

606 SC 1 VOLUME, SUNSET REVIEWS

1979-1980

SENATE COMMERCE COMMITTEE

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SENATE COMMERCE COMMITTEE

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SENATE

COMMERCE

COMMITTEE

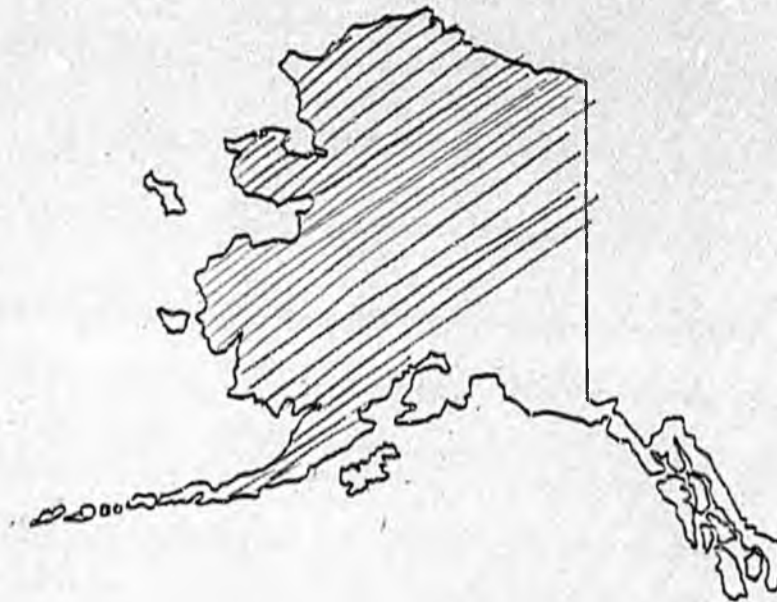
1979-80

SUNSET  
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*Christian Baster*  
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# STATE OF ALASKA

## Sunset Review



**1979**

Department of Commerce and  
Economic Development  
Division of Occupational Licensing

SUNSET REVIEW

1979

DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

Division of Occupational Licensing

Commissioner, Department of Commerce  
and Economic Development

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# STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

## DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

OFFICE OF THE COMMISSIONER

POUCH D

JUNEAU, ALASKA 99811

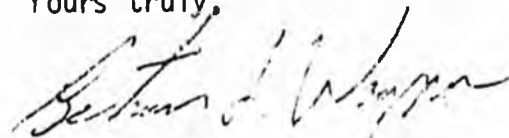
January 14, 1980

The Alaska State Legislature:

Transmitted herewith, pursuant to AS 44.66.050, are reports on the following State boards: the Board of Public Accountancy; Board of Barber Examiners; Collection Agency Board; Board of Hairdressing and Beauty Culture Examiners; Board of Electrical Examiners; State Board of Registration for Architects, Engineers and Land Surveyors; Guide Licensing and Control Board; Board of Marine Pilots; Real Estate Commission; and Board of Welding Examiners.

This evaluation, supplemental to the Department's testimony before the Legislature, serves to focus attention upon the questions of whether or not the board reviewed are best serving the interests of the public. Data as provided by the Division of Occupational Licensing, the board members, licensees and members of the public has been received, reviewed and evaluated.

Yours truly,



Bertram L. Wagnon  
Deputy Commissioner

### Philosophy of Evaluation

This review and evaluation has been undertaken to determine whether continued regulation of an industry or occupation under State auspices can be justified in terms of protection of public health, safety and welfare. State boards and regulatory agencies should be continually cognizant of the public's right to a government acting responsibly in licensing competent practitioners and doing so only in the best interests of the people. Evidence must clearly indicate that the primary goal of regulation is to promote the public good rather than that of the industry or profession. The absence of such evidence indicates cessation of State regulation. Where public benefit or a potential for benefit can be shown to exist, recommendations are made with respect to possible alternatives in the regulatory process which will serve to enhance public health, safety, welfare and accountability.

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STATE OF ALASKA  
Department of Commerce and Economic Development  
Division of Occupational Licensing

The Performance Review of the Division of Occupational Licensing (DOL), dated October 30, 1978, was accomplished by the Division of Legislative Audit in response to the sunset law calling for legislative review of boards and commissions with examