

(5) when delivering health care services to the public, shall have in effect a written plan approved by the board which outlines procedures for consultation with other health care professionals and for referral of clients to other health care professionals as indicated by clients' health care needs; the consultation referral plan must

(A) conform to criteria established by the board;

(B) include a method for quality assurance; and

(C) be kept current and made available to the board at any time the board considers it necessary for good cause;

(6) shall complete the application form provided by the board; and

(7) shall submit the application fee and the initial biennial authorization fee established by 12 AAC 02.280.

(b) Repealed 12/1/84.

(c) An applicant for initial authorization to practice as an advanced nurse practitioner on the basis of education in (a)(1)(B) of this section must apply to the board no later than June 30, 1981.

12 AAC 44.420. RECOGNIZED CERTIFICATION BODIES.

(a) The board will, in its discretion, recognize national certification bodies which certify advanced nurse practitioners by exercising responsibility for

(1) approving the basic education course of study in the specialty area;

(2) examining graduates of the course of study; and

(3) addressing the issue of ongoing competency.

(b) The board will annually review national certification bodies to assure that board requirements are met.

(c) The board will maintain a current list of certification bodies which it has reviewed and recognized.

(d) An applicant applying for an advanced nurse practitioner authorization by virtue of certification from a body not on the board's current list of certification bodies shall supply the board with sufficient data to evaluate the authority of the certifying body.

12 AAC 44.430. SCOPE OF PRACTICE. The board recognizes advanced and specialized acts of nursing practice as those described in the scope of practice statements for nurse practitioners certified by national certification bodies recognized by the board.

12 AAC 44.440. LEGEND DRUG PRESCRIPTIVE AUTHORITY. (a) The board will, in its discretion, authorize an advanced nurse practitioner or "ANP" to prescribe legend drugs in accordance with applicable state and federal laws.

(b) The board will transmit to the Board of Pharmacy a list of all ANP's with prescriptive authority. This list will include

(1) the name of the authorized ANP;

(2) the prescriber's identification number assigned by the board; and

(3) the effective date of prescriptive authority.

(c) A registered nurse who applies for authorization to prescribe drugs shall

(1) be currently designated as an ANP in Alaska;

(2) provide evidence of completion of 15 contact hours of education in pharmacology and clinical management of drug therapy within the two-year period immediately before the date of application; and

(3) submit a completed, notarized application, on a form provided by the department, accompanied by the application fee established by 12 AAC 02.280.

(d) Authorized prescriptions by an ANP must

(1) comply with all applicable state and federal laws; and

(2) be signed by the prescriber with the initials "ANP" and the prescriber's identification number assigned by the board.

(e) Prescriptive authorization will, in the board's discretion, be terminated if the ANP has

(1) not maintained current authorization as an ANP; or

(2) prescribed outside the ANP scope of practice or for other than therapeutic purposes.

(f) ANP prescriptive authority must be renewed biennially with the ANP authorization. Documentation of eight contact hours of pharmacology during the previous two years must be submitted at the time of renewal.

(g) The board will notify the Board of Pharmacy within 24 hours after a termination of, or change in, an advanced nurse practitioner's prescriptive authority.

12 AAC 44.445. CONTROLLED SUBSTANCE PRESCRIPTIVE AUTHORITY. (a) In addition to the legend drug prescriptive authority under 12 AAC 44.440, the board will, in its discretion, authorize an advanced nurse practitioner or "ANP" to prescribe schedule 2—5 controlled substances in accordance with applicable state and federal laws if an applicant

(1) applies on the form provided by the department;

(2) verifies the equivalent of one year of experience prescribing legend drugs under 12 AAC 44.440 within the five years immediately preceding the date of application; and

(3) pays the application fee established by 12 AAC 02.280.

(b) All the provisions of 12 AAC 44.440 apply to an ANP with controlled substance prescriptive authority under this section.

12 AAC 44.450. TEMPORARY AND NONRENEWABLE ADVANCED NURSE PRACTITIONER PERMITS. (a) The board will, in its discretion, grant a temporary permit to practice as an advanced nurse practitioner to an applicant who is currently certified as an advanced nurse practitioner in another state or jurisdiction with requirements at least equivalent to those of this state.

(b) The board will, in its discretion, grant a nonrenewable permit to practice as an advanced nurse practitioner to an applicant who meets the requirements of 12 AAC 44.400(a)(1), (2), (4), (5), (6) and (7) of this chapter; and

(1) has been accepted to take the next specialty board examination; or

(2) is awaiting certification results.

(c) A temporary permit granted under (a) of this section is nonrenewable and is valid for a period not to exceed four months.

(d) A nonrenewable temporary permit granted under (b)(1) of this section is valid only until the publication of the results of the first examination the applicant is eligible to take after the permit is issued.

(e) A nonrenewable permit granted under (b)(2) of this section is valid only until the applicant receives notice of certification results.

(f) An applicant who fails the certifying examination shall surrender a nonrenewable permit issued under this section.

12 AAC 44.460. PRECEPTORSHIP PERMITS. (a) The board will, in its discretion, grant a preceptorship permit to an applicant whose certifying body requires clinical practice in order to take the specialty board examination or who is engaged in a course of study which meets the requirements of 12 AAC 44.400(a)(1)(A).

(b) The applicant must meet the requirements of 12 AAC 44.400(a)(2),(5),(6) and (7) and submit documented evidence of a preceptorship arrangement to be approved by the board.

(c) A preceptorship permit expires and must be surrendered to the board at the time the preceptorship arrangement is terminated.

12 AAC 44.465. IDENTIFICATION. An ANP shall conspicuously display

(1) on his or her uniform or clothing a name plate including designation as an ANP; and

(2) in his or her customary place of employment, a current authorization to practice as an ANP; and

(3) a sign at least five inches by eight inches in size informing the public of the definition of an advanced nurse practitioner in AS 08.68.410(1).

12 AAC 44.470. RENEWAL OF AUTHORIZATION. (a) An applicant for renewal of an advanced nurse practitioner authorization shall submit to the board

(1) evidence of continued national certification since the date of original authorization or reauthorization in the applicant's specialty area;

(2) a completed renewal application on a form provided by the department; and

(3) the biennial authorization renewal fee established by 12 AAC 02.280.

(b) The date for renewal of authorization to practice as an advanced nurse practitioner will coincide with the renewal of the applicant's RN license.

12 AAC 44.490. APPLICABILITY. (a) The provisions of 12 AAC 44.400—12 AAC 44.490 of this chapter are applicable only to a registered professional nurse whose authorization to perform acts of medical diagnosis and prescription of medical, therapeutic, and corrective measures comes from the nurse's educational preparation, national certification, and authorization to practice in compliance with regulations established by the board.

(b) Nothing in 12 AAC 44.400—12 AAC 44.490 limits the usual and customary practice of a registered nurse or licensed practical nurse in Alaska.

ARTICLE 5. REGISTERED NURSE ANESTHETISTS

Section

500. Requirements for initial authorization

510. Scope of practice

530. Nonrenewable registered nurse anesthetist permits

540. Renewal of authorization

560. Applicability

12 AAC 44.500. REQUIREMENTS FOR INITIAL AUTHORIZATION. An applicant for initial authorization to practice as a registered nurse anesthetist shall

(1) submit documentation of having satisfactorily completed an educational program prescribed by a school of nurse anesthesia accredited by a nationally recognized accrediting agency approved by the United States Department of Education and the Board of Nursing;

(2) submit documentation of having successfully passed an examination administered by a nationally recognized certifying agency for nurse anesthetists following completion of the educational program described in (1) of this section;

(3) submit evidence of current national certification or recertification;

(4) submit written guidelines developed with appropriate health care professionals which must

(A) conform to criteria established by the board;

(B) include a method for quality assurance; and

(C) be kept current and be provided to the board at any time upon request;

(5) hold a current license to practice as a registered nurse in Alaska;

(6) complete the application form provided by the department; and

(7) submit the application fee and the initial biennial authorization fee established by 12 AAC 02.280.

12 AAC 44.510. SCOPE OF PRACTICE. (a) To ensure available nurse anesthesia to the Alaska public in accordance with the standards set forth by the national certifying board for nurse anesthetists, a registered nurse anesthetist in Alaska is authorized within the scope of his or her educational preparation to perform procedures outlined by the American Association Nurse Anesthetist Guidelines for the Practice of the Certified Registered Nurse Anesthetist

(b) A registered nurse anesthetist is authorized to administer anesthesia

(1) in collaboration with the director of the anesthesia service or a qualified designee of the director; or

(2) in collaboration with the primary physician or qualified physician designee of the primary physician or of the dentist responsible for the patient's immediate care.

(c) In this section, "collaboration" means a process which involves two or more parties working together, each contributing his or her respective area of expertise to provide more comprehensive care than one alone can offer.

Editor's Note: A copy of the American Association Nurse Anesthetist Guidelines for the Practice of the Certified Registered Nurse Anesthetist mentioned in 12 AAC 44.510(a), can be obtained from the American Association of Nurse Anesthetists, 216 Higgins Road, Park Ridge, Illinois 60068.

12 AAC 44.530. NONRENEWABLE REGISTERED NURSE ANESTHETIST PERMITS. (a) The board will, in its discretion, grant a nonrenewable permit to practice as a registered nurse anesthetist to an applicant who meets the requirements of 12 AAC 44.500(1), (4), (5), (6) and (7); and

(1) has been accepted to take the next scheduled certified registered nurse anesthetist examination; or

(2) is awaiting results of the examination.

(b) A nonrenewable permit granted under (a)(1) of this section is valid only until the date of the first available certification examination if the applicant fails to sit for the examination, or, if the applicant does sit for the certification examination, until the applicant receives notification of having successfully passed the certification examination on the first attempt.

(c) A nonrenewable permit granted under (a)(1) or (a)(2) of this section is valid until the applicant receives notification of having successfully passed the certification examination.

(d) The holder of a nonrenewable permit to practice as a registered nurse anesthetist granted under (a)(1) or (a)(2) of this section who fails to successfully pass the certification examination on the first attempt must surrender his or her nonrenewable permit to the board within 48 hours of receiving notification of failure.

(e) The holder of a nonrenewable permit granted under this section may practice only under the medical direction of an anesthesia service, an anesthesiologist, or a Registered Nurse Anesthetist.

12 AAC 44.540. RENEWAL OF AUTHORIZATION. (a) An applicant for renewal of authorization to practice as a registered nurse anesthetist shall submit to the board

(1) evidence of current national recertification; and

(2) a completed renewal application on a form provided by the department; and

(3) the biennial authorization renewal fee established by 12 AAC 02.280.

(b) The date of renewal of authorization to practice as a registered nurse anesthetist will coincide with the renewal of the applicant's registered nurse license.

12 AAC 44.560. APPLICABILITY. (a) The provisions of 12 AAC 44.500—12 AAC 44.550 are applicable only to a registered nurse whose authorization to perform acts of anesthesia service comes from the nurse's educational preparation, national certification and authorization to practice in compliance with regulations established by the board.

(b) Nothing in 12 AAC 44.500—12 AAC 44.550 limits the usual and customary practice of a registered nurse or licensed practical nurse in the State of Alaska.

ARTICLE 6. CONTINUING COMPETENCY.

Section

- 600. Purpose of continuing competency requirements
- 610. Continuing education requirements
- 620. Professional activities requirement
- 630. Nursing employment requirement
- 640. Alternative methods for continuing competency requirements
- 650. Requirements for new licenses
- 660. Audit and documentation

12 AAC 44.600. PURPOSE OF CONTINUING COMPETENCY REQUIREMENTS. The purpose of continuing competency requirements is to insure that nurses maintain the ability to safely and effectively apply nursing knowledge, principles and concepts in the practice of registered or practical nursing as defined in AS 08.68.410(7) and (8). Before a license can be renewed each biennial period, a registered nurse or a licensed practical nurse must document either

(1) compliance with 12 AAC 44.640; or

(2) completion of two of the following three methods for maintaining continuing competency:

(A) continuing education as prescribed under 12 AAC 44.610;

(B) professional activities as prescribed under 12 AAC 44.620; and

(C) nursing employment as prescribed under 12 AAC 44.630.

12 AAC 44.610. CONTINUING EDUCATION REQUIREMENTS. (a) Continuing education in nursing is a systematic educational experience that grants academic credit or contact hours

beyond the basic nursing program preparation. It promotes the enrichment of knowledge and improvement of skills for the enhancement of the nursing profession and the public health and safety.

(b) For continuing competency credit to be given by the board for continuing education, 15 contact hours in at least one of the following subject areas must be documented:

- (1) nursing practice areas and special health care problems;
- (2) biological, physical, or behavioral sciences;
- (3) legal or ethical aspects of health care;
- (4) management or administration of health care personnel and patient care;
- (5) teaching or learning processes of health care and patients;

or

(6) subjects approved by the board that are required as part of a formal nursing program but which are more advanced than those completed for original licensure.

(c) The board will give continuing education credit for contact hours which are part of a mediated learning system such as educational television, audio or video cassettes, or printed media, and for contact hours which are a part of an independent study program, if the system or program is accredited by an agency on a list of recognized accrediting agencies maintained by the board in its offices.

(d) A "contact hour," for purposes of this section is a minimum of 50 minutes of actual organized instruction. Academic credit will be converted to contact hours as follows:

- (1) one quarter academic credit equals 10 contact hours; and
- (2) one semester academic credit equals 15 contact hours.

12 AAC 44.620. PROFESSIONAL ACTIVITIES REQUIREMENT. (a) Professional activities are activities that use nursing knowledge, and that contribute to the health of individuals or the community.

(b) For continuing competency credit to be given by the board for professional activities, 15 hours of participation in at least one of the following areas must be documented:

- (1) a professional nursing or health-related organization;
- (2) authoring or contributing to an article, book, or publication related to health care;
- (3) development and oral presentation of a paper before a professional or lay group on a subject that explores new or current areas of nursing theory, technique, or philosophy;
- (4) design and conduct of a research study relating to nursing and health care; or
- (5) other professional activities approved by the board and included on a list maintained in its offices.

12 AAC 44.630. NURSING EMPLOYMENT REQUIREMENT. For continuing competency credit to be given by the board for nursing employment, at least 320 hours, per biennium, of nursing practice as defined in AS 08.68.410(7) or (8) must be documented on a renewal survey form provided by the board, including the name of the nurse's employer.

12 AAC 44.640. ALTERNATIVE METHODS FOR CONTINUING COMPETENCY REQUIREMENTS. A nurse may meet continuing competency requirements without meeting the requirements of 12 AAC 44.610—12 AAC 44.630 by documenting that after the last renewal date, the nurse has

- (1) completed a nursing refresher course approved by the board; or
- (2) attained a degree or certificate in nursing, or made progress toward one, beyond the education requirements for the nurse's original license by successfully completing at least two required courses; or
- (3) successfully completed the National Council Licensing Examination.

12 AAC 44.650. REQUIREMENTS FOR NEW LICENSEES.

(a) A licensee who receives his or her original license in the first year of the renewal period must comply with the continuing competency requirements of 12 AAC 44.600—12 AAC 44.640 before the first license renewal.

(b) A licensee who receives his or her original license in the second year of the renewal period must comply with the continuing competency requirements of 12 AAC 44.600—12 AAC 44.640 before the second license renewal.

12 AAC 44.660. AUDIT AND DOCUMENTATION. All information concerning continuing competency submitted with a renewal application is subject to audit at the discretion of the board. Satisfaction of continuing competency requirements must be documented on a renewal form provided by the board and must be submitted before license renewal.

ARTICLE 7. DISCIPLINARY GUIDELINES

Section

- 700. Purpose of disciplinary guidelines**
- 710. Violations**
- 720. Disciplinary guidelines**
- 730. Terms of probation**
- 740. Use of alcohol or drugs**
- 750. Professional incompetence**

- 760. Mental or physical disabilities
- 770. Unprofessional conduct
- 780. Reinstatement of a suspended license or authorization
- 785. Reinstatement of a revoked license or authorization

2 AAC 44.700. PURPOSE OF DISCIPLINARY GUIDELINES. To insure that the board's disciplinary policies are known and are administered consistently and fairly, the disciplinary guidelines in 12 AAC 44.710—12 AAC 44.785 are established.

12 AAC 44.710. VIOLATIONS. (a) A nurse who, after a hearing under the Administrative Procedure Act (AS 44.62), is found to have violated a provision of AS 08.68 or 12 AAC 44, is subject to the disciplinary penalties listed in AS 08.01.075 and AS 08.68.275, including public notice of the violation and penalty in appropriate publications.

(b) Nothing in the guidelines set out in 12 AAC 44.720 prohibits the board from imposing greater or lesser penalties than those described in 12 AAC 44.720 or restricting the practice of a nurse depending upon the circumstances of a particular case.

12 AAC 44.720. DISCIPLINARY GUIDELINES. (a) The board will, in its discretion, revoke a license if the licensee

- (1) commits a violation that is a second offense;
- (2) violates the terms of probation from a previous offense;
- (3) obtains or attempts to obtain, by fraud or deceit, a license to practice nursing;
- (4) is convicted of a felony or other crime, if the felony or other crime is substantially related to the qualification, functions, or duties of the licensee;

(5) habitually abuses alcoholic beverages, or illegally uses a controlled substance, as defined in AS 11.71.900(4), to the extent that the abuse or use interferes with nursing functions, and if the licensee fails or refuses to participate in a rehabilitation program acceptable to the board;

(6) impersonates another health care provider;

(7) intentionally or negligently engages in conduct that results in a significant risk to the health or safety of a client or injury to a client;

(8) engages in unprofessional conduct, as described in 12 AAC 44.770, if the health, safety or welfare of another person is placed at risk; or

(9) is professionally incompetent, if the incompetence results in risk or injury to a client.

(b) The board will, in its discretion, suspend a license for up to two years followed by probation of not less than two years, if the licensee

(1) habitually abuses alcoholic beverages, or illegally uses controlled substances, as defined in AS 11.71.900(4), to the extent that the abuse or use interferes with nursing functions, but the licensee participates in a rehabilitation program acceptable to the board;

(2) willfully or repeatedly violates the statute in AS 08.68 or regulation of the board; or

(3) is professionally incompetent, if the incompetence results in the public health, safety or welfare, being placed at risk.

(c) The board will, in its discretion, suspend a license for up to one year, followed by probation for not more than one year, if the licensee

(1) engages in unprofessional conduct, as described in 12 AAC 44.770; or

(2) denies care or treatment to a person seeking assistance because the person failed to or refused to agree to arbitrate as provided in AS 09.55.535(a).

(d) The board will review, on an individual basis, the need for revocation or limitation of the license of a licensee who practices or attempts to practice while afflicted with a physical or mental illness, deterioration, or disability that interferes with the individual performance of nursing functions.

12 AAC 44.730. TERMS OF PROBATION. A licensee who is placed on probation will, in the board's discretion, be subject to one or more of the following terms of probation, and to other relevant terms of probation including those set out in 12 AAC 44.740—12 AAC 44.760:

(1) obey all the laws of the United States, State of Alaska, and all laws pertaining to the practice of nursing in this state;

(2) fully comply with the probation program established by the board, and cooperate with representatives of the board;

(3) notify the board in writing of the dates of departure and return if the licensee leaves Alaska to reside or practice outside the state;

(4) report in person at meetings of the board of nursing, or to its designated representatives, during the period of probation, as directed by the board;

(5) submit written reports and verification of actions as are required by the board during the period of probation;

(6) if employed in nursing at any time during the period of probation, have the employer submit to the board verification that the employer understands the conditions of probation;

(7) be employed as a nurse only in a setting in which full supervision is provided, and not personally function as a supervisor.

12 AAC 44.740. USE OF ALCOHOL OR DRUGS. (a) In addition to one or more of the terms of probation set out in 12 AAC 44.730, a licensee placed on probation for the habitual abuse of alcohol or illegal use of controlled substances, as defined in AS 11.71.900(4), will, in the board's discretion, also be subject to one or more of the relevant terms of probation including the following:

(1) physical and mental health examinations as determined by the board to evaluate the licensee's ability to perform the professional duties of a nurse;

(2) as determined by the board, participation, until completion, in an ongoing program of rehabilitative counseling, alcoholics anonymous, narcotics anonymous, or an impaired nurse group, which includes progress reports from the care provider when requested by the board;

(3) abstain from the personal use of alcohol;

(4) abstain from the personal use of alcohol or controlled substances, as defined in AS 11.71.900(4), in any form, except when lawfully prescribed by a physician authorized to practice medicine in Alaska;

(5) submit to tests and samples required for the detection of alcohol or controlled substances, as defined in AS 11.71.900(4), at the request of the board or the board's representative.

(b) Access to controlled substances, as defined in AS 11.71.900(4), in the work setting will, in the board's discretion, be restricted.

12 AAC 44.750. PROFESSIONAL INCOMPETENCE. In addition to one or more of the terms of probation set out in 12 AAC 44.730, a licensee placed on probation after being found professionally incompetent will, in the board's discretion, be subject to one or more of the following terms of probation:

(1) successful completion of an appropriate course or courses in nursing, as determined by the board, before the end of the probationary period; or

(2) participation in 15 contact hours of appropriate continuing competency education in nursing.

12 AAC 44.760. MENTAL OR PHYSICAL DISABILITIES. (a) In addition to one or more of the terms of probation set out in 12 AAC 44.730, a licensee placed on probation for practicing or attempting to practice nursing while afflicted with a physical or mental illness, deterioration, or disability that interferes with the licensee's performance of nursing will, in the board's discretion, be subject to a physical or mental health examination to evaluate the licensee's ability to perform the professional duties of a nurse, and, if medically determined, must participate in and complete a recommended treatment program that includes written progress reports from the care provider when requested by the board.

(b) In this section, "care provider" means a person who or organization that, by the nature of experience and training, is qualified in the opinion of the board to provide substance abuse counseling, rehabilitation, or related services to the public through established and recognized treatment programs.

12 AAC 44.770. UNPROFESSIONAL CONDUCT. Nursing conduct which could adversely affect the health and welfare of the public constitutes unprofessional conduct under AS 08.68.270(8) and includes the following:

(1) failing to use sufficient knowledge, skills or nursing judgment in the practice of nursing as defined by the level of licensure;

(2) assuming duties and responsibilities, on repeated occasions, without sufficient preparation or for which competency has not been maintained;

(3) knowingly delegating a nursing care function, task, or responsibility to another who is not licensed under AS 08.68 to perform that function, task, or responsibility, when the delegation is contrary to AS 08.68 or 12 AAC 44 or involves a substantial risk or harm to a client;

(4) failing to exercise adequate supervision over persons who are authorized to practice only under the supervision of the licensed professional;

(5) failing to perform acts within the nurse's scope of competence which are necessary to prevent substantial risk or harm to a client;

(6) violating the confidentiality of information or knowledge concerning a client;

(7) physically or verbally abusing a client;

(8) using alcohol or other drugs to the extent that the use interferes with nursing functions;

(9) violating state or federal laws regulating drugs, including but not limited to forging prescriptions or unlawfully distributing drugs or narcotics;

(10) failing to maintain a record for each client which accurately reflects the nursing problems and interventions for the client, or falsifying a client's records or intentionally making an incorrect entry in a client's chart;

(11) leaving a nursing assignment without properly notifying appropriate personnel;

(12) permitting another person to use his or her nursing license or permit for any purpose;

(13) failing to report, through proper channels, facts known to the nurse regarding incompetent, unprofessional or illegal practice of health care provider unless it has already been reported and the provider is already participating in a treatment or educational program approved by the appropriate board;

(14) engaging in fraud, misrepresentation, or deceit in writing the licensing examination;

(15) for any person not authorized to practice acts of medical diagnosis or medical therapeutics as an advanced nurse practitioner, to use the title nurse practitioner or advanced nurse practitioner, or the abbreviation NP or ANP or any other words, letters, signs, or figures to indicate that the person is an advanced nurse practitioner;

(16) for an advanced nurse practitioner to perform duties other than those specified in 12 AAC 44.430;

(17) for any person not authorized to practice as a registered nurse anesthetist to use the title registered nurse anesthetist, nurse anesthetist or certified registered nurse anesthetist or the abbreviation CRNA or any other words, letters, signs, or figures to indicate that the person is a registered nurse anesthetist;

(18) for a registered nurse anesthetist to perform duties outside the scope of practice described in 12 AAC 44.510;

(19) discrimination on the basis of race, religious creed, color, national origin, ancestry or sex in the provision of nursing services;

(20) signing a record as a witness attesting to the wastage of controlled substances which the nurse did not actually witness;

(21) exploiting the patient for financial gain or offering, giving, soliciting or receiving fees for referral of a patient or client;

(22) intentionally misappropriating medications, property, supplies, equipment or other resources of the client or agency for personal or unauthorized use;

(23) removal of a patient's life support system without appropriate medical or legal authorization;

(24) untruthful or misleading advertising of nursing services; and

(25) knowingly violating laws regulating health insurance including those laws established in AS 21.36.360.

12 AAC 44.780. REINSTATEMENT OF A SUSPENDED LICENSE OR AUTHORIZATION. A suspended license or authorization may be reinstated in the termination of suspension only if the requirements in the suspension order have been met.

12 AAC 44.785. REINSTATEMENT OF A REVOKED LICENSE OR AUTHORIZATION. (a) One year after revocation of a license or authorization, the licensee or authorized nurse practitioner may apply to the board in writing for reinstatement.

(b) The applicant for reinstatement shall appear before the board.

(c) The board will, in its discretion, request, as a condition for temporary reinstatement, the applicant to work in a supervised relationship approved by the board for a specified length of time.

(d) The applicant is responsible for providing a written evaluation from the employer regarding his or her performance and will be evaluated by the board to determine whether or not the license or authorization will be reinstated.

ARTICLE 8. GENERAL PROVISIONS

Section

900. License renewal

930. Change of Name

990. Definitions

12 AAC 44.900. LICENSE RENEWAL. (a) A licensed practical nurse license must be renewed biennially by September 30. A registered nurse license must be renewed biennially by November 30. Notice of renewal with inventory questionnaire will be mailed to every currently licensed nurse at least 60 days before the renewal date.

(b) A license not renewed by the last day of the last month of the licensing period will be automatically cancelled on the first day of the following month.

(c) A cancelled license will be reinstated upon receipt of payment of license renewal fees and all applicable penalty fees.

12 AAC 44.930. CHANGE OF NAME. A licensee authorized to practice under this chapter shall notify the board of a change of mailing address or name within 60 days after the change. A report of a change of name must be made in writing and must be accompanied by one of the following to verify the change of name:

- (1) a completed affidavit supplied by the board;
- (2) a certified copy of a marriage certificate;
- (3) a certified copy of a divorce decree; or
- (4) a certified copy of a court ruling.

12 AAC 44.990. DEFINITIONS. As used in this chapter

(1) "accreditation" means the approval granted a school of professional or practical nursing which has met the minimum requirements of the board;

(2) "associate degree program" includes general academic and nursing courses, is conducted within a community or junior college; and prepares a person for an associate degree in nursing;

(3) "baccalaureate program" is a program conducted in a senior college or university and which is in an academic department, division, school or college of the senior college or university, which prepares persons for a baccalaureate degree in nursing;

(4) "board" means Alaska Board of Nursing;

STEVE COWPER, GOVERNOR

**DEPARTMENT OF COMMERCE &
ECONOMIC DEVELOPMENT**

DIVISION OF OCCUPATIONAL LICENSING

**7TH FLOOR FRONTIER BLDG.
3601 C STREET, SUITE 722
ANCHORAGE, ALASKA 99503
PHONE: (907) 561-2878**

January 18, 1990

David Rogers
Box 33932
Juneau, AK 99803

Dear Mr. Rogers,

You have asked that I summarize the requirements for continued competency for nurses.

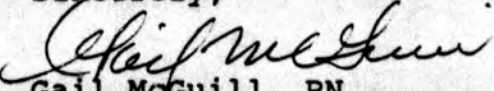
Registered and Practical nurses are required by 08.68.276 to comply with continuing competency requirements in order to renew a license to practice nursing. The regulations 12 AAC 44.600-660 provide the details of the requirement.

In order to renew a license to practice nursing, a nurse must do two out of three items during the biennium. The choices are; (a) 15 contact hours of continuing education, (b) 15 hours of professional activities, and (c) 320 hours of nursing employment. These choices are intended to provide options for nurses who are currently practicing as well as those who may be taking time off to raise a family or pursue other interests but want to return to practice in the future.

A nurse who is not currently practicing may allow her/his license to lapse. However, if the license is lapsed for five or more years and the nurse does not practice, such as in another state, the nurse is required to take a refresher course prior to relicensure.

I hope this information will be helpful to the task force. Do not hesitate to call me again should you need further information.

Sincerely,


Gail McGuill, RN
Executive Secretary
Alaska Board of Nursing

1009n/tb

NURSING EDUCATION PROGRAMS IN ALASKA

BACCALAUREATE DEGREE PROGRAM

College of Nursing and the Health Sciences
University of Alaska, Anchorage
3221 Providence Drive
Anchorage, Alaska 99508
Phone: (907) 786-1267

Dean: Laura MacLachlan, PhD, RN
Established: 1968 at Alaska Methodist University
Accreditation by Alaska Board of Nursing in 1973

MASTER'S DEGREE PROGRAM

College of Nursing and the Health Sciences
University of Alaska, Anchorage
3221 Providence Drive
Anchorage, Alaska 99508

Dean: Laura MacLachlan, PhD, RN
Established: 1981

ASSOCIATE DEGREE PROGRAMS

University of Alaska
Associate Degree Nursing Program
2533 Providence Avenue
Anchorage, Alaska 99508
Phone: (907) 786-1273

COORDINATOR: Anita Watts-Soquet, RN, MN
Established: 1970
Accreditation by Alaska Board of Nursing in 1973

Everett Community College
Associate Degree Nursing Program
806 Wetmore Avenue
Everett, Washington 98201-1327
Phone: (206) 259-7151

Division Director: Stu Borger, RN
Provisional Accreditation by Alaska Board of Nursing 1989

**ALASKA BOARD OF NURSING
ANNUAL PERFORMANCE REPORT
FISCAL YEAR 1989**

Prepared by:

**Gail M. McGuill, RN
Executive Secretary
August 31, 1989**

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BOARD OF NURSING
MEMBERS AND STAFF
JUNE 30, 1989

BOARD MEMBERS

Janet L. Buness, R.N., B.S.N. P. O. Box 1192 Wrangell, AK 99929	March 31, 1991
Barbara Carberry, R.N. (Chairperson) Box 2402 Kodiak, AK 99615	March 31, 1990
Tina DeLapp, R.N., Ed. D 13101 S. Bragaw Anchorage, AK 99516	March 31, 1993
Kathi Hewitt, L.P.N. 1660 Peger Road Fairbanks, AK 99709	March 31, 1991
Gail Stewart, R.N., A.N.P. 12220 Rainbow Avenue Anchorage, AK 99516	March 31, 1992
Franceda Veal Owens (Public Member) (Secretary) 3716 Locarno Anchorage, AK 99508	March 31, 1990
Georgianna Waskey (Public Member) Box 1432 Bethel, AK 99559	March 31, 1991

BOARD STAFF

Gail M. McGuill, R.N.
Executive Secretary
Anchorage, AK

Nancy Ferguson
Licensing Examiner
Juneau, AK

Dorothy Fulton, R.N., M.A.
Nurse Aide Program Manager
Anchorage, AK

NARRATIVE SUMMARY

The Alaska Board of Nursing is glad to provide you with the Annual Report for Fiscal Year 1989. This Annual Report reflects the Board's continued attention and support for acceptable standards in nursing education and nursing practice in Alaska. The members of the Board take their responsibility to protect the public seriously and look forward to another year of service to the Alaskan consumers of nursing care.

Governor Steve Cowper appointed Kathi Hewitt, L.P.N., to fill the vacant position requiring a practical nurse. Ms. Hewitt is employed by Fairbanks Memorial Hospital in Fairbanks. At the same time Gail Stewart, RN, ANP, was appointed to fill the registered nurse vacancy. Ms. Stewart is a family nurse practitioner employed by the Alaska Native Medical Center. In March 1989, Governor Cowper appointed Tina DeLapp, R.N., Ed.D, to fill the nurse educator position on the Board. Dr. DeLapp is the Associate Dean for The College of Nursing and Health Sciences at the University of Alaska, Anchorage. Currently there are no vacancies on the Board of Nursing.

The Board of Nursing conducted three two-day meetings and held two telephone conference calls. One conference call was a regularly scheduled meeting and the other was to take action on two disciplinary matters. A wide range of issues was addressed by the Board at its meetings and is detailed in the review of prior year objectives.

The impact of the nursing shortage was felt by staff and is reflected in the increase in the number of temporary permits and licenses issued during the year. The lack of registered nurse staff available in the Alaska labor market pool caused nurse administrators to look more closely at allocation of the nursing resources and at scope of practice of nurses. The Board responded to questions in that regard and its objectives for FY 90 reflect continued interest and concern in this area.

The Board has continued to support the activities of its subcommittee on Level of Entry into Practice. The Committee is expected to present its final report to the Board at the September 1989 meeting of the Board of Nursing.

The project which has demanded the most Division (Board) staff time has been assumption of the nurse aide training and competency evaluation program required by OBRA 87. The Board has provided advice on the requirements as they have been developed. This project was a major undertaking for the Division as it meant the establishment of a totally new program which affects a major part of the health care community.

The members of the Board of Nursing serving during FY 89 included:

Janet Bunes, RN
Barbara Carberry, RN, RNA, Chairperson
Tina DeLapp, RN, EdD
Effie Graham, RN, PhD
Kathi Hewitt, LPN
Gail Stewart, RN, ANP
Franceda Veal-Owens, Public Member
Georgianna Waskey, Public Member

Division of Occupational Licensing staff assisting the Board of Nursing during FY 89 were:

Gail M. McGuill, RN, Executive Secretary
Nancy Ferguson, Licensing Examiner
Dorothy Fulton, RN, Nurse Aide Program Manager
Kevin Henderson, Regulations Specialist
Dorothy Hansen, Investigator
Sammie LaChappelle, Investigator

The Board of Nursing also recognizes and appreciates the assistance to the Board and staff by Assistant Attorneys General Lawrence Delay, Jim Forbes, Elizabeth Kertulla and Linda O'Bannon.

STATISTICAL OVERVIEW

General Statistics

The licensing activities for the Board of Nursing can be reviewed on the following pages. Table I provides information on the number of permits and licenses issued during fiscal year 1989. This table also indicates the number of active licensees and information on the numbers of advanced nurse practitioners and registered nurse anesthetists.

The number of registered and practical nurses licensed rose over FY 88 for both categories. The increase in registered nurses was 17% over FY 88 with the increase for practical nurses at 33%.

A review of Table II, Five Year Summary FY 1985-1989 shows an average of 497 RN's and 100 LPN's per year in the five years from 1985-1989. This is still significantly less than the five year averages from 1981 to 1985 of 600 RN's and 177 LPN's per year. The numbers of nurses licensed per year has increased each year for the past two years. The number of temporary permits is also on the increase.

Table III provides a look at the endorsement information on Alaska licensees.

Table VI provides information in the investigations activity for FY 89.

Board of Nursing Activity

The Board of Nursing met five times during FY 89.
The dates and places were:

August 10, 1988	Teleconference meeting: Sites included Anchorage, Mt. Village, Fairbanks, Juneau, Kodiak & Wrangell
October 13-15, 1988	Anchorage (Joint meeting of health care boards 10-15-88)
January 23, 1989	Conference call for disciplinary matters: Sites included Anchorage, Bethel, Fairbanks, Kodiak & Wrangell
Feb. 28-Mar. 1, 1989	Anchorage
May 25, 26, 1989	Anchorage

The Board of Nursing Subcommittee on Level of Entry into Nursing met in Anchorage as follows:

July 14, 15, 1988
December 9, 10, 1988
April 27, 28, 1989
May 19, 1989

Examination Statistics

The Board of Nursing in conjunction with the Division of Occupational Licensing administered the National Council Licensing Examination for licensure by exam for practical nurses and registered nurses. Examinations were administered according to contract and security measures with the National Council State Boards of Nursing by the Executive Secretary, Licensing Examiner, Board Members and Registered Nurse Proctors. The following are dates and places that the exams for this reporting period were given:

July 12-13, 1988	Series 788 (RN)	Anchorage, Juneau and Fairbanks
October 8, 1988	Series 088 (PN)	Anchorage and Juneau
February 14, 15 1989	Series 289 (RN)	Anchorage and Juneau
April 18, 1989	Series 489 (PN)	Anchorage

Table IV data shows the percentages of passing scores for Alaska candidates on exams given in the state. These tables reflect information for University of Alaska graduates from the BSN and ADN programs.

Information is provided on the number of first time candidates taking the exam who are graduates of a school of nursing in the United States. The other category includes candidates who are repeating the exam and/or who have graduated from foreign schools of nursing.

Table V provides information on the standard score means for first time candidates from the registered nurse programs. This table also shows Alaska's rank with other U.S. jurisdictions for the exam. The statistical information on the performance of Alaska graduates on the examination is important to the Board of Nursing when they review the nursing programs.

Table I

LICENSING ACTIVITY
FISCAL YEAR ENDING JUNE 30, 1989

<u>ACTIVITY FY 89</u>	<u>#RN's</u>	<u>LPN's</u>
Temporary Permits Issued by Exam	75	5
Temporary Permits Issued by Endorsement	328	53
TOTAL PERMITS	403	58
Licensed by Examination	75	14
Licensed by Endorsement	465	84
TOTAL LICENSED DURING FY 89	540	98
Active Licenses	4,405	742
Revoked	2	1
Lapsed	8,531	3,656
GRAND TOTAL LICENSED SINCE 1941	12,936	4,402

	<u>NEW</u>	<u>CURRENT</u>
ADVANCED NURSE PRACTITIONERS	15	132
Temporary Permits	5	
Preceptorship Permits	0	
REGISTERED NURSE ANESTHETISTS	18	51

TABLE II

NURSE LICENSING ACTIVITY
FIVE YEAR SUMMARY FY 1985 - 1989

Registered Nurse	<u>1985</u>	<u>1986</u>	<u>1987</u>	<u>1988</u>	<u>1989</u>
Endorsement	479	397	328	383	465
Exam	<u>107</u>	<u>98</u>	<u>88</u>	<u>67</u>	<u>75</u>
TOTAL	<u>586</u>	<u>495</u>	<u>416</u>	<u>450</u>	<u>540</u>

Licensed Practical Nurse	<u>1985</u>	<u>1986</u>	<u>1987</u>	<u>1988</u>	<u>1989</u>
Endorsement	145	79	44	56	84
Exam	<u>27</u>	<u>30</u>	<u>9</u>	<u>10</u>	<u>14</u>
TOTAL	<u>172</u>	<u>109</u>	<u>53</u>	<u>66</u>	<u>98</u>

LICENSING ACTIVITY

FISCAL YEAR - 1989

ALASKA NURSES ENDORSED TO OTHER JURISDICTIONS

	<u>RN</u>	<u>LPN</u>		<u>RN</u>	<u>LPN</u>
Alabama	2	0	Nebraska	3	0
Arizona	5	1	Nevada	4	1
Arkansas	1	0	New Hampshire	1	1
California	27	4	New Jersey	1	0
Colorado	4	1	New Mexico	3	0
Connecticut	10	0	New York	1	1
Florida	6	1	North Carolina	9	2
Georgia	3	0	North Dakota	1	0
Hawaii	2	0	Ohio	3	3
Illinois	9	3	Oklahoma	1	0
Indiana	3	0	Oregon	11	1
Iowa	1	0	Pennsylvania	4	0
Kansas	2	1	Tennessee	1	1
Kentucky	2	0	Texas	8	1
Louisiana	1	2	Utah	6	2
Maine	2	0	Virginia	0	1
Maryland	1	1	Washington	18	2
Massachusetts	1	0	Washington D.C.	5	0
Michigan	11	6	West Virginia	2	1
Minnesota	10	1	Wisconsin	2	1
Mississippi	0	1	U. S. Military	4	0
Missouri	1	0	Hospitals	4	0
Montana	3	0			
FOREIGN					
Australia	1	0			
Canada	1	0			
TOTALS	204	40			

EXAM RESULTS FOR ALASKA CANDIDATES

RESULTS OF RN EXAM BY TYPE OF CANDIDATE

<u>Series</u>	<u># 1st time</u>	<u># Pass</u>	<u>% Pass</u>	<u># Others</u>	<u># Pass</u>	<u>% Pass</u>
788	51	48	94%	13	3	23%
299	21	20	95%	10	5	50%
Total	72	68	94%	23	8	35%

RESULTS OF PN EXAM BY TYPE OF CANDIDATE

<u>Series</u>	<u># 1st Time</u>	<u># Pass</u>	<u>% Pass</u>	<u>Other</u>	<u># Pass</u>	<u>% Pass</u>
088	9	9	100%	6	1	16%
489	3	3	100%	7	1	14%
Total	12	12	100%	13	2	15%

Note: Alaska does not have a practical nurse education program.

TABLE V

NATIONAL LICENSING EXAM STATISTICS, RN's

<u>Series</u> <u>788</u>	<u>School</u>	<u>N</u>	<u>Mean Score</u>	<u>% Passed</u>
	Univ. of Alaska ADN	17	2172	100%
	Univ. of Alaska BSN	20	2238	100%
	Alaska Total	37	2207	100%
	All U.S. Jurisdictions	52,223	1943	84%
	Alaska's rank with other Jurisdictions			1 out of 55
<u>Series</u> <u>289</u>	University of Ak. BSN	6	*	100%
	Alaska Total	6		100%
	All U.S. Jurisdictions	13,068		85%

*Beginning with Series 289, the results are reported as pass/fail.

INVESTIGATION STATISTICS FY 89

Cases as of July 1, 1988	10
Cases Opened	20
Cases Closed	13
Cases as of June 30, 1989	15
Cases Transferred to Litigation	5

SUNSET AUDIT RECOMMENDATIONS

Recommendation No. 1

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

The audit report released in December, 1986, found 54% of the exam public notices were not provided in a timely manner. The report said the notices were not made enough in advance to allow all potential candidates to meet the application deadlines.

A review of exam public notices for the exams during this reporting period indicates improvement has been made in this area. All notices were published at least 30 days in advance of the initial deadlines for making application for the nursing exams. This area of concern continues to be monitored by the Executive Secretary.

REVIEW OF PRIOR YEAR OBJECTIVES

1. Objective: The Board of Nursing will continue to define, review, maintain, develop and interpret standards of nursing care that protect the Alaska consumer.

Actions:

This objective is seen by the Board as its most important continuing responsibility. The Board advises staff on issues related to scope of practice. This year interpretative statements were made on issues related to intraosseus needle insertion, administration of medications via intraplural catheters and supervision of nurse anesthetists.

2. Objective:

The Board of Nursing through the Division of Occupational Licensing will continue to license individuals in a timely manner consistent with the Alaska Statutes and Regulations and Board of Nursing Policy.

Actions:

The Licensing Examiner for the Board of Nursing processes all applications for licensure. Completed files are reviewed by the Executive Secretary and approved for licensure as appropriate. All applications which fall out of the parameters are reviewed and acted upon by the Board or a designated member. The full Board acted upon 7 RN applications and 2 LPN applications.

The Board of Nursing continues to contract with the National Council State Boards of Nursing for use of the national licensing exams for registered and practical nursing. In accordance with provisions of the contract, the Board nominated interested registered nurses for service as item writers. The National Council chose Janet Schaffner of Anchorage to serve as an item writer.

Regulation changes were adopted in October which allowed Alaska to accept the new pass/fail scoring for the NCLEX exams. Candidates for licensure beginning with the test administered October, 1988 for LPN's and February, 1989 for RN's received a pass or fail score instead of a numerical score as was the case in the past.

3. Objective: Propose statutory revisions to allow for regulation of nursing assistants, including educational preparation and continuing competency of nursing assistants as required by federal legislation P.L.100-203.

DISCIPLINE STATUS REPORT

July 1, 1989 to September 30, 1989

Section A

Open cases at beginning of quarter		169
Cases closed or dismissed	(-)	38
New cases initiated	(+)	<u>34</u>
Open cases at end of quarter		165

Section B

Grievances Not Accepted	29
Filed/Under Review	26

Section C

New Grievances Received and Analyzed

(sum of new cases initiated and
grievances not accepted)

This Quarter	63
This Year To Date	187*
Last Year to Date	200

* corrected figure

DISCIPLINE STATUS REPORT.

Section D

OPEN CASES BY NATURE OF GRIEVANCE

<u>Code</u>	<u>Code Description</u>	<u>Number of Cases</u>
01	<u>Trust violations</u> (co-mingling, mismanagement of client funds and property, failure to maintain records and to account to client, withholding client's property, embezzlement, conversion)	19
02	<u>Conflict of interest</u>	13
03	<u>Neglect</u> (failure to perform, delay, lack of communication)	47
04	<u>Relationship with client</u> (disclosing confidential information, failure to protect interests of client, improper withdrawal, refusal to release documents, abandonment)	16
05	<u>Misrepresentation/Fraud</u>	19
06	<u>Excessive fees</u>	4
07	<u>Interference with justice</u> (overzealous representation, failing to represent a client within bounds of the law, prosecutorial misconduct, communicating with one of adverse interest, threatening criminal prosecution to obtain advantage in civil matter, trial misconduct, trial publicity, improper communication with jurors, witnesses, officials, aiding unauthorized practice of law.	46
08	<u>Improper advertising and solicitation</u>	0
09	<u>Criminal conviction</u>	1
10	<u>Personal behavior</u>	0
11	<u>Wilful failure to cooperate with discipline authorities</u>	0
12	<u>Medical incapacity</u>	0
13	<u>Incompetence</u>	0
14	<u>No jurisdiction or referred to other agency</u>	0
15	<u>Other</u>	0
	TOTAL	165

DISCIPLINE STATUS REPORT

Section E

CASES BY AGE AND STAGE OF PROCEEDING - CURRENT QUARTER REPORT

	<u>Pre-1987</u>	<u>1987</u>	<u>1988</u>	<u>1989</u>	<u>Subtotal</u>
CLOSED OR DISMISSED CASES					
CLOSED PROBATION ENDED	4	0	0	0	4
CLOSED BY PUB REPRIMAND	0	0	0	0	0
CLOSED BY ADMONITION	0	1	2	1	4
CLOSED BY REPRIMAND	0	0	1	0	1
CLOSED BY CENS'URE	0	0	0	0	0
CLOSED BY SUSPEND	2	0	0	0	2
CLOSED BY DISBAR	0	0	0	0	0
DISMISSED	<u>1</u>	<u>3</u>	<u>8</u>	<u>15</u>	<u>27</u>
TOTAL	7	4	11	16	38
OPEN CASES					
<u>Discipline in Effect or Pending</u>					
ATTORNEY ON PROBATION	4	0	0	0	4
SHORT TERM SUSPEND	0	0	0	0	0
PENDING SUPREME COURT	1	2	0	0	3
PENDING DISC. BOARD	0	0	1	0	1
PENDING STIPULATION	0	0	0	0	0
PENDING HRG. COMM.	0	0	1	0	1
PENDING PET. APPROVAL	0	0	0	0	0
PENDING ADMONITION	<u>2</u>	<u>0</u>	<u>3</u>	<u>0</u>	<u>5</u>
Subtotal	7	2	5	0	14
<u>Other Proceedings</u>					
PENDING FEE ARB.	1	0	0	1	2
PENDING CONCILIATION	0	0	0	0	0
ABEYANCE	<u>2</u>	<u>2</u>	<u>0</u>	<u>0</u>	<u>4</u>
Subtotal	3	2	0	1	6
<u>Under Investigation</u>					
SPECIAL COUNSEL INV.	1	4	0	0	5
INVESTIGATION	<u>5</u>	<u>20</u>	<u>55</u>	<u>60</u>	<u>140</u>
Subtotal	6	24	55	60	145
TOTAL (Percentage)	16 (10%)	28 (17%)	60 (36%)	62 (37%)	165 (100%)

DISCIPLINE STATUS REPORT

Section F

CASES BY AGE AND STAGE OF PROCEEDING - LAST QUARTER REPORT

	Pre-1987	1987	1988	1989	Subtotal
CLOSED OR DISMISSED CASES					
CLOSED BY PUB REPRIMAND	0	0	0	0	0
CLOSED BY ADMONITION	0	0	0	0	0
CLOSED BY REPRIMAND	0	0	0	0	0
CLOSED BY CENSURE	0	0	0	0	0
CLOSED BY SUSPEND	0	0	0	0	0
CLOSED BY DISBAR	0	0	0	0	0
DISMISSED	<u>1</u>	<u>5</u>	<u>5</u>	<u>10</u>	<u>21</u>
TOTAL	1	5	5	10	21
OPEN CASES					
<u>Discipline in Effect or Pending</u>					
ATTORNEY ON PROBATION	8	0	0	0	8
SHORT TERM SUSPEND	0	0	0	0	0
PENDING SUPREME COURT	2	1	1	0	4
PENDING DISC. BOARD	1	1	0	0	2
PENDING STIPULATION	0	0	1	0	1
PENDING HRG. COMM.	0	0	0	0	0
PENDING PET. APPROVAL	0	0	0	0	0
PENDING ADMONITION	<u>0</u>	<u>1</u>	<u>3</u>	<u>1</u>	<u>5</u>
Subtotal	11	3	5	1	20
<u>Other Proceedings</u>					
PENDING FEE ARB.	1	0	0	0	1
PENDING CONCILIATION	0	0	0	0	0
ABEYANCE	<u>2</u>	<u>2</u>	<u>0</u>	<u>0</u>	<u>4</u>
Subtotal	3	2	0	0	5
<u>Under Investigation</u>					
SPECIAL COUNSEL INV. INVESTIGATION	<u>2</u>	<u>4</u>	<u>0</u>	<u>0</u>	<u>6</u>
Subtotal	9	27	66	42	144
TOTAL (Percentage)	23 (14%)	32 (19%)	71 (42%)	43 (25%)	169 (100%)

SECTION G

Report Date 3RD QUARTER 1989
Last Revision Date :89/10/05

DISCIPLINE STATUS REPORT

CODE NAME

CLSD PROBATION ENDED

FILE NO.	DATE FILED	GRIEVANCE	BC	ABC	CODE AS OF	#
83.036	83/08/15	11	SVG		89/07/24	1
83.043	83/11/22	03	SVG		89/07/24	2
84.435	84/02/14	03	SVG		89/07/24	3
84.443	84/02/21	03	SVG		89/07/24	4
						4

Subtotal

CLOSED BY ADMONITION

87.278	87/11/23	08	SVG	CJA	89/08/04	5
88.183	88/08/24	07	SVG	CJA	89/07/14	6
88.232	88/11/14	03	SVG	MW	89/08/18	7
89.032	89/02/14	07	SVG	MW	89/08/16	8
						4

Subtotal

CLOSED BY REPRIMAND

88.095	88/04/21	05	SVG	MW	89/09/09	9
						1

Subtotal

CLOSED BY SUSPENSION

85.048	85/04/04	07	SVG		89/08/21	10
85.221	85/11/15	07	SVG		89/08/21	11
						2

Subtotal

=====

DISCIPLINE STATUS REPORT

=====

CODE NAME

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DISMISSED

FILE NO.	DATE FILED	GRIEVANCE	BC	ABC	CODE AS OF	#
=====	=====	==	===	===	=====	=====
86.243	86/12/15	07	SVG	MW	89/09/12	12
87.231	87/09/18	01	SVG	MW	89/09/21	13
87.251	87/10/20	01	SVG	MW	89/08/23	14
87.306	87/12/30	03	SVG	MW	89/09/29	15
88.025	88/01/28	05	SVG	MW	89/09/29	16
88.060	88/03/04	03	SVG	CJA	89/09/15	17
88.123	88/06/10	03	SVG	MW	89/09/29	18
88.161	88/07/25	07	SVG	MW	89/07/12	19
88.170	88/08/11	03	SVG	CJA	89/09/29	20
88.173	88/08/11	03	SVG	CJA	89/09/29	21
88.194	88/09/14	03	SVG	MW	89/09/13	22
88.251	88/11/25	04	SVG	CJA	89/09/14	23
89.006	89/01/09	01	SVG	CJA	89/08/09	24
89.015	89/01/26	07	SVG	CJA	89/09/14	25
89.042	89/02/27	04	SVG	CJA	89/08/09	26
89.071	89/04/10	03	SVG	MW	89/08/09	27
89.084	89/04/24	03	SVG	CJA	89/09/15	28
89.085	89/04/25	03	SVG	MW	89/08/09	29
89.088	89/04/25	04	SVG	CJA	89/08/22	30
89.089	89/04/25	04	SVG	CJA	89/08/22	31
89.090	89/04/25	04	SVG	CJA	89/08/22	32
89.092	89/05/01	05	SVG	MW	89/09/21	33
89.086	89/05/09	01	SVG	MW	89/07/19	34
89.102	89/05/26	02	SVG	CJA	89/08/22	35
89.107	89/06/01	07	SVG	CJA	89/08/22	36
89.124	89/06/29	03	SVG	CJA	89/09/29	37
89.138	89/07/24	07	SVG		89/09/29	38

27

Subtotal

GR. NOT ACCEPTED

89.073	89/04/14	00	SVG	89/07/20	39
89.074	89/04/14	00	SVG	89/08/25	40

Report Date 3RD QUARTER 1989
Last Revision Date :89/10/05

DISCIPLINE STATUS REPORT

CODE NAME

GR. NOT ACCEPTED

FILE NO.	DATE FILED	GRIEVANCE	BC	ABC	CODE AS OF	#
89.112	89/06/14	00	SVG		89/08/11	41
89.116	89/06/21	00	SVG		89/08/11	42
89.118	89/06/22	00	SVG		89/07/20	43
89.119	89/06/22	00	SVG		89/07/20	44
89.122	89/06/27	00	SVG		89/08/11	45
89.137	89/06/28	00	SVG		89/08/17	46
89.125	89/06/30	00	SVG		89/08/15	47
89.126	89/06/30	00	SVG		89/08/15	48
89.131	89/07/19	00	SVG		89/08/17	49
89.135	89/07/20	00	SVG		89/08/17	50
89.140	89/07/26	00	SVG		89/08/29	51
89.141	89/07/26	00	SVG		89/08/29	52
89.145	89/08/02	00	SVG		89/08/22	53
89.146	89/08/04	00	SVG		89/08/22	54
89.148	89/08/08	00	SVG		89/09/06	55
89.151	89/08/09	00	SVG		89/08/30	56
89.152	89/08/11	00	SVG		89/08/11	57
89.157	89/08/21	00	SVG		89/09/05	58
89.154	89/08/28	00	SVG		89/08/30	59
89.163	89/08/31	00	SVG		89/09/05	60
89.164	89/08/31	00	SVG		89/09/05	61
89.165	89/08/31	00	SVG		89/09/05	62
89.166	89/08/31	00	SVG		89/09/05	63
89.169	89/09/07	00	SVG		89/09/22	64
89.172	89/09/12	00	SVG		89/09/21	65
89.176	89/09/13	00	SVG		89/09/21	66
89.185	89/09/22	00	SVG		89/09/29	67

29

Subtotal

ATTY ON PROBATION

85.237	85/12/20	01	SVG	85/11/20	68
86.066	86/04/03	03	SVG	88/03/18	69

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DISCIPLINE STATUS REPORT

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CODE NAME

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ATTY ON PROBATION

FILE NO.	DATE FILED	GRIEVANCE	BC	ABC	CODE AS OF	#
=====	=====	==	===	===	=====	=====
86.076	86/04/14	03	SVG		88/03/18	70
86.209	86/10/13	05	SVG		88/03/18	71

						4

Subtotal

PENDING SUPREME CT.

86.184	86/09/12	05	SVG		89/09/11	72
87.078	87/03/19	05	SVG		89/09/11	73
87.157	87/06/22	03	SVG		89/03/30	74

						3

Subtotal

PENDING DISC. BOARD

88.010	88/01/14	09	SVG		89/07/13	75

						1

Subtotal

PENDING HRG. COMM.

88.225	88/11/07	07	SVG	CJA	89/08/09	76

						1

Subtotal

Report Date 3RD QUARTER 1989

Last Revision Date :89/10/05

DISCIPLINE STATUS REPORT

CODE NAME

PENDING ADMONITION

FILE NO.	DATE FILED	GRIEVANCE	BC	ABC	CODE AS OF	#
85.170	85/09/26	04	SVG	MW	89/08/21	77
86.169	86/08/13	03	SVG	JRL	89/04/20	78
88.011	88/01/14	01	SVG	MW	89/08/21	79
88.107	88/05/17	06	SVG	CJA	89/08/09	80
88.166	88/08/05	07	SVG	MW	89/08/28	81
						5

Subtotal

PENDING FEE ARB.

86.083	86/04/21	04	SVG		86/07/08	82
89.011	89/01/20	01	SVG	CJA	89/08/30	83
						2

Subtotal

ABEYANCE/ COURT CASE

83.327	83/05/24	03	SVG		86/05/06	84
84.139	84/08/20	03	SVG		86/05/07	85
87.087	87/03/27	05	SVG		87/11/05	86
87.236	87/09/29	01	SVG		88/03/11	87
						4

Subtotal

UNDER INVESTIGATION

85.186	85/10/11	02	SVG		85/10/11	88
86.011	86/01/14	02	SVG		86/05/08	89

DISCIPLINE STATUS REPORT

CODE NAME

UNDER INVESTIGATION

FILE NO.	DATE FILED	GRIEVANCE	BC	ABC	CODE AS OF	#
86.023	86/02/05	07	SVG	CJA	86/02/20	90
86.134	86/06/27	07	SVG		86/07/17	91
86.225	86/11/12	07	SVG		86/12/05	92
86.237	86/12/01	04	SVG	JRL	89/01/27	93
87.013	87/01/15	04	SVG		87/01/21	94
87.070	87/03/12	03	SVG	CJA	87/03/23	95
87.079	87/03/19	05	SVG		87/09/11	96
87.088	87/03/27	02	SVG	CJA	87/09/22	97
87.110	87/04/17	01	SVG		87/04/23	98
87.126	87/05/12	04	SVG		87/05/29	99
87.128	87/05/13	07	SVG	JRL	87/06/18	100
87.129	87/05/13	07	SVG	JRL	87/06/18	101
87.130	87/05/13	07	SVG	JRL	87/06/18	102
87.131	87/05/13	07	SVG	JRL	87/06/18	103
87.133	87/05/14	02	SVG	MW	87/05/21	104
87.139	87/05/27	04	SVG	CJA	88/12/30	105
87.146	87/06/01	03	SVG	MW	87/06/15	106
87.177	87/07/09	03	SVG	CJA	87/07/24	107
87.182	87/07/20	07	SVG		87/08/03	108
87.197	87/07/30	06	SVG		88/01/04	109
87.215	87/08/31	01	SVG	CJA	87/09/09	110
87.222	87/09/11	01	SVG		87/09/16	111
87.242	87/10/09	03	SVG		87/10/13	112
87.247	87/10/15	05	SVG		87/10/20	113
87.255	87/10/26	03	SVG		87/12/02	114
87.256	87/10/26	07	SVG		87/11/04	115
87.273	87/11/18	03	SVG		87/12/02	116
87.296	87/12/11	07	SVG		87/12/16	117
88.002	87/12/31	07	SVG		88/01/25	118
88.015	88/01/18	05	SVG		88/01/25	119
88.026	88/01/28	07	SVG		88/02/04	120
88.035	88/02/08	07	SVG		88/02/24	121
88.062	88/03/07	02	SVG		88/09/28	122
88.064	88/03/08	02	SVG	MW	88/03/25	123
88.063	88/03/09	06	SVG	CJA	88/03/10	124
88.067	88/03/11	01	SVG	CJA	88/03/24	125
88.078	88/03/22	01	SVG		88/04/27	126

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DISCIPLINE STATUS REPORT

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CODE NAME

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UNDER INVESTIGATION

FILE NO.	DATE FILED	GRIEVANCE	BC	ABC	CODE AS OF	#
=====	=====	==	===	===	=====	=====
88.097	88/04/04	03	SVG	MW	88/04/27	127
88.088	88/04/06	04	SVG	CJA	88/04/27	128
88.098	88/04/27	03	SVG	MW	88/05/16	129
88.105	88/05/09	01	SVG		88/06/21	130
88.106	88/05/11	04	SVG		88/05/17	131
88.132	88/05/17	01	SVG	CJA	88/06/21	132
88.109	88/05/18	05	SVG	MW	88/05/18	133
88.111	88/05/19	07	SVG	CJA	88/06/21	134
88.117	88/05/26	01	SVG		88/05/31	135
88.118	88/05/26	02	SVG	CJA	88/06/20	136
88.125	88/06/03	05	SVG	CJA	88/06/22	137
88.126	88/06/03	07	SVG		88/07/27	138
88.141	88/06/30	07	SVG		88/07/20	139
88.145	88/07/06	03	SVG	MW	88/07/26	140
88.147	88/07/06	03	SVG		88/07/26	141
88.150	88/07/11	04	SVG		88/11/02	142
88.176	88/07/11	02	SVG	MW	89/03/24	143
88.153	88/07/13	07	SVG	CJA	88/07/26	144
88.157	88/07/15	01	SVG	CJA	88/07/26	145
88.158	88/07/18	03	SVG	MW	88/07/19	146
88.164	88/08/01	07	SVG		88/09/01	147
88.189	88/08/01	07	SVG		88/09/01	148
88.190	88/08/01	07	SVG		88/09/01	149
88.178	88/08/18	07	SVG	CJA	88/08/22	150
88.187	88/08/30	07	SVG	CJA	88/09/21	151
88.188	88/08/30	03	SVG		88/09/23	152
88.191	88/09/01	03	SVG	CJA	88/09/22	153
88.192	88/09/12	06	SVG		88/09/27	154
88.195	88/09/19	05	SVG		88/09/21	155
88.211	88/10/01	04	SVG		89/03/29	156
88.209	88/10/04	05	SVG		88/10/25	157
88.208	88/10/06	07	SVG		88/10/31	158
88.207	88/10/07	02	SVG	CJA	88/10/25	159
88.214	88/10/11	07	SVG		88/10/31	160
88.215	88/10/11	07	SVG		88/10/31	161
88.217	88/10/13	07	SVG		88/10/31	162
88.220	88/10/26	03	SVG		88/11/21	163

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Last Revision Date :89/10/05

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DISCIPLINE STATUS REPORT

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CODE NAME

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UNDER INVESTIGATION

FILE NO.	DATE FILED	GRIEVANCE	BC	ABC	CODE AS OF	#
=====	=====	==	==	==	=====	=====
88.240	88/12/02	05	SVG		89/03/31	164
88.241	88/12/02	05	SVG		89/03/31	165
88.242	88/12/02	05	SVG		89/03/31	166
88.246	88/12/07	03	SVG		88/12/30	167
88.247	88/12/08	05	SVG		88/12/14	168
88.253	88/12/15	07	SVG		89/02/09	169
88.261	88/12/15	07	SVG		89/02/09	170
88.258	88/12/27	03	SVG		89/02/01	171
88.259	88/12/29	02	SVG		89/02/01	172
89.001	89/01/03	07	SVG	MW	89/02/02	173
89.004	89/01/04	03	SVG	CJA	89/09/15	174
89.002	89/01/05	03	SVG	CJA	89/02/02	175
89.009	89/01/13	07	SVG		89/05/10	176
89.010	89/01/13	03	SVG		89/02/02	177
89.026	89/01/19	07	SVG		89/02/03	178
89.013	89/01/24	03	SVG	MW	89/02/02	179
89.023	89/01/24	01	SVG		89/02/03	180
89.025	89/01/24	04	SVG		89/02/03	181
89.027	89/01/27	07	SVG		89/03/16	182
89.028	89/01/27	07	SVG		89/03/17	183
89.031	89/02/10	01	SVG	CJA	89/02/28	184
89.039	89/02/23	07	SVG		89/02/28	185
89.043	89/02/27	03	SVG		89/03/17	186
89.045	89/03/01	01	SVG	CJA	89/03/17	187
89.047	89/03/03	07	SVG	CJA	89/03/17	188
89.048	89/03/06	02	SVG		89/03/17	189
89.053	89/03/15	03	SVG		89/03/23	190
89.054	89/03/16	03	SVG		89/04/18	191
89.057	89/03/16	02	SVG	MW	89/03/24	192
89.068	89/03/28	05	SVG		89/03/31	193
89.097	89/04/05	07	SVG	CJA	89/05/10	194
89.082	89/04/24	03	SVG	MW	89/05/12	195
89.091	89/05/01	03	SVG		89/05/09	196
89.095	89/05/03	03	SVG	CJA	89/05/15	197
89.098	89/05/04	05	SVG		89/05/12	198
89.083	89/05/22	03	SVG		89/05/26	199
89.101	89/05/22	03	SVG	MW	89/06/26	200

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DISCIPLINE STATUS REPORT

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CODE NAME

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UNDER INVESTIGATION

FILE NO.	DATE FILED	GRIEVANCE	BC	ABC	CODE AS OF	#
=====	=====	==	===	===	=====	=====
89.106	89/05/30	03	SVG	MW	89/06/23	201
89.109	89/06/01	07	SVG		89/06/27	202
89.108	89/06/02	04	SVG		89/09/07	203
89.110	89/06/07	07	SVG		89/09/14	204
89.111	89/06/07	03	SVG	CJA	89/09/01	205
89.114	89/06/21	07	SVG		89/09/14	206
89.115	89/06/21	07	SVG		89/09/14	207
89.117	89/06/22	03	SVG	MW	89/07/21	208
89.127	89/07/05	07	SVG	CJA	89/08/17	209
89.132	89/07/06	03	SVG	CJA	89/08/17	210
89.128	89/07/11	05	SVG	MW	89/08/17	211
89.133	89/07/18	03	SVG		89/08/18	212
89.142	89/07/26	03	SVG	CJA	89/08/21	213
89.143	89/07/28	03	SVG	CJA	89/09/01	214
89.144	89/07/31	03	SVG	MW	89/09/01	215
89.147	89/08/07	07	SVG	CJA	89/09/12	216
89.149	89/08/08	04	SVG	CJA	89/08/21	217
89.150	89/08/08	02	SVG		89/09/07	218
89.156	89/08/10	03	SVG	MW	89/09/07	219
89.159	89/08/24	03	SVG		89/09/25	220
89.160	89/08/24	03	SVG	CJA	89/09/12	221
89.161	89/08/25	07	SVG	MW	89/09/12	222
89.162	89/08/31	07	SVG		89/09/11	223
89.167	89/09/05	04	SVG	CJA	89/09/21	224
89.174	89/09/07	01	SVG	CJA	89/09/21	225
89.175	89/09/11	05	SVG	MW	89/09/26	226
89.170	89/09/12	04	SVG		89/09/26	227
89.171	89/09/12	01	SVG		89/09/20	228
89.173	89/09/12	01	SVG	MW	89/09/21	229
89.178	89/09/14	03	SVG	CJA	89/09/21	230
89.179	89/09/15	04	SVG	CJA	89/09/25	231
89.180	89/09/18	03	SVG	CJA	89/09/21	232

145

Subtotal

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DISCIPLINE STATUS REPORT

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CODE NAME

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FILED/UNDER REVIEW

FILE NO.	DATE FILED	GRIEVANCE	BC	ABC	CODE AS OF	#
=====	=====	==	===	===	=====	=====
89.067	89/03/27	00	SVG		89/03/28	233
89.105	89/05/30	00	SVG		89/05/31	234
89.113	89/06/14	00	SVG		89/06/14	235
89.120	89/06/20	00	SVG		89/06/23	236
89.121	89/06/27	00	SVG		89/06/27	237
89.123	89/06/28	00	SVG		89/06/28	238
89.129	89/07/11	00	SVG		89/07/12	239
89.130	89/07/12	00	SBC		89/07/12	240
89.134	89/07/20	00	SVG		89/07/20	241
89.136	89/07/21	00	SVG		89/07/24	242
89.139	89/07/25	00	SVG		89/07/31	243
89.153	89/08/11	00	SVG		89/08/11	244
89.155	89/08/11	00	SVG		89/08/11	245
89.158	89/08/23	00	SVG		89/08/24	246
89.168	89/09/06	00	SVG		89/09/06	247
89.189	89/09/12	00	SVG		89/09/26	248
89.177	89/09/13	00	SVG		89/09/13	249
89.181	89/09/20	00	SVG		89/09/22	250
89.182	89/09/20	00	SVG		89/09/22	251
89.183	89/09/20	00	SVG		89/09/22	252
89.184	89/09/20	95	SVG		89/09/22	253
89.186	89/09/25	00	SVG		89/09/25	254
89.187	89/09/25	00	SVG		89/09/25	255
89.188	89/09/25	00	SVG		89/09/25	256
89.190	89/09/29	00	SVG		89/09/29	257
89.191	89/09/29	00	SVG		89/09/29	258

Subtotal

26

Grand Total

258
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FEE ARBITRATION REPORT

July 1, 1989 to September 30, 1989

Section A Summary

Open cases at beginning of quarter	49
Cases closed	(-) 18
New cases initiated	(+) 24
Open cases at end of quarter	55

Section B Description of Open Cases

Under Review	4
Pending Stay	9
Petition Returned For Completion	2
Panel not Assigned	12
Pending Settlement	0
Panel Assigned	5
Remand/Reconsideration	1
Pending Decision	7
Decision Issued	13
Decision Appealed	<u>2</u>
	55

Section C Description of Closed Cases

No Atty./Client Relationship	0
Fee Set by Court/Statute	0
Petition Withdrawn	2
Petition Rejected	1
Closed: Settlement	3
Dismissed w/o prejudice	1
Dismissed w/prejudice	0
Decision Final	10
Reversed on Appeal	0
Sustained on Appeal	<u>1</u>
	18

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FEE ARB QUARTERLY REPORT

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STATUS

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PANEL NOT ASSIGNED

CASE #	FILED	JUD. DIST.	RED. ASKED	RED. AWRDED	STATUS CHNG	#
89.004	89/01/30	3	10,000.00		89/01/30	1
89.011	89/02/23	3	2,000.00		89/08/25	2
89.021	89/04/07	1	17,000.00		89/04/20	3
89.029	89/05/26	3	5,042.28		89/06/19	4
89.035	89/06/26	3	10,000.00		89/06/26	5
89.039	89/07/26	1	720.09		89/08/07	6
89.043	89/08/15	3	9,333.33		89/08/17	7
89.045	89/08/18	3	1,000.00		89/08/18	8
89.049	89/08/31	3	1,279.00		89/08/31	9
89.050	89/09/05	3	2,500.00		89/09/06	10
89.052	89/09/13	3	242.00		89/09/14	11
89.053	89/09/18	1	600.00		89/09/20	12

						12

Subtotal

UNDER REVIEW

89.056	89/09/29	3	75,000.00		89/09/29	13
89.057	89/09/29	3	392.40		89/09/29	14
89.058	89/09/29	1	10,651.74		89/09/29	15
89.059	89/09/29	1	155.00		89/09/29	16

						4

Subtotal

PENDING STAY

89.033	89/06/19	3	4,977.27		89/06/19	17
89.036	89/06/28	3	1,300.00		89/06/29	18
89.042	89/08/09	3	752.31		89/08/09	19
89.044	89/08/16	1	2,129.22		89/08/18	20
89.046	89/08/18	3	11,132.25		89/08/22	21

Report Date 3RD QUARTER 9/89
Last Revision Date :89/10/04

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FEE ARB QUARTERLY REPORT

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STATUS

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PENDING STAY

CASE #	FILED	JUD. DIST.	RED. ASKED	RED. AWARDED	STATUS CHNG	#
89.047	89/08/24	3	325.00		89/08/25	22
89.048	89/08/25	3	0.00		89/08/29	23
89.054	89/09/18	4	1,000.00		89/09/20	24
89.055	89/09/25	3	0.00		89/09/25	25

						9

Subtotal

PET RET'D/COMPLETION

89.022	89/04/14	3	0.00		89/04/20	26
89.040	89/08/02	1	0.00		89/08/07	27

						2

Subtotal

PANEL ASSIGNED

88.004	88/01/29	3	430.00		88/03/31	28
89.012	89/02/23	3	25,796.01		89/08/10	29
89.013	89/03/07	3	3,796.68		89/08/31	30
89.037	89/07/19	3	10,733.54		89/08/25	31
89.041	89/08/07	3	600.00		89/08/23	32

						5

Subtotal

REMAND/RECONSIDERATN

89.003	89/01/09	3	3,945.39	1,496.00	89/07/18	33

						1

Subtotal

Report Date 3RD QUARTER 9/89
Last Revision Date :89/10/04

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FEE ARB QUARTERLY REPORT

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STATUS

=====

PENDING DECISION

CASE #	FILED	JUD. DIST.	RED. ASKED	RED. AWARDED	STATUS CHNG	#
=====	=====	=	=====	=====	=====	=====
88.011	88/02/23	1	8,258.20		89/06/19	34
88.048	88/11/16	3	13,700.00		89/05/16	35
89.002	89/01/17	1	10,000.00		89/08/22	36
89.010	89/02/22	3	6,500.00		89/09/14	37
89.017	89/03/28	3	6,000.00		89/07/11	38
89.028	89/05/24	3	6,702.21		89/09/12	39
89.032	89/06/12	3	700.00		89/09/06	40

						7

Subtotal

PETITION WITHDRAWN

88.036	88/09/23	3	35,000.00		89/08/07	41
89.034	89/06/21	3	920.00		89/07/25	42

						2

Subtotal

PETITION REJECTED

89.051	89/09/05	3	1,752.00		89/09/14	43

						1

Subtotal

CLOSED: SETTLEMENT

89.026	89/04/24	3	700.00		89/07/07	44
89.027	89/05/22	4	0.00		89/08/16	45
89.038	89/07/20	4	1,105.06		89/08/29	46

Report Date 3RD QUARTER 9/89
Last Revision Date :89/10/04

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FEE ARB QUARTERLY REPORT

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CASE # FILED	JUD. DIST.	RED. ASKED	RED. AWDED	STATUS CHNG	#
=====	=====	=====	=====	=====	=====
Subtotal					3

DISMISSED W/O PREJ.

89.030	89/06/02	3	3,500.00	89/09/20	47
Subtotal					1

DECISION ISSUED

88.015	88/04/18	1	13,926.13	1,268.00	89/08/18	48
88.028	88/08/11	1	19,000.00	0.00	89/07/31	49
88.041	88/11/02	3	27,500.00	27,500.00	89/09/11	50
88.042	88/11/08	3	1,482.43	0.00	89/07/07	51
89.005	89/02/03	3	4,273.41	579.00	89/08/24	52
89.006	89/02/07	4	29,000.00	21,688.82	89/07/25	53
89.014	89/03/10	3	2,000.00	0.00	89/07/18	54
89.015	89/03/15	3	6,000.00	4,500.00	89/07/26	55
89.016	89/03/24	3	1,861.00	550.00	89/09/01	56
89.020	89/03/30	3	3,156.01	59.51	89/09/25	57
89.024	89/04/20	3	2,352.00	1,852.00	89/08/31	58
89.025	89/04/21	3	1,220.00	0.00	89/07/31	59
89.031	89/06/08	3	1,800.00	1,800.00	89/09/08	60
Subtotal					13	

DECISION FINAL

86.027	86/07/09	3	500,233.33	385,233.33	89/08/17	61
88.022	88/06/03	3	250.00	769.84	89/07/08	62
88.023	88/06/10	3	3,771.50	0.00	89/08/07	63
88.025	88/07/14	3	5,906.16	0.00	89/08/30	64
88.031	88/09/12	1	3,600.00	2,411.74	89/07/27	65
88.046	88/11/15	3	954.35	954.35	89/07/09	66

Report Date 3RD QUARTER 9/89
Last Revision Date :89/10/04

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FEE ARB QUARTERLY REPORT

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STATUS

=====

DECISION FINAL

CASE #	FILED	JUD. DIST.	RED. ASKED	RED. AWDED	STATUS CHNG	#
88.052	88/12/20	3	2,500.00	262.50	89/08/15	67
88.061	88/12/23	3	390.00	0.00	89/07/13	68
88.062	88/12/23	3	1,500.00	1,250.00	89/09/14	69
89.001	89/01/11	4	637.82	616.00	89/09/14	70

10

Subtotal

DECISION APPEALED

82.023	82/07/21	1	20,000.00	9,814.45	84/08/27	71
87.052	87/09/30	4	5,500.00	1,215.00	89/03/20	72

2

Subtotal

SUSTAINED ON APPEAL

87.021	87/04/29	3	6,436.00	5,936.34	89/08/18	73
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1

Subtotal

73

Grand Total

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Report Date 3RD QUARTER 1989
Last Revision Date :89/10/05

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ADMISSIONS STATUS REPORT

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STATUS

=====

CLOSED BY DISMISSAL

FILE NO.	DATE FILED	COUNSEL	CODE AS OF	#
=====	=====	===	=====	=====
89.003	89/07/17	SVG	89/08/15	1

				1

Subtotal

PENDING BOARD

89.001	89/07/03	SVG	89/09/07	2

				1

Subtotal

PENDING HEARING MASTER

89.002	89/07/05	SVG	89/07/06	3

				1

Subtotal

				3
				=====

Grand Total

Report Date 3RD QUARTER 1989
Last Revision Date :89/10/05

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OTHER PROCEEDINGS REPORT

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STATUS

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PENDING HEARING COMMITTEE

FILE#	FILED	PROCEEDING TYPE	CASE NAME	ATY AS OF
86.005	861117	CLIENT SECURITY FUND	CONFIDENTIAL	CJA 890629

Subtotal

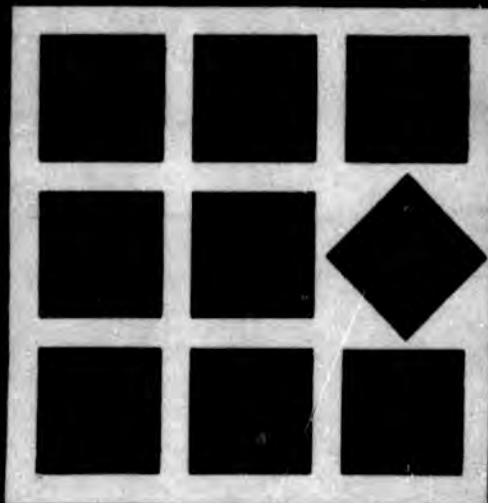
PENDING TC REPORT

86.002	860730	TRUSTEE COUNSEL	FYFE, EDWARD J. (JACK)	SVG 860805
86.003	860821	TRUSTEE COUNSEL	SHELLEY, ROBERT, R.	SVG 860826
88.003	880503	TRUSTEE COUNSEL	DENAULT III, H. JOHN	SVG 880503

Subtotal

Grand Total

ethical grievances against attorneys



supervision of attorney conduct

All attorneys are governed by rules of ethics known as the Code of Professional Responsibility. An attorney who violates the Code of Professional Responsibility is subject to discipline. The Alaska Supreme Court exercises final authority over attorney conduct in Alaska.

The Disciplinary Board of the Alaska Bar Association has been given the responsibility by the Alaska Supreme Court and the legislature to process ethical grievances against attorneys and to recommend discipline when appropriate. The Disciplinary Board employs Discipline Counsel and staff to investigate and prosecute ethical grievances.

filing a complaint

Grievances must be written, signed statements, containing a clear explanation of the details of each act of alleged misconduct, including the approximate time and place of each. Copies of letters or other documents relating to the grievance should be included. A grievance must be sent to the Alaska Bar Association, where Discipline Counsel will review it and determine whether it contains sufficient factual allegations which, if true, would constitute ethical misconduct. Attorney Grievance forms, which may be used in filing a grievance, are available from the Alaska Bar Association.

examples of misconduct

The Code of Professional Responsibility covers a wide range of attorney conduct. Examples of misconduct are:

- conduct involving dishonesty, fraud, deceit, or misrepresentation
- revealing client confidences or secrets except under special circumstances
- charging a clearly excessive fee (generally a fee dispute is referred to the Attorney Fee Review Committee)
- withdrawing money from his/her office trust account for personal use unless it is undisputed that the attorney has earned the funds

If you have questions about an attorney's conduct you may call the Alaska Bar Association. The Code of Professional Responsibility is available at any court law library in the State of Alaska.

investigation

If review of a grievance indicates that ethical misconduct may have occurred, a copy of the grievance will be sent to the attorney for a response. If the response raises additional questions, the complainant may be asked to submit further comments.

The investigation of a complaint is confidential. All persons involved in the investigation of a complaint, including the complainant, must maintain confidentiality, but they may consult with an attorney. It is contempt of court to violate this confidentiality.

After investigation, Discipline Counsel will make one of the following decisions:

- dismiss the grievance if the evidence does not show unethical conduct
- issue a written private admonition to the attorney
- file a petition for formal hearing

appeal or dismissals

If a complainant disagrees with the dismissal of a grievance, (s)he may appeal the decision by writing a letter to the Bar Association specifically stating the reasons for appeal. The appeal and the file will be reviewed by a member of an Area Discipline Division.

hearings

Discipline hearings are public and are much like a courtroom trial, with witnesses testifying under oath. Complainants are generally called to testify at the hearing. A Hearing Committee of at least one non-attorney and two attorneys considers the evidence and makes a recommendation to the Disciplinary Board.

Three non-attorneys and nine attorneys sit on the Disciplinary Board. The Board reviews the record and considers the Hearing Committee's recommendation. The Board can 1) dismiss the matter if it finds insufficient evidence; 2) issue a public reprimand to the attorney; or 3) recommend that the attorney be disciplined by the Alaska Supreme Court. The Court can impose public censure, probation, suspension from practice for up to five years, or disbarment.

some things a complainant should not expect

You should not expect the Bar Association to provide you with legal advice or services. The Bar Association can only act to enforce the Code of Professional Responsibility and cannot represent you in civil or criminal matters.

You should not expect that your complaint will be decided solely on the basis of your statement of the facts, just as the attorney cannot expect that the matter will be decided solely on the basis of his or her version. The decision will be based on all the relevant evidence.

You should not expect, as a result of your complaint, that you will receive any money or reimbursement for loss.

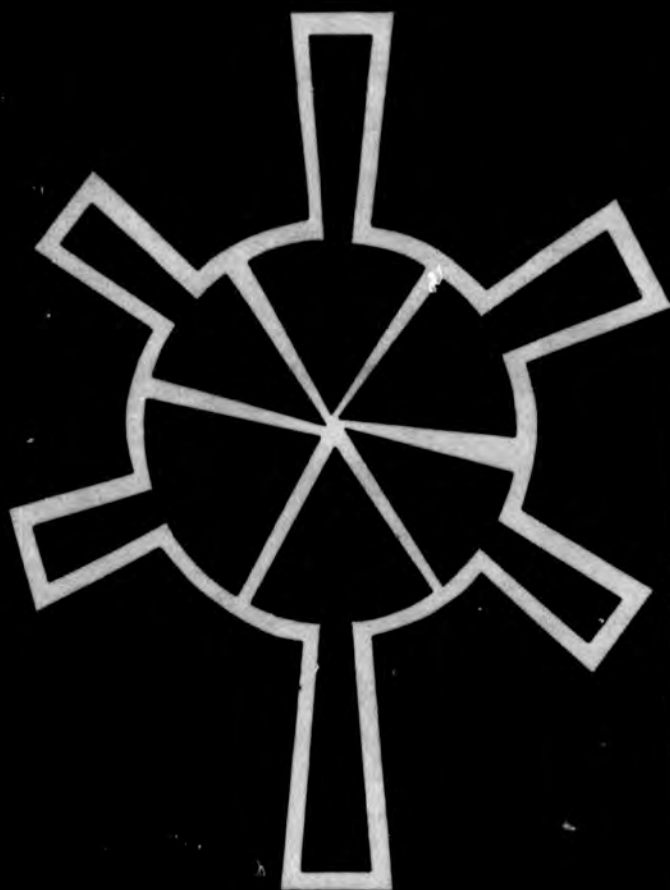
what a complainant can expect

You can expect that every attempt will be made to review your grievance in a manner which is timely and fair both to you and to the attorney.

You can expect to receive written notice of the final decision concerning your grievance, and the reasons for that decision.

**Direct inquiries to:
Discipline Counsel
Alaska Bar Association
P.O. Box 100279
Anchorage, AK 99510
907-272-7469**

fee arbitration



what is a fee arbitration?

Fee arbitration is a process which may be used to resolve a dispute over fees with an attorney. The dispute is decided by an impartial panel which renders a final and binding decision based on the facts and evidence presented by the parties.

a public service

The fee arbitration process is a service provided by the Alaska Bar Association without charge to the person or attorney.

disputes subject to fee arbitration

A person may have a fee dispute with an attorney arbitrated. The attorney must be licensed to practice in the State of Alaska or the services must have involved a legal matter conducted in Alaska. The person must make efforts to resolve the dispute directly with the attorney before the arbitration process is commenced. The fee arbitration process cannot be used if the fee was determined by a court decision, by a statute, or by court rule.

requesting a fee arbitration

A person may request a fee arbitration by filling out a form available through the Bar Association. The person must state on the petition form the efforts that he or she has made to resolve the dispute directly with the attorney, describe the dispute as specifically as possible, and state the remedy sought from the attorney.

putting court proceeding "on hold"

A party in a civil court proceeding involving the collection of attorney fees may seek a "stay," which puts the court proceeding on "hold" while a fee arbitration is pending with the Bar Association. In order to obtain a stay, a petition for fee arbitration must be filed with the Bar Association within thirty (30) days of receiving a "Notice of Client's Right to Arbitrate" from the attorney.

assignment of arbitration to hearing panel

If a dispute involves an amount less than \$2,000.00, the matter will be heard by a single member of the fee arbitration committee. Otherwise, a panel of three members, one of whom is a non-attorney, is convened from a local standing committee in the community where the legal services were provided. There are local standing committees in Anchorage, Fairbanks, Juneau, and Ketchikan. Special arrangements are made in communities which are not close to one of these.

hearing

Twenty days advance notice of the hearing will be given to the parties. The chairperson of the hearing panel conducts the hearing and decides what testimony and documents may be used as evidence. Relevant and reliable evidence will be admitted. If the client or the attorney fails to appear at the hearing, the hearing panel may proceed in that person's absence. Special procedures may be used by a client or the attorney to submit a written statement in addition to, or instead of, testimony at the hearing; to submit witness affidavits instead of presenting their testimony in person, and to participate by conference call. The cost of the call will generally be paid by the party requesting it.

confidentiality

Fee arbitration proceedings are confidential. Hearings and records relating to the arbitration are only open to the parties to the dispute and not to the public.

decision

The hearing panel will make its decision within thirty days after the close of the hearing. The decision must be agreed to by a majority of the hearing panel members. The panel may decide that an attorney should refund fees already collected; should collect only a reduced fee; or that the fees are reasonable under the circumstances.

fee arbitration binding

All parties are bound by the decision of the fee arbitration panel, unless the decision is set aside by the superior court on appeal, as discussed below. A party may apply to the courts for an order "confirming" the arbitration decision. The decision is confirmed by the court without any further evidentiary proceeding, and may be enforced in the same manner as a court judgment.

appeal

Either party may appeal a decision of the fee arbitration committee within thirty days of the date that the decision is mailed or delivered. There are limited grounds for appeal, which are set out in Alaska Statutes 09.43.120-180. Procedures for appeal are set out in the Rules of Appellate Procedure 601-609.

assistance in filing

The Bar Association is here to provide assistance to persons seeking an opportunity to have their fee dispute arbitrated and is more than happy to provide clients with information and assistance in the processing and handling of their fee dispute.

Contact the:

**Alaska Bar Association
P.O. Box 100279
Anchorage, Alaska 99510
907-272-7469**

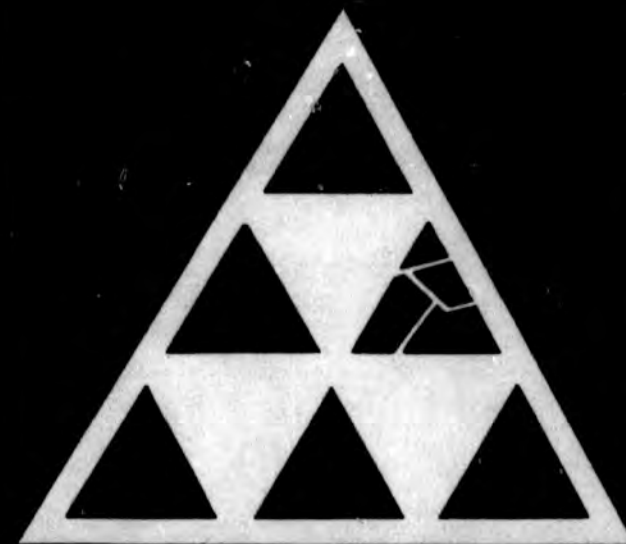
what to expect after a claim is filed

Each application for reimbursement will be reviewed and investigated. Applications which fail to make a case for reimbursement will be rejected. The reasons for the rejection will be set forth in a written report. Applications which are not rejected will be considered by the Client Security Fund Committee. Based upon its consideration, the Committee will make recommendation to the Board of Governors of the Alaska Bar Association. The Board will determine, in its discretion, whether and to what extent to reimburse the applicant. The decision to reimburse the applicant will depend on the amount of money available to the Fund, the number of claimants seeking reimbursement, and the degree of hardship suffered by each claimant.

Claims will generally not be awarded until the completion of the disciplinary action against the attorney. It is important, therefore, that a claimant report dishonest conduct to Discipline Counsel immediately and cooperate with any investigation by the Alaska Bar Association.

**Direct inquiries to:
Discipline Counsel
Alaska Bar Association
P.O. Box 100279
Anchorage, AK 99510
907-272-7469**

client
security
fund



losses covered by the client security fund

client security fund

The Client Security Fund was established by the Alaska Bar Association to provide a remedy for clients who have lost money or other property as a result of the dishonest conduct of attorneys. The Fund is a remedy of last resort for clients who cannot get reimbursement from other sources, such as insurance or the attorney involved.

purpose of fund

The legal profession depends upon the trust of clients. Very few attorneys breach that trust. Nonetheless, it is important that the profession's reputation for honesty be maintained and protected. The Client Security Fund serves this function by providing reimbursement to clients whose money or property has been wrongfully taken by attorneys admitted to practice law in Alaska.

financing the fund

No tax dollars are used. The Client Security Fund is financed by judges and attorneys licensed to practice law in Alaska.

The Client Security Fund Committee, under rules established by the Supreme Court, administers the Fund and it may recommend reimbursement of losses caused by the dishonest conduct of attorneys admitted to the practice of law in Alaska, up to a maximum of \$10,000.00 for each claim and \$50,000.00 per attorney. Dishonest conduct means the wrongful taking of a client's money or other property. A situation in which an attorney did not complete work for which the client has paid or did not perform to the client's satisfaction does not, alone, constitute a claim. A claim for reimbursement must be filed with the Committee within three years after the client discovers the loss.

The Client Security Fund Committee does not have authority to discipline attorneys for misconduct, resolve fee disputes or determine legal malpractice claims. Fee disputes, complaints of misconduct or malpractice should be pursued by notifying the Alaska Bar Association or by civil lawsuit. In addition to filing a claim with the Client Security Fund Committee, a claimant should report the attorney's conduct to the Alaska Bar Association. A claimant should also report illegal acts, such as theft or embezzlement, to the local District Attorney.

how to file a claim

A claim form and other information and assistance is available by writing the Client Security Fund Committee or calling the Alaska Bar Association. A claimant is not required to be represented by an attorney in order to process a claim with the Fund.

Actions:

Statutory changes to grant the Board of Nursing the authority to regulate the practice of nurse aides including training programs and certification was introduced as SB 156. (See Appendix A) It was amended to allow a nurse aide to work for four months prior to certification. The bill passed the Senate by 19-0-1 on April 13, 1989. However, following Senate passage, the Sisters of Providence Corporation decided to oppose the legislation. The Sisters are concerned the Board will make requirements which are more stringent than they feel are necessary and are concerned about the cost implications of the program. Believing statutory authority to be premature, they lobbied against the Bill in the House. The Bill has been held up in the House Hess Committee for consideration during the 1990 session.

4. Objective:

Review annual reports from Alaska Nursing Education Programs for evaluation of continued approval. To perform site visits to the Schools of Nursing as required by statute and regulations.

Actions:

The Schools of Nursing annual reports were reviewed and discussed by the Board at the October meeting. The University of Alaska Baccalaureate Nursing Program and Associate Degree Nursing Program continue to be fully approved by the Board.

The Board granted provisional approval to Everett Community College School of Nursing in accordance with 12 AAC 44.020. Everett Community College is offering an RN completion program for practical nurses in Ketchikan.

No site visits were made during this fiscal year.

5. Objective:

Advise the Investigative Staff regarding Nurse Practice Act violations as necessary and to act upon cases as indicated after litigation hearings. Continue to utilize appropriate probationary agreements in lieu of contested hearings.

Actions:

In order to protect the objectivity of the Board members, limited advice is requested from the Board. The Board takes action to close cases under investigation. The Board's Executive Secretary and at times individual Board Members provide more in-depth advice and assistance to the investigator.

A summary of the disciplinary action by the Board reflects the Board's objective for utilizing stipulations for nurses recovering from chemical dependency. Three registered nurses were placed on probation. One LPN license was revoked and two RN licenses were revoked. The Board accepted the surrender of one RN license. The Board denied licenses to two registered nurses and one licensed practical nurse.

6. Objective:

Review procedures for monitoring probationary agreements.
Review progress of nurses with stipulated licenses.

Actions:

The Executive Secretary has been the staff person responsible for monitoring the nurses on probation. This involves requesting and follow-up of drug screening, employer and counselor reports. Nurses are periodically interviewed and AA/NA documentation is reviewed. This year 15 nurses were monitored. One nurse completed her probationary requirements and was reinstated.

Because of the increasing number of nurses being monitored, it was decided that the nurse aide program manager would share these responsibilities. Some of the case load was turned over to D. Fulton in May. She will assume more of the case load as time and other responsibilities allow.

Reports were given to the Board at each regularly scheduled meeting about the progress of those nurses on probation. Requests for appropriate release from terms of agreements such as counseling are taken up by the Board during the probation report time. One nurse violated probation and surrendered his license

7. Objective:

Review and revise regulations to comply with Statutes as needed.

a. Review Division recommendations and in concordance with the Division set licensure fees if indicated.

Actions:

The Division Administration reviewed the revenues and expenditures related to the Board of Nursing towards the end of FY 89. Randall Burns, Division Director, advised the Board in May that the Division will seek an increase in the nurse licensure fees during FY 90. This issue is expected to be taken up at the Board's September, 1989 meeting.

b. Develop regulations to implement statutory requirements for nursing assistants in conjunction with other state agencies as appropriate.

Actions:

Despite the fact that the legislation has not passed, the Division and Board staff have proceeded towards implementation of the OBRA requirements for long term care nurse aides.

Early in FY 89, the Division of Medical Assistance, Department of Health and Social Services, and the Division of Occupational Licensing signed an RSA giving Occupational Licensing funding to begin implementation of the nurse aide requirements.

A Nurse III position was approved and Dorothy Fulton, RN, MA, was hired into the position as the Nurse Aide Program Manager. Ms. Fulton has proceeded to develop criteria for program approval including required curriculum and criteria for certification as a nurse aide in Alaska. Proposals have been requested from two testing services marketing nurse aide competency exams in order to select a testing service for use in Alaska. The selection is expected to be made early in FY 90.

In developing the program criteria, two advisory groups were utilized. One group included licensed nurses employed in long-term care facilities. The other group is composed of nurse aides employed in long-term care. Both groups provided valuable input in the formation of the curriculum requirements.

According to the current federal time lines, nurse aides employed in long-term care facilities must be certified and registered with the State by January 1, 1990. With this date rapidly approaching, the Board and the Division are committed to assisting the long-term care facilities in meeting the deadline.

8. Objectives:

Receive interim and final reports from the Level of Entry Subcommittee. Take action based on the Level of Entry Subcommittee recommendations.

Actions:

This objective has continued to be a priority one for the Board and has required many hours of staff time.

The Level of Entry Subcommittee met July 14, 15, 1988; December 9, 10, 1988 and April 27, 28, 1989. An Anchorage

Contingency met on May 19, 1989 to complete work on the final report. The report is being completed and will be received by the Board at it's September, 1989 meeting.

Shirley Martin, RN, assumed the chair position when Constance Blair left the state. Ms. Martin chaired all of the meetings held during FY 89. She presented written and oral reports to the Board at each meeting. The Division budget was able to support the travel required for the July meeting but could not assist with travel for the remaining meetings. After the nursing community was made aware that the work of the committee was in jeopardy due to the lack of travel funds, several groups made donations to assist the group. A total of \$2,000 was donated to the subcommittee to use for travel of the individuals serving on the committee. The Board was pleased that the members of the committee were able to complete their task and look forward to the final report. See Appendix B for interim reports on the subcommittee's work.

9. Objective:

Increase awareness by licensees and consumers of Board of Nursing activities. Continue to provide continuing education offerings on the Nurse Practice Act, Position Papers and regulations. Use videotape on continued competency regulations in rural communities.

Actions:

The Board's Executive Secretary, Gail McGuill, has continued to provide educational offerings on the Alaska Nurse Practice Act, regulations and position statements.

Ms. McGuill writes a column, "Notes from the Board of Nursing" which is published in the Alaska Nurse bimonthly magazine. During the past year, she addressed several classes at both schools of nursing and meetings of the Alaska Organization of Nurse Executives, Alaska Nurses' Association District One, PEER Group Annual Conference, Alaska Nurses Association and Alaska Geriatric Conference. Ms. McGuill provided the keynote address to the First Annual Alaskan Conference on Professional Nursing Practice attended by 150 nurses from around the state. A total of 13 presentations were made between September, 1989 and May, 1989 to groups of nurses.

The fact sheet on the continued competency regulations continues to be used and is being updated to reflect the most current information. It includes a form to assist nurses in documenting volunteer professional activities and employment. This has helped provide essential information on these regulations which went into effect with the 1988 renewal. In addition, Providence Hospital videotaped a 35 minute presentation by Ms. McGuill on the competency regulations.

This was made available to nurses in rural communities. The video tape has been shown in Sitka, Fairbanks, Valdez, Petersburg and Wrangell.

10. Objective:

Continue to increase Board awareness and involvement in National Council State Boards of Nursing (NCSBN) activities by reviewing reports on NCSBN activities and by seeking funding for Board travel to NCSBN meetings.

Actions:

The Executive Secretary has been sending more of the reports and information on Council matters to the Board members for review.

Janet Buness and Gail McGuill served as voting delegates at the August, 1988 annual meeting of the National Council State Boards of Nursing in Des Moines, Iowa.

All Board members and staff attended the NCSBN Spring 1989 Area I meeting held in Anchorage.

This participation at the NCSBN meetings has helped the Board Members to understand their roles and to provide a better service to the state in protection of the public.

11. Objective:

Host the NCSBN Area I spring meeting on March 2, 3, 1989 in Anchorage.

Actions:

The Board of Nursing and staff hosted a wonderful Area I meeting in Anchorage at the Clarion Hotel. All Board members and staff attended the meeting. While the program content was established by The National Council, the social events were directed by the Board. They included a fur fashion show, a private tour of the Museum of History and Art, a dinner at the Museum catered by the Captain Cook Hotel and the Native Dress Review. Most attendees stayed to participate in the start of the Iditarod Dogsled Race.

The evaluation of the meeting showed everyone quite happy with the meeting and we certainly contributed to the state tourist trade.

12. Objective:

Participate in the Division sponsored Pain Symposium for Alaska licensed health professionals. Meet jointly with Medical and Pharmacy Boards to problem solve misuse of controlled substances involving prescribing and dispensing by these licensees.

Actions:

The members of the Board and staff attended the Pain Symposium held in October, 1988. The Executive Secretary served on the Program Committee and helped secure the speakers for the Conference.

The Conference was interdisciplinary and was well attended by the nursing community.

The following day, a joint meeting was held for the Nursing, Medical, Pharmacy and Dental Boards. This meeting helped improve the working relationship between the Boards and the Division. Common professional issues were discussed.

GOALS AND OBJECTIVES
FY 90

1. The Board of Nursing will continue to define, review, maintain, develop and interpret standards of nursing care that protect the Alaska consumer.
2. The Board of Nursing through the Division of Occupational Licensing will continue to license individuals in a timely manner consistent with the Alaska Statutes and Regulations and Board of Nursing Policy.
 - a. To continue the licensing procedures to include:
Licensed Practical Nurse and Registered Nurse endorsements and authorization to practice for Advanced Nurse Practitioners and Registered Nurse Anesthetists.
 - b. To license by examination LPN's and RN's. To fulfill contract responsibilities with the National Council of State Boards of Nursing.
3. Review annual reports from Alaska Nursing Education Programs for evaluation of continued approval. To perform site visits to the schools of nursing as required by statute and regulations.
4. Advise the Investigative Staff regarding Nurse Practice Act violations as necessary and to act upon cases as indicated after litigation hearings. Continue to utilize appropriate probationary agreements in lieu of contested hearings.
5. Develop procedures for monitoring probationary agreements. Review progress of nurses with stipulated licenses.
6. Review and revise regulations to comply with statutes as needed.
 - a. Review Division recommendations and in concordance with the Division set licensure fees if indicated.
 - b. Develop and implement regulations to bring Alaska into compliance with P.L. 100-203, including program approval, competency testing, certification and registry for nurse aides in conjunction with other state agencies as appropriate.

- c. Amend Registered Nurse Anesthetist regulations to further define the relationship between the collaborating physician and the RNA, and the ability of the RNA to prescribe drugs.
7. Receive the final report from the Level of Entry Subcommittee. Review, discuss and take public comment on the recommendations, develop statutory and regulatory changes based upon committee's recommendations and public comment.
8. Increase awareness by licensees and consumers of Board of Nursing activities. Continue to provide continuing education offerings on the Nurse Practice Act, Position Papers and regulations. Review video tape on Continued Competency Regulations for continued use in rural communities. Continue use of video tape or revise as appropriate.
9. Continue to increase Board awareness and involvement in National Council State Boards of Nursing (NCSBN) activities by reviewing reports on NCSBN activities and by seeking funding for Board member attendance at NCSBN meetings.
10. Review recommendations of the PADS project to determine need for alterations in regulations affecting ANP's with prescriptive authority. Collaborate with Medical and Pharmacy Boards to problem solve areas of concern indicated by the PADS report.
11. Followup on the recommendations from the report on nursing in Alaska correctional facilities.
12. Review problems with foreign nurse graduates not being successful on the exam and alternatives for helping them. Prepare an information sheet on licensing of foreign nurse graduates.
13. Update the guidelines for RN & LPN refresher courses.
14. Provide consultation to long-term care facilities on the nurse aide education program approval process, competency testing and certification.
15. Develop standards of practice for Practical Nurses in accordance with 08.68.100(9). Include a review and inclusion as necessary of positions statements; LPN Utilization in Administration of Oral Subcutaneous and IM Medications, Nursing Responsibilities in Intravenous Therapy.
16. Review nursing shortage issues and respond to community concerns within the Board's statutory authority.

BOARD TRAVEL REQUEST

A. Board Meetings

The Board of Nursing is authorized by statute to hold at least four meetings. Consequently, the Board requests funding to hold four meetings. The proposed sites are listed below:

FY 90

Fairbanks
Anchorage
Sitka
Anchorage

FY 91

Fairbanks
Anchorage
Juneau
Anchorage

B. Out of State Travel

During FY 90 the Board of Nursing requests travel for two Board members to attend the National Council State Boards of Nursing (NCSBN) Spring Area I Meeting in Phoenix, Arizona, on March 1 and 2, 1990. The second meeting travel request is for the NCSBN annual meeting to be held in Portland, Maine from August 7-11, 1990. Names of the Board members who might attend these meetings are Barbara Carberry and Janet Bunes for the Area I meeting, and Janet Bunes and Tina DeLapp for the annual meeting. Board members have suggested that one person attend both meetings for continuity in voting on the issues at the annual meeting.

For FY 91 requests will be submitted for two members to attend the same two meetings. The Spring Area I meeting will likely be held in Utah with the August annual delegate assembly scheduled for Chicago, Illinois.

It should be noted that as the Board's Executive Secretary is currently the Area I Director on the NCSBN Board of Directors, she will be attending these meetings at the expense of the Council.

BUDGET RECOMMENDATIONS

The following items are based on the FY 90 objectives and require fiscal consideration.

1. Continue to provide funding for two RN and two LPN exam administrations as required by contract with the National Council State Boards of Nursing (NCSBN). This should be done according to statutory requirements for statewide administration (08.68.190) in conjunction with Board policy. This would also require continuing the contract with NCSBN for the licensure examinations at the cost of \$3,000.00 per year.
2. Hold public hearings on the proposed regulations for nurse aide education and competency testing.
3. Secure travel funds for Tina DeLapp, the nurse educator on the Board to do a site visit to the Kenai/Soldotna site of the Everett Community College Associate Degree Nursing Program.
4. Distribute the Level of Entry Final Report and hold community "town meetings" on the recommendations around the state utilizing Board members, staff and possibly Level of Entry Subcommittee members. Educational offerings on the Nurse Practice Act, regulations and chemically dependent nurses could be provided by the Executive Secretary in the communities where she would be for the "town meetings".

LEGISLATIVE RECOMMENDATIONS

The Board of Nursing has no recommendations for proposed legislation to amend the Nurse Practice Act for this fiscal year.

REGULATION RECOMMENDATIONS

As indicated in the objectives for FY 90, the Board will participate in the regulation of long term nurse aides in accordance with the Governor's Administrative Order 415. The initial drafting of the regulations will be done by Dorothy Fulton, Nurse Aide Program Manager. They will be based upon the OBRA 87 requirements for nurse aide education, competency testing and certification to a registry. The content of the proposed regulations will parallel the Nurse Aide Training and Competency Evaluation Criteria Manual revised August 1989. Use of the regulatory process will serve to protect the consumer by defining the standards for education and competency based testing for nurse aides employed in long term care.

The second regulatory project deals with further defining the relationship of the collaborating physician to the registered nurse anesthetist. The Board has been questioned by two agencies on this matter in the past year. It is thought that further regulatory definition is necessary. In addition, the Board has had a request to further define the RNA's role in prescribing medications preoperatively and postoperatively. Again further definition is needed to protect the public so RNA's will continue to practice within their appropriate scope of practice.

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2 CS FOR SENATE BILL NO. 156 (FINANCE)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 SIXTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 FOR AN ACT ENTITLED: 'AN ACT RELATING TO THE REGULATION OF NURSE AIDES BY
7 THE BOARD OF NURSING, AND PROVIDING FOR AN EFFECTIVE
8 DATE.'

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

10 * SECTION 1. AS 08.68.100(A)(1) IS AMENDED TO READ:

11 (1) ADOPT REGULATIONS NECESSARY TO IMPLEMENT THIS CHAPTER,
12 INCLUDING REGULATIONS PERTAINING TO PRACTICE AS AN ADVANCED NURSE
13 PRACTITIONER, (AND) A NURSE ANESTHETIST, AND A NURSE AIDE,

14 * SEC. 2. AS 08.68 IS AMENDED BY ADDING A NEW SECTION TO READ:

15 SEC. 08.68.215. REGULATION OF NURSE AIDES. THE BOARD SHALL, BY
16 REGULATION, ESTABLISH REQUIREMENTS FOR NURSE AIDE CERTIFICATION AND
17 REGISTRATION, STANDARDS FOR CONDUCTING NURSE AIDE TRAINING PROGRAMS,
18 AND GROUNDS FOR TAKING DISCIPLINARY ACTION AGAINST NURSE AIDES.

19 * SEC. 3. AS 08.68 IS AMENDED BY ADDING A NEW SECTION TO READ:

20 SEC. 08.68.218. REQUIRED CERTIFICATION AND REGISTRATION OF NURSE
21 AIDES. AFTER FOUR MONTHS OF EMPLOYMENT AS A NURSE AIDE, A PERSON MAY
22 NOT PERFORM AS A NURSE AIDE UNLESS THE PERSON IS CERTIFIED AND REGIS-
23 TERED UNDER THIS CHAPTER.

24 * SEC. 4. AS 08.68.220 IS AMENDED TO READ:

25 SEC. 08.68.220. FEES. THE DEPARTMENT OF COMMERCE AND ECONOMIC
26 DEVELOPMENT SHALL SET FEES UNDER AS 08.01.065 FOR EACH OF THE FOLLOW-
27 ING:

28 (1) REGISTERED NURSING.

29 (A) APPLICATION;

1 (B) LICENSE BY EXAMINATION;

2 (C) LICENSE BY ENDORSEMENT;

3 (D) LICENSE RENEWAL.

4 (E) TEMPORARY LICENSE.

5 (2) PRACTICAL OR VOCATIONAL NURSING:

6 (A) APPLICATION;

7 (B) LICENSE BY EXAMINATION;

8 (C) LICENSE BY ENDORSEMENT;

9 (D) LICENSE RENEWAL;

10 (E) TEMPORARY PERMIT, _ _

11 (3) NURSE AIDE: _

12 (A) APPLICATION; _

13 (B) EXAMINATION; _

14 (C) REGISTRATION; _

15 (D) REGISTRATION RENEWAL, _ _

16 * SEC. 5. AS 08.68.410 IS AMENDED BY ADDING A NEW SUBSECTION TO READ:

17 (9) "NURSE AIDE" MEANS A PERSON WHO, FOR COMPENSATION OR
18 PERSONAL PROFIT, UNDER THE DIRECTION AND SUPERVISION OF A LICENSED
19 PRACTICAL OR REGISTERED NURSE ASSISTS A LICENSED PRACTICAL OR REGIS-
20 TERED NURSE IN THE DELIVERY OF NURSING CARE.

21 * SEC. 6. SECTIONS 1, 2, 4, AND 5 OF THIS ACT TAKE EFFECT IMMEDIATELY
22 UNDER AS 01.10.070(C).

23 * SEC. 7. SECTION 3 OF THIS ACT TAKES EFFECT JANUARY 1, 1990.

Notes from the Board of Nursing

Gail McGuill, RN
Executive Secretary, Board of Nursing

The Board of Nursing, Level of Entry Subcommittee met March 24, 25, and 26, 1988 in Anchorage. This eighteen member working group will look at all the issues involved in changing the nursing practice requirements. The group is further charged with making regulation change recommendations to the Board of Nursing to implement two levels of nursing practice preparation.

First, the subcommittee met in small groups to discuss issues identified during the subcommittee's previous meeting in January. These small groups discussed endorsement rules, ANP regulations, implementation date, grandfather rights, curriculum change, faculty qualifications, competency definitions for practice, future trends in health care, and implications of changing the level of entry. A spokesperson from each group reported their discussion to the committee.

The subcommittee agreed on some issues. The statements agreed to became assumptions from which further discussion will take place. Assumptions made the first day are that the level of entry to professional nursing be the Bachelor of Science Nursing degree and that there be a "licensed other nurse" level. Assumptions made the second day dealt with endorsement rules; an applicant for licensure by endorsement who was educated prior to the implementation date should meet the requirements in effect in Alaska at the time of the applicant's original licensure. An ADN or diploma prepared nurse educated after our implementation date would be placed at the licensed other nurse level for licensure by endorsement.

A definition of grandfathering, found in Giffs Law Dictionary, will be used by the subcommittee. It defines grandfathering as "provisions permitting persons, engaged in certain business before the passage of an act regulating that business, to receive a license or prerogative without meeting all the criteria that the new entrants into the field would have to fulfill." Further identified was that grandfathering does not apply when the educational requirements are changed; an individual can't be grandfathered into holding an educational credential. Present licensees will be protected as they have been in the past. The group's position is to grandfather all RNs currently licensed in Alaska as professional nurses.

With regard to LPN licensure, the following assumptions were made for use by the subcommittee. The licensing of LPNs will be phased out at

implementation date. An established mechanism will be available for LPNs to make the transition to licensed other nurse prior to the implementation date. There will be no endorsement of LPNs after the implementation date.

Educational preparation for advanced nurse practitioners (ANP) was discussed. The assumption was declared that all newly authorized ANPs must meet the requirements for entry at the professional level with a BSN after implementation.

On the last day of the meeting, the major issues surrounding licensed nurse titles were reviewed and suggested titles were debated. Titling will be discussed further at future meetings.

The meetings of the subcommittee are open to the public. The members heard comments from nurses present at the March meeting. The Board of Nursing and the members of the subcommittee welcome comments on this subject and believe that knowing your concerns will help them make better decisions about these important issues. It is the intention of the Board of Nursing to hold informal meetings in local communities to provide information and receive comment on the final committee recommendations prior to Board action. Formal public hearings will also be held as part of the legislative and regulatory process when the Board moves forward to make changes.

The subcommittee will schedule another work session this summer in Anchorage. The major issues will be identification of competencies for the two levels of nursing, further identification of future trends and implication of changes and identification of curriculum changes based on suggested competencies.

Connie Bertholf Blair, Board Member, has been chairing the subcommittee. As she is beginning a professional leave of absence from the state, the chair will be assumed by Shirley Martin.

The members of the Level of Entry Subcommittee, their employers and the groups which they are representing follow:

Name and Employer	Representing
Marion Bayless, RN Alaska Area NHS, Anchorage	Alk Org. Nurse Exec.
Elizabeth Brenny, LPN Our Lady of Comp., Anchorage	LPNs
Debbie Golden, RN SOA, PHN, Fairbanks	Community Health
Carol Holtry, LPN Fairbanks Mem. Hosp.	LPNs

(Continued on page 8)

Board of Nursing Notes

(Continued from page 6)

Pat JuVette, RN, CRNA <i>Cordova Com. Hosp.</i>	Rural Hospitals
Barbara Krygier, RN <i>S.E. Reg. Res. Center, Juneau</i>	Community Health
Kathy Lockhart, RN <i>Ketchikan Gen. Hosp.</i>	Long Term Care
Shirley Martin, RN <i>Providence Hosp.</i>	Large Hospitals
Beth Maurer, RN <i>Humana Hosp.</i>	Large Hospitals
Barbara Miller, RN <i>Humana Hosp.</i>	AK Nurses' Assoc.
Judith Moses, RN <i>Fairbanks Mem. Hosp.</i>	Large Hospitals
Gail Stewart, RN, FNP <i>ANMC</i>	PEER Group
Anita Watts-Souquet, RN <i>UAA, ADN Program (formerly ACC, ADN Program)</i>	ADN Education
Tom Wilkinson, RN <i>Central Pen. Gen. Hosp., Soldotna</i>	Rural Hospital
Daryl Young, RN, FNP <i>UAA, BSN Program</i>	BSN Education
Barb Carberry, RN, CRNA <i>Kodiak Island Hospital</i>	Board member
Connie Bertholf, RN, FNP <i>UAA, MSN Program</i>	Board member
inda Todd, LPN <i>Fairbanks Mem. Hosp.</i>	Board member

If you would like further information about the work of the subcommittee, you may contact a member of the subcommittee, a Board member, or staffperson - Gail McGuill. If you wish to send us comments, do so by sending a letter to Level of Entry Subcommittee, Board of Nursing, 3601 "C" Street, Suite 722, Anchorage, AK 99503. We sincerely want to hear from nurses in Alaska.

"Soberfest: A Community Natural High"

Mark your calendar for May 20 and 21 and plan to bring your family and friends to the second annual "Soberfest: A Community Natural High." The Alaska Council on Prevention of Alcohol and Drug Abuse invites you to participate in this two-day celebration held in Anchorage. Soberfest is designed to promote an awareness that people can have fun without using alcohol and other drugs and will showcase a wide variety of healthy, alternative events. For more information, call Sharon Harris at (907) 349-6602.

RN/LPN Needed

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Over \$91,000 in Nursing Scholarships Awarded Nationwide

The Foundation of the National Student Nurses' Association awarded \$91,900 in scholarships and grants to students of nursing at the National Student Nurses' Association convention Awards Banquet which was held April 7, at the David Lawrence Convention Center, Pittsburgh, Pennsylvania.

ADVERTISE!!!

In an effort to defray the increasing costs of publication, the *Alaska Nurse* offers advertising space. Prices for ads are as follows:

1/8 page	\$35.00
1/4 page	\$65.00
1/2 page	\$100.00
full page	\$150.00

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July 1 September 1
November 1

1987-1988 ALASKA NURSE

Copy Deadline

Distribution Date

June 18, 1988

July 15, 1988

August 20, 1988

September 15, 1988

October 22, 1988

November 15, 1988

We encourage all districts and members to participate in the publication of the *Alaska Nurse* by contributing NEWS and articles of interest to the professional community. We need to hear from YOU. Submit articles to: Alaska Nurses' Association, 237 East 3rd Ave., Anchorage, Alaska 99501. Ph: (907) 274-0827

Notes from the Board of Nursing

by Gail M. McGuill, RN

The Board of Nursing subcommittee on Level of Entry met on Dec. 9 and 10 in Anchorage. The committee spent most of the meeting refining the nursing process criteria for the two levels of nursing which were developed at the previous meeting. The definition section follows the one currently in law. However, the proposal expands it to include the nursing process criteria as part of the legal definition. The proposed definitions including the nursing process criteria are as follows:

Professional Nurse

Definition:

The practice of professional nursing is the performance of acts of professional service in assessing, diagnosing, planning, implementing, evaluation, counseling, teaching, and researching the health needs of individuals, families, and communities in structured and unstructured environments for compensation or personal profit. These acts require the application of a substantial body of specialized knowledge, judgment, and skills based on principles of biological, physiological and sociological, behavioral and nursing sciences.

Assessment:

Collects, validates, and expands data base reflecting interaction between the client and the environment to determine current and potential health status. Uses and modifies systems for communication and documenting assessments.

Nursing Diagnosis:

Identifies, prioritizes, modifies, and formulates nursing diagnoses derived from an analysis of a comprehensive data base.

Planning:

Develops an individualized comprehensive plan of care based on nursing diagnoses. Monitors consistency between comprehensive plan of care and plans of other health care providers. Analyzes research studies and incorporates findings in planning client care. Makes decisions regarding protocols, policies and procedures as guidelines for nursing practice.

Implementation:

Maintains accountability for own and delegated care. Designs and implements teaching plans to meet client needs identified in the comprehensive plan of care. Focuses on maintenance, promotion, restoration, and rehabilitation of health. Delegates selected aspects of care to others. Provides counseling to meet client needs identified in the comprehensive plan of care.

Evaluation:

Evaluates and modifies the comprehensive plan of care. Evaluates quality of own and delegated care. Participates in developing methods of evaluating quality of nursing practice. Communicates and documents findings. Participates in the collaboration of basic research studies.

Licensed Other Nurse

Definition:

The practice of licensed other nursing is the performance of acts of service in assessing, diagnosing, planning, implementing, and evaluating the health needs of individuals and families in structured environments for compensation or personal profit. These acts require the application of a body of specialized knowledge, judgment, and skills based on the principles of biological, physiological, sociological, behavioral and nursing sciences.

Assessment:

Collects and validates data to identify health care needs using an established assessment format. Communicates and documents assessments according to established communication systems.

Nursing Diagnosis:

Identifies and prioritizes nursing diagnoses based on assessment data. Collaborates in determining the interactive relationships among multiple nursing diagnoses.

Planning:

Develops individualized plan of care based on nursing diagnoses and consistent with the comprehensive plan. Uses principles derived from research in planning client care. Makes decisions for individualized plans of care in structured environments based upon established standards.

Implementation:

Maintains accountability for own and delegated care. Assists in formulating and implementing teaching plans to meet client care needs identified in the individualized plan of care. Focuses on restoration of clients' optimal level of health. Delegates selected aspects of care to others. Assists in counseling to meet client needs identified in the individualized plan of care.

Evaluation:

Evaluates client responses to nursing intervention and assists in modifying plans of care. Evaluates quality of own and delegated care. Assists in evaluating quality of nursing practice. Communicates and documents findings.

The second major topic focused on titles for two levels of licensed nurse. The committee recommended the Board consider the titles Registered Nurse (RN) and Associate Nurse (AN) or Registered Nurse (RN) and Registered Associate Nurse (RAN). They will also urge the Board to consider national trends in titling and titles advocated by professional organizations.

The committee's final report and recommendations to the Board will be prepared at their next meeting scheduled for April 13 and 14. The committee has received donations from the PEER Group, Alaska Organization of Nurse Executives and a concerned nurse from Kodiak. These funds have been used to reimburse committee members for travel expenses.

If you would like further information about the committee, contact a member of the subcommittee, a Board member or staff person, Gail McGuill. Send your comments to Level of Entry Subcommittee, Board of Nursing, 3601 "C" St., Suite 22, Anchorage, AK 99503. The Board and committee members are interested in the nursing community's comments.

Dentists, etc.

**CHAPTER 32.
DENTAL HYGIENISTS.**

Article

- 1. Examination and Licensing
(§ 08.32.010—§ 08.32.095)**
- 2. Regulation of Dental Hygienists
(§ 08.32.100—§ 08.32.180)**
- 3. General Provisions (§ 08.32.185—§ 08.32.190)**

**ARTICLE 1.
EXAMINATION AND LICENSING.**

- 10. License required**
- 20. Examination required**
- 30. Licensure by credentials**
- 35. Temporary license**
- 40. Application and fee**
- 60. Frequency and content of examination**
- 70. Registration and licensing of dental hygienists**
- 71. Renewal of registration**
- 81. Lapse and reinstatement of license**
- 95. Exemption from license requirement**
- 97. Fees**

Sec. 08.32.010. License required. Except as provided in AS 08.32.095, a person may not practice, offer or attempt to practice, or advertise or announce as being prepared or qualified to practice dental hygiene without a license and a current certificate of registration.

Sec. 08.32.020. Examination required. (a) An applicant for examination shall submit information that the person is

- (1) at least 18 years of age;
- (2) a graduate of an accredited high school;
- (3) a graduate or on the date of examination will be a graduate of a dental hygiene school that requires at least a two-year course and is accredited by the Commission on Accreditation of Dental and Dental Auxiliary Education Programs of the American Dental Association; and

(4) an examinee who has successfully completed the written theory examination of the American Dental Association Joint Commission on National Dental Examinations or an equivalent written examination given by the board, thereby demonstrating satisfactory theoretical knowledge of dental and basic biomedical sciences.

(b) An applicant for examination shall apply in writing to the secretary of the board at least 30 days before the date selected by the board for the examination.

Sec. 08.32.030. Licensure by credentials. The board may provide for the licensing without examination of a dental hygienist who

- (1) meets the criteria of AS 08.32.020(a);
- (2) has successfully passed a state or regional dental hygiene clinical examination which the board has determined is at least equivalent in scope, quality and difficulty to the Alaska clinical examination;
- (3) has been in active clinical dental hygiene practice averaging no less than 14 hours per week for each of the two years immediately preceding application for state licensure;
- (4) has not failed the clinical dental hygiene examination of this state;
- (5) has not previously had a license to practice dental hygiene issued by any state or region revoked;
- (6) is personally interviewed by a board member;
- (7) pays the fees required under AS 08.32.097; and
- (8) is not the subject of an unresolved complaint, review procedure, or disciplinary proceeding undertaken by dental or dental hygiene licensing jurisdiction.

Sec. 08.32.035. Temporary License. (a) The board may issue without examination a temporary license to an applicant for examination who is licensed to practice dental hygiene in another state and who meets the criteria of AS 08.32.030 but who has been in active clinical practice for less than two years immediately preceding application. A temporary license expires at the time notice is given of the results of the next scheduled examination and may not be reissued.

(b) A person practicing dental hygiene under (a) of this section is subject to all other provisions of this chapter and laws and regulations that apply to the practice of dental hygiene in this state.

(c) Time in active clinical dental hygiene practice under a temporary license may not be credited toward licensure by credentials under AS 08.32.030.

Sec. 08.32.040. Application and fee. An application for examination or determination of qualification for licensing under AS 08.32.030 or 08.32.035 shall be signed by the applicant and accompanied by the applicant's certificate of graduation from an accredited dental hygiene school and the required fees.

Sec. 08.32.060. Frequency and content of examination. (a) The examination shall be held at times and places determined by the board. The examination shall be designed to test the qualifications of the applicant to practice dental hygiene and shall consist of a written and a clinical examination.

(b) The subjects of the written examination shall include dental radiology, the state's laws on the practice of dental hygiene, and other subjects selected in accordance with the trends of dental hygiene education and professional and technical advances.

(c) The clinical examination shall test the applicant's skill in clinical procedures considered essential by the board for the practice of dental hygiene including the removal of calcareous deposits, accretions, and stains from the exposed surfaces of the teeth beginning at the epithelial attachment by scaling and polishing techniques.

(d) The board may require an applicant to pass a laboratory examination as a prerequisite to admission to the clinical examination if the board has reason to believe the applicant cannot practice safely on a clinical patient.

Sec. 08.32.070. Registration and licensing of dental hygienists. The board shall register each successful applicant and issue the applicant a license upon payment of all required fees.

Sec. 08.32.071. Renewal of Registration. At least 60 days before expiration of a licensee's registration certificate, the division of occupational licensing shall mail a form for renewal of registration to each licensed dental hygienist. Each licensee who wishes to renew a registration certificate shall complete the form and return it with the appropriate fee and evidence of continued professional competence as required by the board. The division of occupational licensing shall, as soon as practicable, issue a registration certificate valid for a stated number of years. Each licensee shall keep the registration certificate beside or attached to the licensee's license. Failure to receive the registration form does not exempt a licensee from renewing registration.

Sec. 08.32.081. Lapse and reinstatement of license. A licensed dental hygienist who does not pay the renewal registration fee forfeits the hygienist's license. The board may reinstate the license without examination within two years of the date on which payment was due upon written application, proof of continued professional competence, and payment of all unpaid renewal fees and any penalty fee established under AS 08.01.100(b).

Sec. 08.32.095. Exemption from license requirement. (a) A person enrolled as a full-time student in an accredited school of dental hygiene may perform dental hygiene procedures as part of a course of study without a license if

(1) the procedures are performed under the direct supervision of a member of the faculty who is licensed under AS 08.36, or under the direct supervision of a team of licensed faculty dentists, at least one of whom is licensed under AS 08.36; and

(2) the clinical program has received written approval from the board.

(b) A person practicing dental hygiene under (a) of this section is subject to all other provisions of this chapter and laws and regulations which apply to the practice of dental hygiene by a licensed dental hygienist.

Sec. 08.32.097. Fees. The Department of Commerce and Economic Development shall, by regulations adopted under AS 08.01.065, establish fees for dental hygienists for the following:

- (1) filing an examination and licensing application;
- (2) examination fee;
- (3) credential fee;
- (4) initial license;
- (5) registration fee;
- (6) filing a reexamination application;
- (7) duplicate license;
- (8) delinquent registration.

ARTICLE 2. REGULATION OF DENTAL HYGIENISTS.

Section

100. Employment of dental hygienists
110. Scope of work of dental hygienists
120. Place of employment
130. Information required
140. Supervision required
160. Grounds for discipline, suspension or revocation of license
165. Limits or conditions on license; discipline
171. Disciplinary sanctions
180. Violation

Sec. 08.32.100. Employment of dental hygienists. A licensed dentist, incorporated eleemosynary dental dispensary or infirmary, private school or welfare center, the United States of America or the state may employ a licensed dental hygienist.

Sec. 08.32.110. Scope of work of dental hygienists. (a) The role of the dental hygienist is to assist members of the dental profession in providing oral health care to the public. A person licensed to practice the profession of dental hygiene in the state may:

- (1) remove calcareous deposits, accretions, and stains from the exposed surfaces of the teeth beginning at the epithelial attachment by scaling and polishing techniques;
 - (2) apply topical preventive or prophylactic agents;
 - (3) apply pit and fissure sealants;
 - (4) perform root planning and periodontal soft tissue curettage;
 - (5) perform other dental operations and services delegated by a licensed dentist if the dental operations and services are not prohibited by (c) of this section; and
 - (6) if certified by the board and under the direct or indirect supervision of a licensed dentist, administer local anesthetic agents.
- (b) The board shall specify by regulation those additional functions that may be performed by a licensed dental hygienist only

upon successful completion of a formal course of instruction approved by the board. The board shall promulgate regulations specifying the education requirements, evaluation procedures, and degree of supervision required for each function.

(c) This section does not authorize delegation of

(1) diagnosing, treatment planning, and writing prescriptions for drugs; writing authorizations for restorative, prosthetic, or orthodontic appliances;

(2) operative or surgical procedures on hard or soft tissues except as allowed in (a)(4) of this section; or

(3) other procedures which require the professional competence and skill of a dentist.

Sec. 08.32.120. Place of employment. A dental hygienist may practice in the office of a licensed dentist, or legally incorporated eleemosynary dental dispensary or infirmary, private school, welfare center, state or federal institution, village health facility, or in another place designated by the board.

Sec. 08.32.130. Information required. Every dental hygienist practicing dental hygiene in the state shall furnish the board with the name and address of the dentist under whose supervision the dental hygienist is practicing.

Sec. 08.32.140. Supervision required. A dental hygienist may not practice except under the general supervision of a licensed dentist or, if required by regulations issued under AS 08.32.110(b), the direct or indirect supervision of a licensed dentist.

Sec. 08.32.160. Grounds for discipline, suspension or revocation of license. The board may revoke or suspend the license of a dental hygienist, or may reprimand, censure, or discipline a licensee, if after a hearing, the board finds that the licensee

(1) used or knowingly cooperated in deceit, fraud, or intentional misrepresentation to obtain a license or registration;

(2) engaged in deceit, fraud, or intentional misrepresentation in the course of providing or billing for professional services or engaging in professional activities;

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

(4) has been convicted of a felony or other crime that affects the licensee's ability to continue to practice competently and safely;

(5) failed to comply with this chapter, with a regulation adopted under this chapter or under AS 08.36, or with an order of the board;

(6) continued to practice after becoming unfit due to

(A) professional incompetence;

(B) addiction or dependence on alcohol or other drugs that impairs the licensee's ability to practice safely;

(C) physical or mental disability;

(D) failure to keep informed of or use current professional theories and practices;

(7) engaged in lewd or immoral conduct in connection with the delivery of professional services to patients;

(8) performed clinical procedures for compensation without being under the supervision of a licensed dentist.

Sec. 08.32.165. Limits or conditions on license; discipline.

(a) In addition to action under AS 08.32.160, upon a finding that by reason of demonstrated problems of competence, experience, education or health the authority to practice dental hygiene should be limited or conditioned or the practitioner disciplined, the board may reprimand, censure, place on probation, restrict practice by specialty, procedure or facility, require additional education or training, or revoke or suspend a license.

(b) *[Repealed, § 15 ch 59 SLA 1978.]*

Sec. 08.32.171. Disciplinary Sanctions. (a) *[Repealed by § 49 ch 94 SLA 1987.]*

(b) *[Repealed, § 49 ch 94 SLA 1987.]*

(c) The board may summarily suspend the license of a licensee who refuses to submit to a physical or mental examination under AS 08.36.070(b)(1). A person whose license is suspended under this section is entitled to a hearing by the board within seven days after the effective date of the order. If, after a hearing, the board upholds the suspension, the licensee may appeal the suspension to a court of competent jurisdiction.

(d) *[Repealed, § 49 ch 94 SLA 1987.]*

(e) *[Repealed, § 49 ch 94 SLA 1987.]*

Sec. 08.32.180. Violation. A person who violates a provision of this chapter or a regulation adopted under this chapter for which a penalty is not otherwise provided is guilty of a class B misdemeanor.

**ARTICLE 3.
GENERAL PROVISIONS.**

Section

185. Application of Administrative Procedures Act

187. Application of chapter

190. Definitions

Sec. 08.32.185. Application of Administrative Procedure Act. The Administrative Procedure Act (AS 44.62) applies to any action taken by the board under this chapter.

Sec. 08.32.187. Application of chapter. (a) This chapter applies to a person who practices, or offers or attempts to practice, as a dental hygienist in the state except

(1) a dental hygienist in the military service in the discharge of official duties;

(2) a dental hygienist in the employ of the United States Public Health Service, United States Veterans' Administration, Alaska Native Service, or another agency of the federal government, in the discharge of official duties;

(3) a dental hygienist licensed in another state who is teaching or demonstrating clinical techniques at a meeting, seminar, or limited course of instruction sponsored by a dental or dental auxiliary society or association or by an accredited dental or dental auxiliary educational institution.

(b) A person excepted from this chapter under (a) of this section shall be held to the same standard of care as a person covered by this chapter.

Sec. 08.32.190. Definitions. In this chapter

(1) "board" means the Board of Dental Examiners;

(2) "dental hygienist" means a person who is licensed by the board to perform those educational, preventive, and therapeutic services and procedures that licensed dental hygienists are educated to perform;

(3) "general supervision" means the dentist has authorized the procedures and they are being carried out in accordance with the dentist's diagnosis and treatment plan;

(4) "direct supervision" means the dentist is in the dental office, personally diagnoses the condition to be treated, personally authorizes the procedure, and before dismissal of the patient evaluates the performance of the dental hygienist;

(5) "indirect supervision" means a licensed dentist is in the dental facility, authorizes the procedures, and remains in the dental facility while the procedures are being performed by the dental hygienist.

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**CHAPTER 36.
DENTISTRY.**

Article

1. Board of Dental Examiners
(§ 08.36.010—§ 08.36.091)
2. Examination and Licensing
(§ 08.36.100—§ 08.36.300)
3. Unlawful Acts (§ 08.36.310—§ 08.36.340)
4. General Provisions (§ 08.36.350—§ 08.36.370)

**ARTICLE 1.
BOARD OF DENTAL EXAMINERS.**

Section

10. Creation and membership of board
20. Term of office
25. Suspension of board members
30. Election of officers
40. Meetings
50. Quorum
61. Reimbursement for expenses
70. General powers
80. Applicability of Administrative Procedure Act
91. Records and reports

Sec. 08.36.010. Creation and membership of board. There is created the Board of Dental Examiners consisting of nine members. Six members shall be licensed dentists who have been engaged in the practice of dentistry in the state for five years immediately preceding appointment, two members shall be dental hygienists licensed under AS 08.32 who have been engaged in the practice of dental hygiene in the state for five years immediately preceding appointment, and one member shall be a public member.

Sec. 08.36.020. Term of office. The term of office of a member of the board begins on February 1.

Sec. 08.36.025. Suspension of board members. A member against whom an accusation has been filed under AS 44.62 for violation of AS 08.32.160 or AS 08.36.315 is suspended from the board until the decision of the board on the accusation takes effect under AS 44.62.520.

Sec. 08.36.030. Election of officers. The board shall elect a president and a secretary from among its members, each to serve for a term not to exceed two years.

Sec. 08.36.040. Meetings. The board shall meet at the call of the president at least four times annually and at other times necessary to conduct its business. In the absence of a call of the president, a majority of the board may call a meeting.

Sec. 08.36.050. Quorum. A majority of the board constitutes a quorum for the transaction of business.

Sec. 08.36.061. Reimbursement for expenses. Board members are entitled to per diem and travel expenses authorized for boards and commissions under AS 39.20.180. The department shall reimburse a member for other actual, reasonable expenses incurred in carrying out duties as a board member.

Sec. 08.36.070. General powers. (a) The board shall

(1) provide for the examination of applicants and issue licenses to those applicants it finds qualified;

(2) register licensed dentists and licensed dental hygienists who are in good standing;

(3) report annually to the governor and the department on the board's proceedings during the year, findings concerning the standards and availability of dental services in the state including the number of licensees, examination and licensing activities, other matters related to dental practice, and board receipts and expenditures;

(4) affiliate with the American Association of Dental Examiners, and pay annual dues to the association;

(5) hold hearings, and order the disciplinary sanction of a person who violates this chapter, AS 08.32, or a regulation of the board;

(6) supply forms for applications, licenses, permits, certificates, and other papers and records;

(7) enforce the provisions of this chapter and AS 08.32, and adopt or amend the regulations necessary to make the provisions of this chapter and AS 08.32 effective;

(8) adopt regulations ensuring that renewal of registration is contingent upon proof of continued professional competence by a licensed dentist or licensed dental hygienist;

(9) provide the department with the requirements for proof of continued professional competence and request the department to make these requirements available to each licensed dentist and licensed dental hygienist at least one year before the date on which the dentist or dental hygienist must renew his registration;

(10) at least annually cause to be published in a newspaper of general circulation in each major city in the state, a summary of disciplinary actions the board has taken during the preceding calendar year;

(11) issue permits or certificates to licensed dentists, licensed dental hygienists, and dental assistants who meet standards determined by the board for specific procedure that require specific education and training;

(12) regulate the reentry into practice of inactive dentists and dental hygienists.

(b) The board may

(1) order a licensed dentist or licensed dental hygienist to submit to a reasonable physical or mental examination if the dentist's or dental hygienist's physical or mental capacity to practice safely is at issue; and

(2) authorize its representative to inspect the practice facilities or patient or professional records of a dentist at reasonable times and in a reasonable manner to monitor compliance with this chapter and with AS 08.32.

Sec. 08.36.080. Applicability of Administrative Procedure Act. The board shall comply with the Administrative Procedure Act (AS 44.62).

Sec. 08.36.091. Records and reports. The board shall maintain

(1) a record of its proceedings;

(2) a register containing the name, office and home addresses, and other information considered necessary by the board, of each person licensed as a dentist or dental hygienist, and a register of the licenses revoked by the board, and information on the status of each licensee.

ARTICLE 2. EXAMINATION AND LICENSING.

Section

- 100. License required
- 110. Qualifications for license
- 120. Signing, photograph and filing date of application
- 130. Examination
- 160. Contents of examination
- 180. Re-examination
- 190. Grading of examination
- 230. Practice outside the state
- 234. Licensure by credentials
- 238. Exemption from license requirement
- 240. Issuance and display of license
- 244. License to practice as specialist required
- 246. Qualification for a specialist license
- 247. Limitation of special practice
- 248. Suspension or revocation of specialty licenses
- 250. Renewal of registration
- 260. Branch office registration
- 271. Permits for isolated areas
- 290. Fees

Sec. 08.36.100. License required. Except as provided in AS 08.36.238, a person may not practice, or attempt to practice, dentistry without a license and a current certificate of registration.

Sec. 08.36.110. Qualifications for license. An applicant for a license to practice dentistry shall

(1) be a graduate of a dental school that at the time of graduation is accredited by the Commission on Accreditation of the American Dental Association;

(2) hold a certificate from the American Dental Association Joint Commission on National Dental Examinations that the applicant has successfully passed the written examination given by the commission;

(3) submit proof satisfactory to the board that the applicant

(A) has not had a license to practice dentistry revoked or suspended in this state or another state; and

(B) is not the subject of an unresolved complaint, review procedure, or disciplinary proceeding in another state;

(4) pass, to the satisfaction of the board, written, clinical, and other examinations administered or approved by the board; and

(5) meet the other qualifications for a license established by the board by regulation.

Sec. 08.36.120. Signing, photograph and filing date of application. Each applicant shall submit a recent unmounted, autographed photograph of the applicant. Applications shall be signed by the applicant and filed at least 45 days before the date scheduled for an examination.

Sec. 08.36.130. Examination. An examination shall be given at least once a year and at other times and at places determined by the board to be convenient and economical for the applicants and the state. At least once each year the board shall appoint an examination committee of at least three licensed dentists who have been engaged in the practice of dentistry in the state for five years immediately preceding appointment to conduct or to supervise the examination process for applicants for licenses to practice dentistry. The board shall also appoint an examination committee of at least two licensed dentists who have been engaged in the practice of dentistry in the state for five years immediately preceding appointment and one person licensed to practice dental hygiene in the state to conduct the examination for applicants for licenses to practice dental hygiene. The examination committees shall report the results to the board for official action.

Sec. 08.36.160. Contents of examination. (a) The examination conducted or approved by the board shall be designed to test the qualifications of the applicant to practice dentistry and shall consist of a written and a clinical examination.

(b) The subjects of the written examination shall include dental radiology, the state's laws on the practice of dentistry, and other subjects selected in accordance with the trend of dental education and professional and technical advances.

(c) The clinical examination shall test the applicant's skill in operative and the prosthetic dentistry or any procedures as selected by the board from procedures recommended by the American Dental Association Joint Commission on National Dental Examinations.

(d) The board may require an applicant to pass a laboratory examination as a prerequisite to admission to the clinical examination if the board has reason to believe the applicant cannot practice safely on a clinical patient.

Sec. 08.36.180. Reexamination. An applicant shall pass the examination conducted or approved by the board with a score equal to or exceeding the minimal acceptable score set by the board by regulation. If an applicant fails the examination, the applicant may be reexamined. If an applicant fails the examination on two separate occasions, the board shall refuse to examine the applicant further until the applicant produces evidence satisfactory to the board that the applicant has pursued further study in preparation for the examination.

Sec. 08.36.190. Grading of examination. Upon the conclusion of the written examination and as soon as practicable, the papers shall be rated by an examiner. The examiner shall prepare a report in duplicate on each written examination and a report in duplicate on each practical examination. The examiner shall forward one copy of each report on each candidate to the secretary of the board and one copy to the Division of Occupational Licensing. The secretary shall prepare a composite report on each applicant and file one copy of that report with the Division of Occupational Licensing. As soon as practicable the Division of Occupational Licensing shall notify each candidate of the results of the examination.

Sec. 08.36.230. Practice outside the state. A dentist licensed to practice in this state and residing and practicing dentistry outside this state, may maintain his eligibility to practice in this state by registering the dentist's name and place of residence with the Division of Occupational Licensing every four years and submitting proof of continued professional competence as required by the board. If the dentist fails to register, the board may reinstate the dentist's license without examination upon payment of applicable fees established by regulations adopted under AS 08.01.080, payment of a penalty established under AS 08.01.100(b), presentation of proof of continued professional competence, and presentation of proof of active practice certified by the dental board having jurisdiction or, if there is no board with jurisdiction, by evidence satisfactory to the board.

Sec. 08.36.234. Licensure by credentials. The board may provide for the licensing without examination of a dentist who

(1) is a graduate of a dental college accredited by the Commission on Accreditation of the American Dental Association, or its successor agency and holds a certificate from the American Dental Association Joint Commission on National Dental Examinations that the dentist has passed the written examination given by the commission;

(2) has been licensed to practice dentistry in another state, territory, or region with licensing requirements at least equivalent in scope, quality and difficulty to those of this state at the time of licensure;

(3) has been engaged in continuous active practice averaging at least 20 hours per week for each of the five years immediately preceding the application;

(4) is not the subject of an unresolved complaint, review procedure, or disciplinary proceeding undertaken by a dental licensing jurisdiction;

(5) has not previously had a license to practice dentistry revoked;

(6) has not failed the clinical examination of this state;

(7) is personally interviewed by the board;

(8) pays all required fees.

Sec. 08.36.238. Exemption from license requirement. (a) A person enrolled as a full-time student in an accredited school of dentistry may perform procedures as part of a course of study without a license if

(1) the procedures are performed under the direct supervision of a member of the faculty who is licensed under this chapter, or under the direct supervision of a team of licensed faculty dentists, at least one of whom is licensed under this chapter; and

(2) the clinical program has received written approval from the board.

(b) A person practicing dentistry under (a) of this section is subject to all other provisions of this chapter and to other laws and regulations which apply to the practice of dentistry.

Sec. 08.36.240. Issuance and display of license. The board shall issue a license to each successful dentist applicant who has paid the required fees. The licensee shall display the license in a conspicuous place where the licensee practices.

Sec. 08.36.244. License to practice as specialist required. A licensed dentist may not hold out to the public as being especially qualified in a branch of dentistry by announcing through the press, sign, card, letterhead or printed matter, or any means of public advertising, using such terms as "specialist," or inserting the name of the specialty, or using other phrases customarily used by qualified specialists that would imply to the public that the dentist is so qualified, without first securing a specialist's license as provided in this chapter.

Sec. 08.36.246. Qualification for a specialist license. (a) An applicant for a specialty license shall

(1) possess a license to practice dentistry in the state;

(2) have completed as many academic years of advanced education in the specialty as are required by the appropriate specialty board in a program accredited by the Commission on Accreditation of the American Dental Association or its successor agency; and

(3) be a diplomat or the equivalent of the appropriate specialty board, or be eligible to be examined for diplomat status as documented by an organization recognized by the American Dental Association.

(b) The provisions of (a)(2) and (3) of this section do not apply to dentists who limit their practice exclusively and who ethically announce limitation of practice in accordance with the Principles of Ethics and Code of Professional Conduct of the American Dental Association.

Sec. 08.36.247. Limitation of special practice. (a) A specialty license may not be issued unless the applicant presents proof satisfactory to the board that the applicant is qualified to practice that specialty. A specialist appointed by the board and licensed in that specialty shall assist the board in the licensing procedures.

(b) This section may not be construed as limiting or preventing a licensed and qualified dentist from performing, without a specialty license, dental acts or services to the public in any of the branches of dentistry, except that no dentist may administer a general anesthetic to a patient without a valid permit as required by regulations of the dental examiners board.

Sec. 08.36.248. Suspension or revocation of specialty licenses. The board may suspend or revoke a specialty license upon any grounds set out in AS 08.36.315, and the procedure shall be the same as for the revocation or suspension of a license to practice dentistry.

Sec. 08.36.250. Renewal of registration. (a) At least 60 days before expiration of a licensee's registration certificate, the division of occupational licensing shall mail a form for renewal of registration to each licensed dentist. Each licensee who wishes to renew a license shall complete the form and return it with the appropriate fee and evidence of continued professional competence as required by the board. The division of occupational licensing shall, as soon as practicable, issue a registration certificate valid for a stated number of years. Each licensee shall keep the registration certificate beside or attached to the licensee's license. Failure to receive the registration form does not exempt a licensee from renewing registration.

(b) When applying for license renewal, a dentist shall report to the board each instance during the prior registration period in which the quality of the licensee's professional services was the subject of legal action.

Sec. 08.36.260. Branch office registration. A licensee who practices in an established office with an address other than that address for which the licensee's registration certificate is issued shall obtain a branch office registration certificate for each office.

Sec. 08.36.271. Permits for isolated areas. (a) The Department of Health and Social Services shall designate as isolated areas those specific places and regions remote from major population centers which are not served by dentists licensed under this chapter and which have a geographical location which works financial hardship, extended loss of time, or arduous and costly travel upon residents needing dental care.

(b) The board shall, upon recommendation of the Department of Health and Social Services, issue an annual permit authorizing the treatment of residents in an area designated under (a) of this section, who are not entitled to dental care by the state or federal government, by a dentist employed by the United States Public Health Service or qualified member of the armed services who serves in that area.

Sec. 08.36.290. Fees. The department shall, by regulations adopted under AS 08.01.065, establish fees for dentists for the following:

- (1) filing an examination and licensing application;
- (2) examination fee;
- (3) credential review;
- (4) initial license;
- (5) registration fee;
- (6) filing a reexamination application;
- (7) specialty license;
- (8) branch office registration;
- (9) duplicate license;
- (10) delinquent registration.

ARTICLE 3. UNLAWFUL ACTS.

Section

315. Grounds for discipline, suspension or revocation of license

320. Disciplinary sanctions

340. Penalties

Sec. 08.36.315. Grounds for discipline, suspension or revocation of license. The board may revoke or suspend the license of a dentist, may reprimand, censure, or discipline a dentist, or both, if the board finds after a hearing that the dentist

- (1) used or knowingly cooperated in deceit, fraud, or intentional misrepresentation to obtain a license;

(2) engaged in deceit, fraud, or intentional misrepresentation in the course of providing or billing for professional dental services or engaging in professional activities;

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

(4) has been convicted of a felony or other crime that affects the dentist's ability to continue to practice dentistry competently and safely;

(5) engaged in the performance of patient care, or permitted the performance of patient care by persons under the dentist's supervision, that does not conform to minimum professional standards of dentistry regardless of whether actual injury to the patient occurred;

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

(7) continued to practice after becoming unfit due to

(A) professional incompetence;

(B) failure to keep informed of or use current professional theories or practices;

(C) addiction or dependence on alcohol or other drugs that impairs the dentist's ability to practice safely;

(D) physical or mental disability;

(8) engaged in lewd or immoral conduct in connection with the delivery of professional service to patients;

(9) permitted a dental hygienist or dental assistant who is employed by the dentist or working under the dentist's supervision to perform a dental procedure in violation of AS 08.32.110 or AS 08.36.070(a)(11);

(10) failed to report to the board a death that occurred on the premises used for the practice of dentistry within 48 hours.

Sec. 08.36.320. Disciplinary Sanctions. (a) *[Repealed, § 49 ch 94 SLA 1987.]*

(b) *[Repealed, § 49 ch 94 SLA 1987.]*

(c) The board may summarily suspend the license of a licensee who refuses to submit to a physical or mental examination under AS 08.36.070(b)(1). A person whose license is suspended under this section is entitled to a hearing by the board within seven days after the effective date of the order. If, after a hearing, the board upholds the suspension, the licensee may appeal the suspension to a court of competent jurisdiction.

(d) *[Repealed, § 49 ch 94 SLA 1987.]*

(e) *[Repealed, § 49 ch 94 SLA 1987.]*

Sec. 08.36.340. Penalties. A person who violates any provision of this chapter or regulations adopted under this chapter for which no specific penalty is provided is guilty of a class B misdemeanor.

**ARTICLE 4.
GENERAL PROVISIONS.**

Section**350. Application of chapter****360. Practice of dentistry defined****365. Rights of dentists****370. Definitions**

Sec. 08.36.350. Application of chapter. (a) This chapter applies to a person who practices, or offers, or attempts to practice dentistry in the state except

(1) dental surgeon or dentist in the military service in the discharge of official duties;

(2) a dentist in the employ of the United States Public Health Service, United States Veterans' Administration, Alaska Native Service, or other agency of the federal government, in the discharge of official duties;

(3) a physician or surgeon;

(4) a dentist providing care in an isolated area by authority of a permit issued under AS 08.36.271;

(5) a dentist licensed in another state who is teaching or demonstrating clinical techniques at a meeting, seminar or limited course of instruction sponsored by a dental or dental auxiliary society or association or by an accredited dental or dental auxiliary educational institution;

(6) a dentist licensed in another state who provides emergency care to an injured or ill person who reasonably appears to the dentist to be in immediate need of emergency aid in order to avoid serious harm or death if the care is provided without remuneration.

(b) A person excepted from this chapter under (a) of this section shall be held to the same standard of care as a person covered by this chapter.

Sec. 08.36.360. Practice of dentistry defined. A person engages in the practice of dentistry who

(1) performs or holds out to the public as being able to perform dental operations;

(2) diagnoses, treats, operates on, corrects, attempts to correct, or prescribes for, a disease, lesion, pain, injury, deficiency, deformity, or physical condition, malocclusion or malposition of the human teeth, alveolar process, gingiva, maxilla, mandible, or adjacent tissues;

(3) performs or attempts to perform an operation incident to the replacement of teeth;

(4) furnishes, supplies, constructs, reproduces, or repairs dentures, bridges, appliances or other structures to be used and worn as substitutes for natural teeth, except on prescription of a duly licensed and registered dentist and by the use of impressions or casts made by a duly licensed and registered dentist;

(5) uses the words "dentist" or "dental surgeon" or the letters D.D.S. or D.M.D. or other letter or title that represents the dentist as engaging in the practice of dentistry;

(6) extracts or attempts to extract human teeth;

(7) exercises control over professional dental matters or the operation of dental equipment in a facility where the acts and things described in this section are performed or done.

Sec. 08.36.365. Rights of Dentists. A dentist licensed in this state may

(1) practice in an association, partnership, corporation or other lawful entity with other dentists including specialists;

(2) practice under the name of "dental center" or other descriptive term that does not deceive the public about the nature of the services provided;

(3) supervise research that would otherwise violate this chapter or regulations adopted under this chapter when the research does not involve treatment of dental patients if the research is performed by a nonprofit dental research institution chartered by this state or by a dental or dental auxiliary school accredited by the Commission on Accreditation of the American Dental Association, or its successor agency;

(4) supervise research that would otherwise violate this chapter or regulations adopted under this chapter when the research involves the treatment of dental patients if the research is performed by a nonprofit dental research institution chartered by this state or by a dental or dental auxiliary school accredited by the commission on accreditation of the American Dental Association, or its successor agency, and if the dentist notifies the board in writing, at least 60 days before beginning the treatment, of the intended practices or procedures and the board does not disapprove the research.

Sec. 08.36.370. Definitions. In this chapter, unless the context requires otherwise,

(1) "board" means the Board of Dental Examiners;

(2) "department" means the Department of Commerce and Economic Development.

**CHAPTER 28.
BOARD OF DENTAL EXAMINERS**

Article

1. Administering of Anesthetic Agent (12 AAC 28.010—12 AAC 28.090)
2. Clinical Examination for Licensure (12 AAC 28.100—12 AAC 28.290)
3. Administration of Local Anesthetic Agents by Dental Hygienists (12 AAC 28.310—12 AAC 28.360)
4. Continuing Professional Competence Requirements (12 AAC 28.400—12 AAC 28.420)
5. Dental Hygienist Examination (12 AAC 28.500)
6. General Provisions (12 AAC 28.900—12 AAC 28.990)

**ARTICLE 1.
ADMINISTERING OF ANESTHETIC AGENT**

Section

10. Permit requirements
20. Operative procedure
30. Other than permit holders
40. Written consent
50. Medical history
60. Requirements for administering general anesthetic
70. Suspension or revocation of permit
80. Filing report
90. Definition

12 AAC 28.010. PERMIT REQUIREMENTS. The Alaska Board of Dental Examiners shall issue a permit to a dentist licensed in Alaska for the administration of an anesthetic agent or agents for the purpose of inducing general anesthetic if the applicant offers certified proof that he

- (1) is a diplomate of the American Board of Oral Surgery; or
- (2) is a member of the American Society of Oral Surgery; or
- (3) has fulfilled not less than 36 months of oral surgery advanced education approved by the Council on Dental Education of the American Dental Association; or
- (4) is a certified member of an American Dental Association Specialty Board and meets the minimum requirement in anesthesiology as recommended by the American Board of Oral Surgery; or
- (5) has completed a minimum of one year of advanced training in anesthesiology in an accredited program beyond the undergraduate dental school level.

12 AAC 28.020. OPERATIVE PROCEDURE. A dentist administering a general anesthetic may not perform any operative procedures for the duration of the anesthesia. "Operative procedure" means surgical or restorative manipulations in or about the oral cavity.

12 AAC 28.030. OTHER THAN PERMIT HOLDERS. In addition to a dentist holding a valid permit for the administration of an anesthetic agent or agents for the purpose of inducing general anesthesia, as provided in 12 AAC 28.010, the following persons may administer an anesthetic agent:

(1) a registered nurse certified by the Association of Nurse Anesthetists who while in a dental office administers the anesthetic agent under the direct supervision of a dentist holding a valid permit under 12 AAC 28.010;

(2) a board-eligible anesthesiologist who while in a dental office administers the anesthetic agent while under the direct supervision of a dentist holding a valid permit under 12 AAC 28.010;

(3) a dentist who administers an anesthetic agent under the direct supervision of a medical doctor in a licensed hospital even though the dentist does not have a valid permit to do so under 12 AAC 28.010.

12 AAC 28.040. WRITTEN CONSENT. Written consent of the patient shall be obtained prior to the administration of a general anesthetic. In the case of a minor, the consent shall be obtained from his parent or legal guardian.

12 AAC 28.050. MEDICAL HISTORY. (a) A medical history shall be taken before the administration of a general anesthetic. Patients should be asked to describe any current treatments, including drugs, impending operations, and pregnancies and to give other information that may be helpful to the person administering the anesthetic agent. The dentist is not required to make a medical examination of the patient and draw medical diagnostic conclusions; therefore, if the dentist suspects a problem and calls in a physician for an examination and evaluation, he may then rely upon that conclusion and the diagnosis.

(b) Questions asked of and answers received from the patient shall be permanently recorded and signed by the patient before the administration of any general anesthetic and this record shall become a permanent part of the patient's treatment record.

12 AAC 28.060. REQUIREMENTS FOR ADMINISTERING GENERAL ANESTHETIC. A holder of a permit to administer a general anesthetic for the purpose of inducing surgical anesthesia shall

(1) obtain and maintain an adequate airway for the patient;

(2) use an oxygen machine and have it available for maintaining the ventilation of the lungs;

(3) have the knowledge of and be able to skillfully place needles into veins for the administration of drugs; and

(4) maintain in his office at all times appropriate drugs and medicines for emergencies.

12 AAC 28.070. SUSPENSION OR REVOCATION OF PERMIT. A permit to administer a general anesthetic for the purpose of inducing surgical anesthesia shall automatically become revoked upon the suspension or revocation of the holder's license to practice dentistry in the state.

12 AAC 28.080. FILING REPORT. In reporting a death as required under AS 08.36.310(26), each member of the anesthesia team that administered the anesthetic agent or agents, shall file an individual report which includes his individual findings. Within two weeks of the receipt of these reports by the board, the board will review them and make a determination in writing as to whether further investigation by the board should be made.

12 AAC 28.090. DEFINITION. "General anesthesia" means surgical or the third stage of anesthesia. The use of an anesthetic agent for introduction of analgesia (first stage) or amnesia is not to be construed as the practice or use of general anesthesia.

ARTICLE 2. CLINICAL EXAMINATION FOR LICENSURE

Section

- 100. Examiners appointed
- 105. Examination
- 110. Identification of applicant
- 120. Operatory assigned to applicant
- 130. Equipment
- 140. Patients
- 150. Assistants
- 160. Sections of examination
- 170. Time allowed for clinical examination
- 180. Criteria for teeth to be restored
- 190. Local anesthesia; rubber dam
- 200. Items to be turned in to the board
- 210. All work performed in clinic by applicant
- 220. Laboratory procedures
- 230. Examiners may contact patient, take photographs and models
- 240. Steps of operations checked by examiners
- 250. Errors or omissions requiring failing grade
- 260. Grading of the board clinical examination
- 270. Computation of grade
- 280. Notification of grades
- 290. Reexamination

12 AAC 28.100. EXAMINERS APPOINTED. Before each clinical examination, the board will appoint three or more persons as examiners for that examination. Each examiner must meet the qualifications established by AS 08.36.130

12 AAC 28.105. EXAMINATION. (a) An applicant for a license to practice dentistry in Alaska must hold a certificate from the American Dental Association Joint Commission on National Dental Examinations, verifying that the applicant has passed both Parts I and II of the written examination given by the commission before the applicant may take the clinical examination.

(b) The clinical examination will be the examination conducted by the Western Regional Examining Board (WREB), unless the board decides to conduct its own examination under 12 AAC 28.110—12 AAC 28.250.

(c) The minimum passing score for the clinical examination is 70 percent or "pass" if a pass/fail grading system is used.

12 AAC 28.110. IDENTIFICATION OF APPLICANT. (a) Under AS 08.01.050, the department will assign each applicant for the examination a number by which he or she is identified during the examination.

(b) No applicant may reveal his or her identity to an examiner until grading has been completed by the examiners.

(c) No applicant may make any reference orally or in writing to an examiner about any dental college, professor, present licenses held, present position, or specialty until grading has been completed by the examiners.

(d) No equipment, supplies, apparel, or items which are turned into the examiners may identify the applicant except by the number assigned by the department.

12 AAC 28.120. OPERATORY ASSIGNED TO APPLICANT. Each applicant will be assigned an operatory in which the applicant will perform the required clinical procedures. Any change in operatory assignment must be approved by the licensing examiner employed by the division.

12 AAC 28.130. EQUIPMENT. (a) Each applicant shall bring to the examination his or her own materials and armamentaria.

(b) The board will furnish each applicant an operatory equipped with a chair and a unit.

(c) X-ray equipment will be available.

12 AAC 28.140. PATIENTS. (a) An applicant shall secure his or her own patients for the clinical examination.

(b) An applicant shall provide the examiners with his or her patients' names, addresses, and telephone numbers.

(c) An applicant shall submit to the examiners a completed patient health questionnaire on a form provided by the board.

(d) An applicant shall provide the examiners with the name of a licensed dentist who has agreed to provide follow-up care for the patient.

12 AAC 28.150. ASSISTANTS. (a) An applicant may use a chair-side assistant and is responsible for securing his or her own assistant.

(b) No dentist, dental student, or dental laboratory technician may assist an applicant.

(c) No assistant may perform any laboratory work or any procedure that will be graded.

12 AAC 28.160. SECTIONS OF EXAMINATION. (a) The examination consists of the following sections:

(1) a clinical examination of the following subjects:

(A) repealed 7/10/86;

(B) one class II MOD gold inlay restoring contact, occlusion, and anatomy;

(C) one class II-MO, DO, or MOD amalgam restoring contact, occlusion, and anatomy; and

(D) a dental operation other than those indicated in (1)(A), (B), and (C) of this subsection if, in the opinion of three or more examiners, clinical conditions warrant; and

(2) a written examination covering the following subjects:

(A) prosthetics;

(B) oral diagnosis, oral medicine, and radiology;

(C) Alaska statutes and regulations related to the practice of dentistry;

(D) other current dental education subjects chosen by the board.

(b) The board will, in its discretion, waive the requirements of (a)(2) of this section.

(c) The written examinations are of the objective type and may use photographs or transparencies, or both, to present case material.

(d) Answers must be recorded on answer sheets furnished by the board.

(e) No applicant may leave the written examination site during the examination without permission of an examiner.

(f) All unanswered questions will be marked against the applicant.

(g) Repealed 7/14/85.

(h) No applicant may remove examination materials from the examination site.

(i) No applicant may copy examination materials.

(j) Any applicant assisting or receiving assistance from another applicant or violating any provision of this section will receive a score of zero on each section of that examination.

(k) Except as otherwise provided in this subsection, the repeal of (a)(1)(A) of this section, eliminating the gold foil restoration subject from the clinical section of the examination, affects only those who take the examination after the effective date of the repeal. However, a person who failed only the gold foil restoration subject of the November, 1985, clinical examination, need not be reexamined in the clinical section.

12 AAC 28.170. TIME ALLOWED FOR CLINICAL EXAMINATION. (a) The following time periods are allowed for completion of the parts of the clinical examination subjects:

- (1) repealed 7/10/86;
- (2) for the amalgam restoration, two and one-half hours;
- (3) for the gold inlay preparation, two and one-half hours;
- (4) for laboratory procedures for fabricating inlay casting, two and one-half hours;
- (5) for laboratory preparation of the cast gold inlay before seating in the patient's mouth, one hour;
- (6) for seating the gold inlay restoration, two and one-half hours; and
- (7) for the written examination, two hours.

(b) Time allowed under (a) of this section begins when the applicant is told to begin work.

12 AAC 28.180. CRITERIA FOR TEETH TO BE RESTORED.

(a) Carious lesions are categorized as follows:

- (1) enamel caries only;
- (2) caries perforating the dentoenamel junction but not extensively into the dentine;
- (3) extensive dentine caries, usually requiring a base; and
- (4) possible pulpal exposure.

(b) Only carious lesions described in (a)(2) and (3) of this section are accepted by the board for the clinical examination. Three examiners must approve any deviation from this requirement.

(c) All teeth to be restored must be permanent teeth and final restoration must be in occlusion and have proximal contact.

12 AAC 28.190. LOCAL ANESTHESIA; RUBBER DAM. (a)

Only local anesthesia may be used and at the applicant's discretion.

(b) The following operations must be performed with a rubber dam in place:

- (1) repealed 7/10/86;
- (2) gold inlay cavity preparation and restoration; and
- (3) amalgam cavity preparation and restoration.

12 AAC 28.200. ITEMS TO BE TURNED IN TO THE BOARD.

(a) Repealed 7/10/86.

(b) Upon completion of the gold inlay restoration, each applicant shall provide the board with

- (1) a preoperative periapical and bitewing radiograph, and a postoperative bitewing radiograph of the restored tooth; and
- (2) a die of the restored tooth, even if the inlay was cast from a direct wax pattern.

(c) Upon completion of the amalgam restoration, each applicant shall provide the board with a preoperative periapical and bitewing radiograph, and a postoperative bitewing radiograph of the restored tooth.

(d) Upon completion of all operative procedures, each applicant shall provide the board with the check sheet, furnished by the board, with all information completed as requested.

(e) All items listed in (a) - (d) of this section become the property of the board and will not be returned to the applicant.

(f) Failure to comply with the requirements of this section will result in invalidation of the applicant's entire examination results.

12 AAC 28.210. ALL WORK PERFORMED IN CLINIC BY APPLICANT. (a) All operative dentistry procedures, including

laboratory procedures, must be performed at the site selected by the board for the examination. Any applicant found performing any operative procedure elsewhere will receive a grade of zero on all sections of that examination.

(b) Any applicant assisting or receiving assistance from another applicant will receive a score of zero on all sections of that examination.

(c) An applicant who fails to complete all subjects of the clinical examination for which he or she is scheduled will receive no credit for subjects completed.

12 AAC 28.220. LABORATORY PROCEDURES. (a) Each applicant shall perform all laboratory procedures necessary to prepare

his or her gold inlay wax pattern for casting. At that point he or she shall turn in to the examiners

- (1) the ring with the wax pattern invested;
- (2) patient models;
- (3) a written prescription indicating
 - (A) the type of gold to be used for the casting;
 - (B) the burn-out time;
 - (C) the burn-out temperature; and
 - (D) any other information he or she considers pertinent.

(b) One or more dental laboratory technicians selected by the board will cast each applicant's gold inlay or inlays according to the applicant's written prescriptions and return the castings, patient models, and written prescriptions to the examiners.

(c) The examiners shall inspect the gold inlay castings before returning them to the applicants.

(d) Laboratory fees incurred for the castings are the responsibility of the applicant.

(e) Each applicant may prepare as many wax patterns for casting as he or she wishes.

12 AAC 28.230. EXAMINERS MAY CONTACT PATIENT, TAKE PHOTOGRAPHS AND MODELS. (a) The examiners may

contact an applicant's patient after the patient has left the examination site to reexamine work performed or determine whether the patient is experiencing any difficulty as a result of work performed.

(b) The examiners may photograph or take models or both of any cavity preparation or restoration done by an applicant and all photographs or models taken become the property of the board.

12 AAC 28.240. STEPS OF OPERATIONS CHECKED BY EXAMINERS. (a) Repealed 7/10/86.

(b) For the gold inlay subject of the clinical examination, the following minimum number of examiners shall check an applicant's performance at the following steps of the applicant's work:

- (1) three examiners check tooth before starting;
- (2) three examiners check finished cavity preparation under rubber dam;
- (3) three examiners check finished preparation under rubber dam with base if one is required;
- (4) one examiner checks temporary filling;
- (5) three examiners check restoration ready to cement under rubber dam; and
- (6) three examiners check finished cemented restoration, occlusion, and contacts with rubber dam off.

(c) For the amalgam subject of the clinical examination, the following minimum number of examiners shall check an applicant's performance at the following steps of the applicant's work:

- (1) three examiners check tooth before starting;
- (2) three examiners check finished cavity preparation under rubber dam;
- (3) three examiners check finished cavity preparation under rubber dam with base if one is required;
- (4) three examiners check finished restoration under rubber dam; and
- (5) three examiners check finished restoration with rubber dam off and in occlusion.

12 AAC 28.250. ERRORS OR OMISSIONS REQUIRING FAILING GRADE. (a) If a majority of the examiners agree that an applicant has committed any of the following errors or omissions in cavity preparation, the applicant will receive a grade of zero in that subject of clinical examination:

- (1) incomplete caries removal;
- (2) destruction of supporting tissues;
- (3) unnecessary mechanical exposure of pulp; and
- (4) alteration of preparation between checks by examiners.

(b) If a majority of the examiner agrees that an applicant has committed any of the following errors or omissions in restoration, the applicant will receive a grade of zero in that subject of the clinical examination:

- (1) open margins;
 - (2) destruction of hard or soft supporting tissue in finishing;
- and
- (3) lack of proximal contact.

12 AAC 28.260. GRADING OF THE BOARD CLINICAL EXAMINATION. To pass a clinical examination conducted by the board, an examinee must receive at least the minimum set by 12 AAC 28.105 on each subject listed in 12 AAC 28.160(a)(1).

12 AAC 28.270. COMPUTATION OF GRADE. (a) An applicant's final grade for each operative dentistry subject of the clinical examination is computed by totaling the points given to him or her by each examiner and dividing that total by the number of examiners grading the applicant.

(b) An applicant's grade for the written subject of the clinical examination is computed by determining the percentage of questions answered correctly.

12 AAC 28.280. NOTIFICATION OF GRADES. Each examinee will be given written notification of his or her final score and the minimum passing score on each subject of the clinical examination.

12 AAC 28.290. REEXAMINATION. (a) An applicant who fails one section of the examination, but passes the other sections, shall be reexamined only in the section failed.

(b) Repealed 3/31/82.

ARTICLE 3.

ADMINISTRATION OF LOCAL ANESTHETIC AGENTS BY DENTAL HYGIENISTS

Section

310. (Deleted)
320. Application for certification
330. Approval of course of instruction
340. Requirements for course of instruction in local anesthetics
350. Expiration and renewal of certification
360. Registry

12 AAC 28.320. APPLICATION FOR CERTIFICATION. The board will, in its discretion, certify a dental hygienist, licensed in Alaska, to administer local anesthetic agents if the licensed hygienist submits

(1) a completed application on the form provided by the department;

(2) the fee required in 12 AAC 02.190;

(3) written verification of successful completion of an accredited college or university course of instruction in the administration of local anesthetics, approved by the board under 12 AAC 28.330—12 AAC 28.340; and

(4) evidence of passing the local anesthetic portion of the Western Regional Examining Board (WREB) dental hygienist examination.

12 AAC 28.330. APPROVAL OF COURSE OF INSTRUCTION. The board may, upon its own motion or upon request of any interested person, approve a course of instruction upon receipt of

- (1) the name of the college or university sponsoring the course;
- (2) the name of the accredited college or university faculty member presenting the course;
- (3) a course outline which verifies inclusion of the subjects and procedures required by 12 AAC 28.340;
- (4) an explanation of the evaluation procedures used to determine successful completion of the course.

12 AAC 28.340. REQUIREMENTS FOR COURSE OF INSTRUCTION IN LOCAL ANESTHETICS. A course of instruction in local anesthetics must include

- (1) at least 16 clock hours of classroom lecture;
- (2) at least eight clock hours of laboratory instruction during which time three injections each of the anterior palatine, incisive palatine, anterior and middle superior alveolar, posterior superior alveolar, inferior alveolar, mental, long buccal, and infiltration injections are administered;
- (3) clinical experience sufficient to establish the hygienist's ability to adequately anesthetize the entire dentition and supporting structures in a clinical setting, requiring not less than six clock hours, under the direct supervision of course faculty, during which time each patient receiving an injection receives a dental service;
- (4) instruction in
 - (A) medical history evaluation procedures;
 - (B) anatomy of the head, neck and oral cavity as it relates to administering local anesthetic agents;
 - (C) pharmacology of local anesthetic agents, vasoconstrictors and preservatives, including physiologic actions, types of anesthetics, and maximum dose per weight;
 - (D) systemic conditions which influence selection and administration of anesthetic agents;
 - (E) signs and symptoms of reactions to local anesthetic agents, including monitoring of vital signs;
 - (F) management of reactions to, or complications associated with, the administration of local anesthetic agents to include
 - (i) a currently valid cardio-pulmonary resuscitation certification card from either the American Heart Association or the American Red Cross; or
 - (ii) a provision for instruction and certification in cardio-pulmonary resuscitation from an instructor certified in cardio-pulmonary resuscitation by the American Heart Association or the American Red Cross as part of the course curriculum;
 - (G) selection and preparation of the armamentaria for administering various local anesthetic agents;

(H) methods of administering local anesthetic agents with emphasis on

- (i) technique;
- (ii) aspiration;
- (iii) slow injection;
- (iv) minimum effective dosage;
- (5) instruction by a faculty member of the college or university presenting the course; and
- (6) procedures for determining whether the hygienist has acquired the necessary knowledge and proficiency to administer local anesthetic agents.

12 AAC 28.350. EXPIRATION AND RENEWAL OF CERTIFICATION. (a) A certification to administer local anesthetic agents expires on the date the dental hygienist's license expires or is revoked or suspended.

(b) A certification to administer local anesthetic agents will be renewed when the dental hygienist's license to practice is renewed.

12 AAC 28.360. REGISTRY. The board shall maintain a registry of all board approved courses of instruction and all dental hygienists certified to administer local anesthetic agents.

ARTICLE 4. CONTINUING PROFESSIONAL COMPETENCE REQUIREMENTS

Section

400. Hours of continuing education
410. Approved continuing education courses
420. Report of continuing education

12 AAC 28.400. HOURS OF CONTINUING EDUCATION. (a) Beginning with the December 1990 renewal, an applicant for renewal of a general dentistry license shall submit evidence of continued professional competence by documenting 14 hours of continuing education credit for each complete calendar year the applicant was licensed during the concluding licensing period.

(b) Beginning with the December 1991 renewal, an applicant for renewal of a dental hygienist license shall submit evidence of continued professional competence by documenting seven hours of continuing education credit for each complete calendar year the applicant was licensed during the concluding licensing period.

(c) For the purpose of (a) and (b) of this section, 50 minutes of instruction constitute one hour of continuing education credit.

(d) Credit is given only for class hours and not hours devoted to class preparation.

12 AAC 28.410. APPROVED CONTINUING EDUCATION COURSES. (a) Except as provided in (b) of this section, only the following courses will be accepted as continuing education under 12 AAC 28.400—.420, and only if they relate directly to patient care:

- (1) level one American Dental Association (ADA) courses;
 - (2) Academy of General Dentistry (AGD) approved courses;
- and
- (3) other courses approved by the board.

(b) One half of the number of hours of continuing education required by 12 AAC 28.400 may be self-study programs or organized programs of learning including workshops or symposiums which are sponsored by a board approved dental or dental hygienist organization, a dental or dental hygiene college or university, the ADA, or the AGD. Participation in such a program must be verifiable and its subject matter must relate directly with patient care.

12 AAC 28.420. REPORT OF CONTINUING EDUCATION. (a) An applicant for renewal of a dental or dental hygienist license shall submit, on a form provided by the department, a sworn statement of the continuing education course taken or program participated in, which includes

- (1) the title and a description of the course;
- (2) the number of hours of instruction;
- (3) the continuing education credit hours claimed; and
- (4) the date the course was completed.

(b) An applicant for renewal is responsible for maintaining adequate and detailed records of continuing education courses taken and shall make them available to the board upon request.

(c) Falsification of any written evidence submitted to the board under this section is grounds for license revocation or suspension under AS 08.36.315(1) and (6).

ARTICLE 5. DENTAL HYGIENIST EXAMINATION

Section

500. Dental Hygienist Examination

12 AAC 28.500. DENTAL HYGIENIST EXAMINATION. (a) Before an applicant for a license to practice as a dental hygienist in Alaska may take the written and clinical examination, the applicant must hold a certificate from the American Dental Association Joint Commission on National Dental Examinations, verifying that the applicant has passed the written examination given by the commission.

(b) The written and clinical examination under AS 08.32.060 will be the examination conducted by the Western Regional Examining Board (WREB), unless the board decides to conduct its own examination.

(c) The minimum passing score for the practical examination is 70 percent or "pass" if a pass/fail grading system is used.

ARTICLE 6. GENERAL PROVISIONS

Section

900. Current address

910. Denial of licensure

950. Cessation of licensing by credentials

990. Definitions

12 AAC 28.900. CURRENT ADDRESS. A licensee shall maintain a current, valid mailing address on file with the division at all times. The latest mailing address on file for an active, inactive or lapsed license is the address of the licensee for official communications, notifications and service of legal process.

12 AAC 28.910. DENIAL OF LICENSURE. Conviction of a felony in the five years preceding application is evidence of unacceptable moral character and may result in denial of licensure.

12 AAC 28.950. CESSATION OF LICENSING BY CREDENTIALS. In the absence of specific regulations implementing AS 08.36.234 or legislation clarifying that statute, no applications for licensure by credentials will be accepted.

12 AAC 28.990. DEFINITIONS. In this chapter

- (1) "administer local anesthetic agents" means the administration of local anesthetic agents by injection, both infiltration and block, limited to the oral cavity, for the purposes of pain control; and
- (2) "board" means the Board of Dental Examiners.

**CHAPTER 01.
CENTRALIZED LICENSING.**

Section

- 10. Applicability of chapter
- 20. Board organization
- 25. Public members
- 30. Quorum
- 35. Appointments
- 40. Transportation and per diem
- 50. Administrative duties of department
- 60. Application for license
- 65. Fees established by regulation
- 70. Administrative duties of boards
- 75. Disciplinary powers of the boards
- 80. Department regulations
- 87. Powers and duties of department
- 90. Applicability of the Administrative Procedure Act
- 100. License renewal, lapse and reinstatement
- 102. Citation for unlicensed practice or activity
- 103. Procedure and form of citation
- 104. Failure to obey citation
- 105. Penalty for improper payment
- 110. Definitions

Sec. 08.01.010. Applicability of chapter. This chapter applies to the

- (1) Board of Public Accountancy (AS 08.04.010);
- (2) State Board of Registration for Architects, Engineers and Land Surveyors (AS 08.48.011);
- (3) Athletic Commission (AS 05.05 and AS 05.10);
- (4) Board of Barbers and Hairdressers (AS 08.13.010);
- (5) Board of Chiropractic Examiners (AS 08.20.010);
- (6) Board of Clinical Social Work Examiners (AS 08.95.010);
- (7) Board of Dental Examiners (AS 08.36.010);
- (8) Board of Dispensing Opticians (AS 08.71.010);
- (9) Board of Electrical Examiners (AS 08.40.011);
- (10) Big Game Commercial Services Board (AS 08.54.300);
- (11) Board of Marine Pilots (AS 08.62.010);
- (12) Board of Mechanical Examiners (AS 08.40.220);
- (13) State Medical Board (AS 08.64.010);
- (14) Board of Nursing (AS 08.68.010);
- (15) Board of Nursing Home Administrators (AS 08.70.010);
- (16) Board of Examiners in Optometry (AS 08.72.010);
- (17) Board of Pharmacy (AS 08.80.010);
- (18) State Physical Therapy and Occupational Therapy Board (AS 08.84.010);

- (19) Board of Psychologist and Psychological Associate Examiners (AS 08.86.010);
- (20) Real Estate Commission (AS 08.88.011);
- (21) Board of Veterinary Examiners (AS 08.98.010);
- (22) regulation of audiologists under AS 08.11;
- (23) regulation of business license under AS 43.70;
- (24) regulation of collection agencies under AS 08.24;
- (25) regulation of concert promoters under AS 08.92;
- (26) regulation of construction contractors under AS 08.18;
- (27) regulation of professional geologists under AS 08.07.011;
- (28) regulation of hearing aid dealers under AS 08.55;
- (29) regulation of morticians under AS 08.42;
- (30) regulation of the practice of naturopathy under AS 08.45;

Sec. 08.01.020. Board organization. Board members are appointed by the governor and serve at the pleasure of the governor. Unless otherwise provided, the governor may designate the chair of a board, and all other officers shall be elected by the board members. Unless otherwise provided, officers of a board are the chair and the secretary. A board may provide by regulation that three or more unexcused absences from meetings are cause for removal.

Sec. 08.01.025. Public members. No public member of a board may:

- (1) be engaged in the occupation which the board regulates;
- (2) be associated by legal contract with a member of the occupation which the board regulates except as a consumer of the services provided by a practitioner of the occupation; or
- (3) have a direct financial interest in the occupation which the board regulates.

Sec. 08.01.030. Quorum. A majority of the membership of the board constitutes a quorum unless otherwise provided.

Sec. 08.01.035. Appointments. Members of boards subject to this chapter are appointed for staggered terms of four years. A member of a board serves until a successor is appointed. An appointment to fill a vacancy on a board is for the remainder of the unexpired term. A member who has served all or part of two successive terms on a board may not be reappointed to that board unless four years have elapsed since the person has last served on the board.

Sec. 08.01.040. Transportation and per diem. A board member is entitled to transportation expenses and per diem as set out in AS 39.20.180.

Sec. 08.01.050. Administrative duties of department. (a) The department shall perform the following administrative and budgetary services when appropriate:

- (1) collect and record fees;
 - (2) maintain records and files;
 - (3) issue and receive application forms;
 - (4) notify applicants of acceptance or rejection as determined by the board or as determined by the department under AS 08.11 for audiologists, under AS 08.45 for naturopaths, or under AS 08.55 for hearing aid dealers;
 - (5) designate dates examinations are to be held and notify applicants;
 - (6) publish notice of examinations and proceedings;
 - (7) arrange space for holding examinations and proceedings;
 - (8) notify applicants of results of examinations;
 - (9) issue licenses or temporary licenses as authorized by the board or as authorized by the department under AS 08.11 for audiologists, under AS 08.45 for naturopaths, or under AS 08.55 for hearing aid dealers;
 - (10) issue duplicate licenses upon submission of a written request by the licensee attesting to loss of or the failure to receive the original and payment by the licensee of a fee established by regulation adopted by the department;
 - (11) notify licensees of renewal dates at least 30 days before the expiration date of their licenses;
 - (12) compile and maintain a current register of licensees;
 - (13) answer routine inquiries;
 - (14) maintain files relating to individual licensees;
 - (15) arrange for printing and advertising;
 - (16) purchase supplies;
 - (17) employ additional help when needed;
 - (18) perform other services that may be requested by the board;
 - (19) provide inspection, enforcement, and investigative services to the boards and for the occupations listed in AS 08.01.010, regarding all licenses issued by or through the department;
 - (20) retain and safeguard the official seal of a board and prepare, sign, and affix a board seal, as appropriate, for licenses approved by the board;
 - (21) issue business licenses under AS 43.70.
- (b) The form and content of a license, authorized by a board listed in AS 08.01.010, including any document evidencing renewal of a license, shall be determined by the department after consultation with and consideration of the views of the board concerned.



DATE : January 16, 1990

SEND TO: David Rogers
COMPANY: Liability Ins Task Force
FAX # : 586-6959

TOTAL NUMBER OF PAGES, INCLUDING THIS PAGE: 8

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MESSAGE: Mr. Rogers, under cover please find information recently received from Tom Conway, Council on Dental Care Programs, American Dental Association. The information is from and about the A.D.A.'s national survey on the peer review and mediation results from state constituent societys.

We are putting this and the original of Saturday's letter in the mail to you today. Sorry for the delay. Please let me know if this information is helpful.

Also, if you would like to contact Mr. Conway, please feel free:

Tom Conway
American Dental Association
211 East Chicago Avenue
Chicago, Ill. 60611
800-621-8099 Ext. 2752

=====

FROM: FRANK THOMAS-MEARS
WITH: MULTIPLE RISK MANAGERS, INC.
POB 112063
ANCHORAGE, ALASKA 99511-2063

PHONE: 907-345-7181
FAX : 907-345-1982

American
Dental
Association



211 East Chicago Avenue
Chicago, Illinois 60611-2678
(312) 440-2500

DATE: March 23, 1989
TO: Executive Directors, Constituent Dental Societies
FROM: Stuart B. Fountain, D.D.S.
Chairman, Council on Dental Care Programs
SUBJECT: 1989 National Peer Review Reporting System

As you are aware, the Council on Dental Care programs has the responsibility to provide assistance, guidance and support to constituent and component dental societies in the development and conduct of professional review systems. The Council's ability to fulfill its responsibilities in the area of peer review is, to a great extent, dependent upon information obtained through the National Peer Review Reporting System.

This year's reporting form has been expanded to request information on not only peer review activity during 1988, but also the organization and administration of your system. Your efforts in completing this survey as completely as possible are greatly appreciated.

Please also note the request on the survey for a copy of your peer review manual. Also, if your peer review process uses any quality assessment criteria for the evaluation of dental treatment, we would appreciate receiving a copy of the criteria or manual. This information is most helpful to the Council in maintaining current information on individual state peer review programs.

So that this information may be made available in a timely manner, we would very much like to receive your response by April 21, 1989. If you have any questions, please contact the Council office: Mr. Tom Conway, research associate, 800/621-8099, extension 2752.

SBF:tec

cc: Constituent Peer Review Committee Chairmen
ADA Officers and Trustees
Members, Council on Dental Care Programs
Dr. Michael L. Perich, assistant executive director,
Division of Dental Practice
Ms. Marye C. Feldman, secretary, Council on Dental Care
Programs
Ms. Jasna Stosic, assistant secretary, Council on Dental
Care Programs
Mr. Tom Conway, research associate, Council on Dental Care
Programs

SUMMARY OF
1989 NATIONAL PEER REVIEW REPORTING SYSTEM

Responses to the 1989 National Peer Review Reporting System questionnaire were received from 47, or 90% of the constituent societies. A copy of the questionnaire may be obtained by contacting the Council office.

Constituent societies reported an average of 24 telephone contacts per month regarding complaints about dental treatment.

In 1988, there were a total of 3,638 new peer review cases initiated nationally. This represents an 11% increase when compared to 1987 figures. There were 5 constituent societies reporting less than ten peer review cases. They were: Nebraska, North Dakota, Virginia, Virgin Islands, and Wyoming. Arizona, California, Georgia, Illinois, Michigan, Minnesota, New York, Ohio and Pennsylvania reported more than 100 cases.

The majority of peer review cases, 72%, fall into the quality of care category, while 12% dealt with the appropriateness of care provided. About 10% of the cases concerned fee disputes. The remainder of cases dealt with problems such as lack of communication and professional conduct.

Nationally, there were 288 cases that involved non-member dentists.

Approximately 41% of the cases were resolved through the established mediation process while the rest went to full committee. Through mediation, 66% of the cases were resolved in favor of the patient and 30% for the dentist. The remaining cases either reached a compromise solution or were resolved in favor of third-party representatives. Of the cases heard by a full committee, 48% were resolved in favor of the patient while 47% came out in favor of the dentist. Again, the remaining cases either reached a compromise solution or were resolved in favor of third-party representatives. Of the 466 cases that were voluntarily withdrawn from the process, California reported the highest number withdrawn at 202.

The majority of cases, 36%, required more than eight weeks to settle. 34% required 90 days, while the remainder took less than four weeks to resolve.

Of those cases resolved, 224 were appealed. Approximately 89% of the original decisions were upheld. There were 15 interjurisdictional cases; and 59 cases, or 1.6% of the total cases initiated, went to the State Board of Dentistry.

The Council maintains information on the administration of state peer review systems, including case referrals to the state boards of dentistry and the extent of bylaws mandating member cooperation with the peer review process. Any additional information regarding peer review can be obtained by contacting the Council office at: (800) 621-8099, extension 2752.

Compilation of National Peer Review Reporting System Responses - 1986 to 1988
ADA Council on Dental Care Programs

Category		1986	1987	1988
Total Number of Responses		51	42	47
Number of New Cases Initiated		4,067 (+5%)	3,334 (-18%)	3,638 (+11%)
Cases Involving:	Quality of Care	52%	66%	72%
	Appropriateness of Case	25%	16%	12%
	Fee Disputes	10%	10%	10%
	Other	13%	8%	6%
Cases Initiated by:	Patient	78%	74%	78%
	Dentist	13%	16%	17%
	Other	9%	10%	8%
Cases Resolved by:	Committee	55%	44%	59%
	Mediator	45%	56%	41%
Of Cases Resolved by Committee, % in Favor of:	Patient	36%	49%	48%
	Dentist	33%	39%	47%
	Other	31%	12%	5%
Of Cases Resolved by Mediator, % in Favor of:	Patient	50%	47%	66%
	Dentist	36%	16%	30%
	Other	14%	37%	4%
Cases Involving Non-Members		7%	14%	13%
Time to Resolver	6 or More Weeks	55%	61%	36%
	4 - 6 Weeks	30%	19%	34%
	Less Than 4 Weeks	15%	19%	30%
Total Number of Appeals		NA	228	224
% of Appeals Upheld		NA	92% (210)	89% (199)
Total Number of Interjurisdictional Cases		NA	18	15
Total Number of Cases Referred to State Board		NA	76 (2%)	59 (1.6%)

JAN-16-90 TUE 6:01 MULTIPLE RISK ENDUERS
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1989 National Peer Review Reporting System

Calendar Year 1988 Data
 State _____

Peer Review Activity

1. How many telephone calls per month does the dental society receive regarding complaints about dental treatment? _____

2. What was the total number of peer review cases initiated in 1988? (January 1 - December 31, 1988) _____

3. How many cases were initiated by the:

- a. patient? _____
- b. dentist? _____
- c. insurance carrier? _____
- d. state Medicaid agency? _____
- e. other? please specify _____

4. Of the cases initiated, how many were regarding:

- a. appropriateness of care? _____
- b. quality of care? _____
- c. fees? _____
- d. other? please specify _____

5. How many cases involved:

- a. general practice _____
- b. endodontics _____
- c. prosthodontics _____
- d. periodontics _____
- e. pedodontics _____
- f. oral pathology _____
- g. oral surgery _____
- h. orthodontics _____
- i. dental public health _____
- j. a dental laboratory _____

6. How many cases involved non-member dentists? _____

7. How many cases were voluntarily withdrawn from the process? _____

8. Of the total number of cases initiated in 1988, how many:

- a. were resolved by a mediator? _____
- b. went to a full committee review? _____
- c. were not resolved within the year? _____

9. Of the cases that were resolved by a mediator or full committee review, indicate the number that were resolved in favor of each of the following:

	Mediator Resolved	Committee Resolved
a. patient	_____	_____
b. dentist	_____	_____
c. insurance carrier	_____	_____
d. plan purchaser/ employer	_____	_____
e. compromise	_____	_____
f. other	_____	_____

10. Of the cases that were resolved (either through mediation or full committee) how many were resolved within:

- a. two weeks? _____
- b. four weeks? _____
- c. eight weeks? _____
- d. 90 days? _____
- e. other? please specify _____

11. How many cases were appealed from the component to the constituent society peer review committee? _____

12. How many cases were appealed for the following reasons?

- a. availability of new evidence _____
- b. proper procedure not followed _____
- c. decision of component committee contrary to evidence presented _____
- d. other _____

13. How many decisions that were appealed to the constituent society were:

- a. upheld _____
 b. changed _____

14. How many interjurisdictional cases were initiated? _____

15. How many cases were referred to the State Board of Dentistry or other disciplinary agency? _____

16. Are you aware of any peer review cases in your state that have gone from the peer review process into formal litigation? YES NO
 If yes, please write additional comments on back.

Peer Review Organization and Administration

1. Which committee (Council) oversees your peer review system at the state level?

- a. Council on Dental Care _____
 b. Council on Peer Review _____
 c. other, please specify _____

2. Indicate the group(s) from which your peer review system will accept complaints.

- a. patients with insurance _____
 b. non-insured patients _____
 c. member dentists _____
 d. non-member dentists _____
 e. third party carriers _____
 f. benefit plan purchasers/employers _____
 g. state regulatory agencies _____
 h. consumer advocate groups _____
 i. all of the above _____

3. Do you charge non-member dentists and/or third party carriers for peer review?

- a. non-member dentists YES NO
 If yes, how much? \$ _____
 b. third party carriers YES NO
 If yes, how much? \$ _____

4. Will your peer review system handle cases involving fees? YES NO

5. Does peer review handle dentist to dentist problems? YES NO

Explain _____

6. For your member dentists, is cooperation with the peer review process mandated in your Bylaws or Code of Ethics? YES NO

If no, explain briefly how non-cooperation by member dentists is handled. _____

7. Which of the following are asked to sign an agreement to abide by the peer review decisions?

- a. third party carriers _____
 b. patients _____
 c. member dentists _____
 d. non-member dentists _____

8. In which instance are peer review decisions referred to the State Board of Dentistry?

- a. several adverse decisions against the same practitioner _____
 b. single very serious case of inappropriateness of care or poor quality _____
 Please specify criteria used for such action. _____

9. Does the peer review process employ a Statute of Limitations? YES NO

If yes, what is the number of year(s) from:
 a. discovery? _____
 b. episode? _____

10. Do you:

- a. use your own State Peer Review Manual _____
 b. use the ADA Peer Review Manual _____

11. Does the peer review process use a mechanism (manual) to ensure the consistency of quality determinations based on clinical evaluations?

YES NO

If yes, what manual is used? _____

PLEASE BE SURE TO SEND A COPY OF THE QUALITY ASSESSMENT MANUAL USED.

12. Is the availability/purpose of the peer review process publicized?

YES NO

If yes, briefly describe. _____

13. Which of the following types of Statutes or Regulations exist for peer review function?

- a. immunity from liability for peer review committee members _____
b. non-discoverability (confidentiality) of peer review proceedings _____

14. Which of the following groups have constituent society secured liability coverage?

- a. peer review committee members _____
b. Directors and Officers _____

15. Who is the carrier of your policy?

16. Have you at any time ceased peer review activity due to lack of liability coverage or have you experienced other problems with liability coverage for peer review activities?

YES NO

Briefly explain. _____

17. Please explain any significant changes in the administration of your state's peer review system in the past year. _____

Survey completed by:

Name: _____

Title: _____

Address: _____

Phone: _____

THANK YOU FOR COMPLETING THIS QUESTIONNAIRE

WE WOULD GREATLY APPRECIATE A COPY OF THE PEER REVIEW MANUAL CURRENTLY USED FOR YOUR PEER REVIEW PROCESS.

About Peer Review

Peer review is a process by which the dental profession reviews and resolves problems or misunderstandings regarding dental treatment. Peer review exists for the benefit of the patient, the dentist, and the third party.

Every dental society has established a system of review to resolve the occasional disagreement about dental treatment that a patient and a dentist have not been able to resolve themselves.

A peer review committee consists of dentists who volunteer their time and expertise to consider questions about the appropriateness or quality of care or, in certain instances, about the fees charged for dental treatment. The members of the committee will be impartial, and their services are available to anyone who chooses to utilize the process.

A peer review committee will initially attempt to informally mediate a problem. If necessary, the committee may meet to discuss the case, and may examine clinical records, talk to the patient and the dentist and, if necessary, arrange for a clinical examination.

The dentist and the patient will be informed of the committee's decision and recommendation for resolving the problem.

Most importantly, the committee makes its recommendation in the hope that it will provide for a reasonable and mutually agreeable solution for the parties involved.

The Review Process

- A written request for review is submitted to the state or local dental society. The request should include all necessary and appropriate documentation that would help to clarify or support the circumstances.
- The request is reviewed for completeness and referred to the appropriate peer review committee.
- The chairman of the peer review committee reviews the request and appoints one member of the committee to attempt to mediate the problem.
- The mediator contacts all parties and attempts to reconcile the problem. A clinical examination is not conducted during the process of mediation.
- If the problem is successfully mediated, a written report is submitted to the committee chairman and the case is closed.
- If mediation is not successful and further action is necessary, the chairman is accordingly advised.
- A committee of at least three members is appointed to review the case.
- The committee concludes its review and all parties are notified of the decision and recommendations in writing.
- If any of the parties is not satisfied with the decision and can show just cause for an appeal, the case can be appealed to the state dental association peer review committee.
- The decision of the state peer review committee is final.
- All information regarding a particular case is kept strictly confidential.

In Summary

Peer review provides an impartial, easily accessible and generally expedient means for resolving misunderstandings regarding dental treatment. It exists for the benefit of the patient and the dentist, and for the third party.

Peer review is not a court of law. It is generally a voluntary process that relies on the good faith between a dentist and patient and their mutual interest in good dental health.

Should you wish to know more about peer review, please contact your local dental society.

DATE : January 18, 1990

SEND TO: David Rogers
COMPANY: Liability Ins Task Force
FAX # : 586-6959

TOTAL NUMBER OF PAGES, INCLUDING THIS PAGE: 1

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MESSAGE: Mr. Rogers, regarding the question of "who is causing the claims" and my remarks about the federal database, I am trying to get further information. I can tell you the database will be administered by the HEALTH RESOURCE SERVICES ADMINISTRATION. Was supposed to be implemented end of 1989 but was delayed for six months to allow time to solve some problems, such as who can access and what can they get. I guess new rules are being promulgated in the federal register. I will try and get more, but may be few days. Sorry.

=====

FROM: FRANK THOMAS-MEARS
WITH: MULTIPLE RISK MANAGERS, INC.
POB 112063
ANCHORAGE, ALASKA 99511-2063

PHONE: 907-345-7181
FAX : 907-345-1982

ALASKA STATE BOARD OF
DENTAL EXAMINERS
ANNUAL REPORT
FISCAL YEAR 1989

ALASKA STATE BOARD OF DENTAL EXAMINERS

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ALASKA STATE BOARD OF DENTAL EXAMINERS

IDENTIFICATION

The Board of Dental Examiners are as follows:

	<u>Exp. Date</u>
Timothy J. Woller, DDS, President	02-01-90
Christine Baxter, RDH, Secretary	02-01-89
Robert E. Warren, DDS	02-01-91
Paul S. Buxton, DDS	02-01-91
H. Douglas Smole, DDS	02-01-89
Terrence Tauschek, DDS	02-01-91
Sondra Shryock, RDH	02-01-91
L. Jeanne McPherrren, Public Member	02-01-93
Randall P. Burns, Director, Division of Occupational Licensing	
Kevin J. Messing, Licensing Examiner	

ALASKA STATE BOARD OF DENTAL EXAMINERS

MAJOR ISSUES:

Implementation of continued competency regulations; clarification of the scope of practice of the dental hygienist; regulations for the administration of IV sedation; implementation of a jurisprudence examination; advertising by the dental practitioner; credentialing for dentists; calibration program for the operative examination for the Western Regional Examining Board (WREB); participation in WREB conducted examinations; disciplinary issues; position statements regarding HIV seropositive patients; amalgam toxicity issue; candidate identification procedures; participation in the American Association of Dental Examiners (AADE) clearinghouse; supervision of the hygiene program at UAA; member participation in the American Association of Dental Examiners (AADE) and Western Conference; board participation in a joint meeting with the Nursing, Pharmacy and Medical Boards; WREB involvement.

- A. Implementation of continued competency regulations: The continuing education regulations adopted by the board went into effect January 1, 1989 for dentists and will not take effect for hygienists until January 1, 1990. The board will accept four credit units for obtaining or maintaining a basic CPR rating. The board will only accept and allow four continuing education units per license biennium. All course credits must relate to direct patient care. The board has an informal procedure to allow for review of courses to be given for CEU credits.
- B. Clarification of the scope of practice of the dental hygienist: The board has received an opinion from the AG's (Attorney General's) office regarding clarification of AS 08.32.110. It is their opinion that the duties listed in statute are limited to the practice of dental hygiene or dentistry. Therefore, the placement of pit and fissure sealants are not to be performed by unlicensed individuals. The possibility of removing this function from statute was addressed, but a consensus could not be reached among board members. Clarification of the scope of practice continues to be an ongoing goal.
- C. Regulations for the administration of IV sedation: The proposed wording for regulations of IV sedation were forwarded to the Regulations Specialist in December of 1988. To date, the board has not received the final draft. It is on the agenda for the October 1989 meeting.

- D. Completion and implementation of a jurisprudence examination: The board is required by statute to conduct a jurisprudence examination to all licensees. The examination was completed in February 1989 and was effective immediately. For hygienists obtaining a license by credentials, an oral review of the same examination is conducted prior to licensure.
- E. Advertising by the dental practitioner: This is an ongoing goal of the board. The board has been awaiting information from the Federal Trade Commission (FTC) to formulate a letter addressing this issue. A position statement of the board will be sent to all state licensees in the fall of 1989.
- F. Credentialing for dentists: This has been an ongoing issue before the board for several years. The board continues to address this issue at each board meeting. It will be addressed in a later section of this report.
- G. Calibration program for the operative examination for Western Regional Examining Board: Along with the affiliation with a regional testing board comes responsibilities for the development and administration of the WREB examination. The State of Alaska is responsible for developing a calibration system for the operative examination. The calibration system will be utilized in the training of examiners for the 1990 exam schedule.
- H. Western Regional Examinations conducted in Alaska: The dental hygiene examination was conducted at the University of Alaska Anchorage (UAA) on June 16-17, 1989. We also conducted two local anesthesia examinations, one in February and one in June 1989. An anesthesia only exam is scheduled for December 1989 for those completing the anesthesia course in December.
- I. Disciplinary issues: The board continues to address disciplinary issues presented by the investigative division at each board meeting. Recently, the board concluded two open investigations which have been ongoing for some time. One resulted in the board agreeing to a stipulated agreement in which the dentist agreed to have his license revoked. The second matter involved the suspension of a license for six months with a probation period of three years. We currently have 19 ongoing investigations.
- J. Position statement regarding HIV seropositive patients or patients with AIDS: The board released a position statement to all state licensees regarding treatment of HIV positive patients or those with AIDS. The board unanimously agreed to endorse the American Dental Association (ADA) Principles of Ethics and Code of Professional Conduct. Refusing to treat such a patient solely on the matter of being HIV positive or having AIDS is in violation of the standards of care expected of a licensed professional in the State of Alaska.

- K. Amalgam toxicity issue: Due to the numerous inquiries received by the board concerning alleged medical symptoms related to the use of silver amalgam in dental restorations, a position statement was drafted and sent to all state licensees. While the board wishes to keep an open mind regarding new materials and ongoing research, it is the feeling of the board that the current time-honored materials pose no risk to the public.
- L. Candidate identification procedures: It is felt that the current methods of identification used by the Western Regional Examining Board are adequate.
- M. Participation in the American Association of Dental Examiners (AADE) Clearinghouse: Currently, the State of Alaska reports to the AADE Clearinghouse all disciplinary sanctions relating to licensed practitioners in the state. The ultimate goal is to publish a periodic report to be mailed to each dental board. Currently, there are 43 jurisdictions reporting. Ultimately, this will aid in the background investigations of licensing applicants.
- N. Supervision of the hygiene program at the University of Alaska Anchorage: The board has made satisfactory progress on this issue. The greatest problem seems to be funding for this position by the university. It was denied funding again for the school year 1989-90. This continues to be an issue before the board.
- O. Member participation in AADE meeting and Western Conference of Dental Examiners and School Deans: State statute mandates membership in the American Association of Dental Examiners. The association holds two meetings each year. Board representation at national meetings gives our state a voice in the current issues and keeps us abreast of national concerns. We had board representation at the annual meeting and the midwinter meeting. They were partially funded by the state. We are also associated with the Western Conference of Dental Examiners and School Deans. We had two members present with partial funding from the state. Each state gives a report of issues they confronted over the past year. Knowledge gained and shared at such functions is invaluable.
- P. Board participation in the joint meeting with the Board of Nursing, Pharmacy and Medical Boards: On October 15, 1988, the Board of Dental Examiners participated in a joint meeting as well as a continuing education program entitled "Pain and Pain Control; The Management of Acute Pain and Chronic Pain." The meeting addressed many areas of mutual concern and allowed for communication between boards. Information was invaluable to all who attended and is the feeling of the board that similar programs be developed and funded on an annual basis in the future.

- Q. Participation in Western Regional Examinations: Alaska Board Members participated in 21 separate examiner positions in the '89 examination schedule. The average length of an examination is three to four days, excluding preparation time. Travel adds two more days to each examination. Total time away from practice and family averages five to six days for examinations outside Alaska, and two to three days for examinations in Alaska relating to hygiene only. We also have involvement on the Board of Directors for WREB, participation on the Exam Review Committee for both dental and hygiene exams and involvement on the Long Range Planning Committee. This requires numerous hours of individual time. It also allows the state active participation in the construction and evolving of an excellent examination devised to assure the public of competent dental and dental hygiene practitioners. Funding for all the examinations and biannual meetings is provided by the Western Regional Examining Board.

FY 89 STATISTICAL INFORMATION
(Please Type)

Date: August 1, 1989

Method: Check the appropriate method in which licenses are issued (not including Examination), and cite the specific statutory authority.

<u>X</u> Credentials	AS 08.36.234 Suspended in 1984	AS 08.	<u>36.234 / AS 08.32.030</u>
<u> </u> Reciprocity		AS 08.	<u> </u>
<u> </u> Comity		AS 08.	<u> </u>
<u> </u> Endorsement		AS 08.	<u> </u>

New Licenses: List each category and the number of licenses issued within each category for the first time in FY 89.

CATEGORY:

NUMBER OF LICENSES:

(1) <u>Dentists</u>	<u>15</u>
(2) <u>Dental Hygienists</u>	<u>15</u>
(3) <u>Dental Specialists</u>	<u>4</u>
(4) <u>Local Anesthetic Permits</u>	<u>9</u>
(5) <u> </u>	<u> </u>
Total:	<u>43</u>

Number of CURRENT licensees:	<u>968</u>
Number of LAPSED licensees:	<u>511</u>
Number of INACTIVE licensees:	<u>0</u>

Expiration Date: If the expiration date is different for each category, indicate the category after each date.

Expire: 12/31/89 - Dental Hygienists - Local Anesthetic Permits
12/31/90 - Dentists - Dental Specialists

Examination: List each examination separately indicating the licensure category (such as RN, LPN, Dentist, Dental Hygienist), the total number of examinees, number passed and failed.

Exam Statute Authority: AS 08.36.160 *Affiliated with the Western Regional Examining Board (WREB) since 1987.

* (1) Category:	<u> </u>	<u> </u>	<u> </u>	<u> </u>
	Total Candidates	# Passed	# Failed	
<u> </u>				
Date and City:	<u> </u>			
(2) Category:	<u> </u>	<u> </u>	<u> </u>	<u> </u>
	Total Candidates	# Passed	# Failed	
<u> </u>				
Date and City:	<u> </u>			
(3) Category:	<u> </u>	<u> </u>	<u> </u>	<u> </u>
	Total Candidates	# Passed	# Failed	
<u> </u>				
Date and City:	<u> </u>			
(4) Category:	<u> </u>	<u> </u>	<u> </u>	<u> </u>
	Total Candidates	# Passed	# Failed	
<u> </u>				
Date and City:	<u> </u>			

15 - Dentists
6 - Dental Hygienists

Total Licensed by Exam: 21

Meetings: List Date(s) and Location(s)

1. October 15-16, 1989 - Anchorage, Alaska
2. February 3, 1989 - Anchorage, Alaska
3. June 15, 1989 - Anchorage, Alaska
- 4.

Teleconferences: List Date(s) and Site(s)

1. None
- 2.
- 3.
- 4.

Regulation Projects: List Topic(s)

Regarding IV Sedation

Investigations: (Attach Case Summary)

SCHEDULE OF EXAMINATIONS FOR 1989

EXAMINATIONS IN DENTISTRY

<u>LOCATION</u>	<u>EXAM DATE</u>	<u>CLOSING DATE</u>
Loma Linda University Loma Linda, CA	March 19-21, 1989	February 2, 1989
Creighton University Omaha, NE	May 4-6, 1989	March 17, 1989
University of Oregon Portland, OR	June 3-5, 1989	April 19, 1989
University of Pacific San Francisco, CA	September 23-25, 1989	August 9, 1989

EXAMINATIONS IN DENTAL HYGIENE

Creighton University Omaha, NE	May 5-7, 1989	March 20, 1989
Carroll College Helena, MT	May 19-21, 1989	April 4, 1989
Phoenix College Phoenix, AZ	May 19-22, 1989	April 4, 1989
Idaho State University Pocatello, ID	June 9-11, 1989	April 25, 1989
Weber State College Ogden, UT	June 11-14, 1989	April 25, 1989
University of New Mexico Albuquerque, NM	June 16-18, 1989	May 2, 1989
University of Alaska Anchorage, AK	June 16-18, 1989	May 2, 1989
University of Pacific San Francisco, CA	September 22-24, 1989	August 9, 1989
Phoenix College Phoenix, AZ	January 12-14, 1990	November 29, 1989

EXAMINATIONS IN ANESTHESIA ONLY

University of Alaska
Anchorage, AK

February 3-4, 1989

January 16, 1989

University of New Mexico
Albuquerque, NM

February 18-19, 1989

January 23, 1989

University of Alaska
Anchorage, AK

November 17-18, 1989

October 2, 1989

1989 EXAMS

DENTAL EXAMS:

<u>Site</u>	<u># Candidates</u>	<u># Pass</u>	<u>Pass Rate</u>
Loma Linda	99	72	73%
Creighton	94	80	85%
Portland	69	47	68%
San Francisco			
Total	(262)	(199)	(76%)

DENTAL HYGIENE EXAMS:

Arizona	84	67	80%
Idaho	40	32	83%
Utah	23	14	61%
New Mexico	40	33	83%
Alaska	8	7	88%
San Francisco			
Total	(195)	(153)	(78%)

ANESTHESIA EXAMS:

Alaska (Feb)	6	5	83%
New Mexico (Feb)	13	9	69%
Arizona	68	57	84%
Idaho	36	25	69%
Utah	48	44	92%
New Mexico	38	29	76%
Alaska	8	5	63%
San Francisco			
Alaska (Nov)			
Total	(217)	(174)	(80%)

ALASKA STATE BOARD OF DENTAL EXAMINERS

SUNSET AUDIT RECOMMENDATIONS

The following recommendations were made by the Legislative Audit for 1988:

Recommendation #1: The Board of Dental Examiners should adopt regulations for continuing education for dentists, hygienists and specialists.

The board adopted the regulations at its February 1988 meeting and were effective April 10, 1988 for the license period beginning January 1, 1989 for dentists, and January 1, 1990 for dental hygienists.

Recommendation #2: The board should consider recommending a change in statute to reduce the required number of board meetings from four meetings per year to two meetings per year.

The board unanimously disagrees with this recommendation at the present time. The board feels that, in the past, credential interviews and examination preparation have not allowed them to perform many of its other duties. It was resolved by the board to continue to meet four times per year until such a time as it is no longer necessary.

Recommendation #3: The board should review application requirements and recommend changes for procedures which do not have a clear relationship to public purpose.

The following changes were adopted by the board:

1. To eliminate the requirements for three reference letters from dentists licensed in Alaska for specialist licensure.
2. To retain the personal interview requirement for the purpose of identification of applicants.
3. To require applicants for licensure to have transcripts sent directly from their schools to the Division of Occupational Licensing in lieu of notarized copies of diplomas.

The members of the Board of Dental Examiners remain divided over the issue of credentialing for dentists with the majority opposing its implementation at this time.

Washington State has recently incorporated credentialing language into their law and the Washington Board will now decide on how to implement those statutes. Other states, Ohio, Kentucky, and Arkansas have removed the credentialing statutes from their books in recent years because of problems with licensees. As it stands now, less than half the states embrace the credentialing concept of licensure for dentists.

The majority of the Alaska Dental Board believe that the best way to license dentists is by a practical test of ability. While this test does not assure the public that a dentist will provide that level of care to which they have been tested, it at least shows that a dentist is able to provide quality care. The loss of manual dexterity and skill due to disease, physical or mental impairment, failure to maintain skills, or disuse is very difficult if not impossible to determine by a review of credentials. Remember there is no hospital review organization looking over the shoulder of a dentist as there is with a physician. A dentist is pretty much on his or her own and not until one or in most cases several patients are injured does the lack of quality care become evident.

The Alaska Board has made great strides in making it easier to get an Alaskan license. By joining a regional board prospective licensees may now choose any one of four locations in the western U.S. in as many times of the year. The test is comprehensive and is administered fairly. The Western Regional Board tests about 700 dentists annually and, while the pass/fail ratio varies, it is approximately 2/3 pass overall. I believe this method of testing for competence to be in the best interest of the people of Alaska at this time.

In the future, as more states begin to license by credentials, when the national data bank for action against dentists licensees has become effective in the collection and dissemination of information and some nationally standardized clinical tests are in place not only in their content but in the way they are administered, then I believe we should license by credentials.

ALASKA STATE BOARD OF DENTAL EXAMINERS

PRIOR YEAR'S GOALS AND OBJECTIVES

1. To adopt regulations for the administration of IV sedation in the dental office.

Proposed language was forwarded to the Regulations Specialist in October 1988. The proposed regulations were not available for the board's review at the February or June meetings. They are on the agenda again for the October 20, 1989 meeting.

2. To develop and implement a jurisprudence examination for dental and dental hygiene applicants for licensure.

The jurisprudence examination was approved by the board and is in effect for all licensees.

3. Clarification of the scope of practice for the dental hygienist and/or dental assistant.

A statement has been issued by the AG's office regarding clarification of AS 08.32.110 which defines the scope of practice of a dental hygienist. The placement of pit and fissure sealants is a function of the dental hygienist and, therefore, should not be performed by a dental assistant. The board will continue to address this issue and will release a letter to all licensed individuals concerning this matter.

4. Continuation of a cooperative relationship with the Attorney General's Office.

This is an ongoing goal.

5. Development of an investigative process of applicants for licensure to be utilized by the licensing examiner.

This is an ongoing goal.

6. To promote continued competency and compliance with state statutes.

This is an ongoing goal.

7. Develop candidate identification procedures with WREB.

This has been resolved. It is felt that the current system is adequate.

8. Encourage department participation in all available clearinghouses.

The State of Alaska reports to the AADE Clearinghouse on a regular basis. To date, there are 43 jurisdictions reporting to the AADE Clearinghouse. The Federal Data Bank has been placed on hold again until January 1990.

9. Develop a mechanism for peer review to report repeat offenders to the Division of Occupational Licensing's investigative unit.

A member of the board worked with the Peer Review Committee of the ASDA to establish a means for reporting repeat offenders to the state investigative unit. This is being done. The question of liability protection was also addressed. The state statutes protect only peer review committees appointed by the board on a case-by-case basis.

Public Law 99-660 in federal statute apparently protects the Peer Review Committee from lawsuits.

10. Develop a position statement regarding dental care for, or refusal of dental care to persons who have tested HIV positive for AIDS.

A position statement was sent to all licensees in May 1989. This goal has been met.

ALASKA STATE BOARD OF DENTAL EXAMINERS

NEW GOALS AND OBJECTIVES FOR FY 89

At the June 1989 board meeting in Anchorage, Alaska, the Board of Dental Examiners compiled the following list of goals and objectives for FY 90:

1. Finalization and adoption of the regulations regarding IV sedation in the dental office.
2. Clarify the scope of practice for the dental hygienist.
3. Continue to promote continued competency and compliance with state statutes.
4. Encourage the Governor's Office to expedite appointments and reappointments of board members.
5. Develop adequate procedures for the background investigations of all licensure applicants.

Objective: To urge the division to assure adequate and effective staffing to support timely processing of all aspects of licensing procedures, including:

1. application processing;
 2. background investigations; and
 3. reporting of disciplinary actions to all available clearinghouses.
6. Distribution of licensure information to licensees through the development of a board published newsletter.

Objective: To communicate licensing information in a cost effective and efficient manner to all state licensees.

- o To seek funding for a biannual newsletter publication to be sent to all state licensees.

BOARD/COMMISSION TRAVEL REQUEST

	FY 90	FY 91
A. <u>In-State Regular Board Meetings:</u>		
Number of board meetings authorized by statute: <u>4</u>	(3)	(3)
Number of board meetings requested:	<u>Oct. 20, 1989</u>	<u>Oct./Nov.'90</u>
Location(s): Anchorage	<u>Feb. 1990</u>	<u>Feb./Mar.'91</u>
Juneau/February	<u>May or June '90</u>	<u>May/June '91</u>
if needed	<u>Teleconference</u>	<u>Teleconference</u>

A fourth meeting will be required if credentialing of dentists becomes a function of the Board.

B: Out-of-State Travel:

In the space provided below, provide, in detail, the following information for each out-of-state travel request you are submitting for FY 90 and FY 91:

- Name of the event/conference
- Location (City, State)
- Date(s)
- Who is anticipated to attend? (Name of board member(s), staff)
- Name(s) of alternate attendee?

- (1) AADE Annual Meeting 1 Dental Member (Chairman)
1 Hygiene Member
Honolulu, Hawaii Alt. Board Member/or Licensing Exam.
Nov. 2-3, 1989
Christine Baxter, H. Douglas Smole, D.D.S., Robert E. Warren, D.D.S.
- (2) AADE Mid-Winter Meeting 1 Dental Member (Chairman)
1 Hygiene Member
Spring 1990 Alt. Board Member/or Licensing Exam.
Chicago, Illinois
Chairman, Sondra Shryock, Alt. - Terrence A. Tauschek, D.D.S.
- (3) Western Conference Dental Examiners 1 Dental Member (WREB Board Member)
1 Hygiene Member (WREB Representative)
Jackson Hole, Wyoming
July 1990

Chairman, Hygiene Member (Western Regional Board (WREB) meets also and will cover airfare for those attending their functions)

BOARD/COMMISSION RECOMMENDATIONS FOR

PROPOSED LEGISLATION

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

1. Proposed language:

The Board of Dental Examiners does not have any proposed legislation for FY '90.

2. Public/Industry/Profession benefit:

3. State the problem or purpose prompting this request:

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

5. Identify the alternatives to this legislation (if any):

6. Which alternative mentioned would be most acceptable?

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

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

Board/Commission Member: Timothy J. Woller, D.D.S., President

Day Phone: (907)479-6747

BOARD/COMMISSION RECOMMENDATIONS FOR
PROPOSED REGULATIONS

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

1. Proposed language:

The Board of Dental Examiners has forwarded proposed wording for regulations on IV Sedation to the Regulations Specialist. Final draft will be ready for the October 20, 1989 Board Meeting.

2. Public/Profession/Industry benefit:

3. State the problem or purpose prompting this request:

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

5. Identify the alternatives to this regulation (if any):

6. Which alternative mentioned would be most acceptable?

7. Does the entire board/commission agree with this regulation request?

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

Board/Commission Member: Terrence A. Tauschek, D.D.S.

Phone: (907) 561-4686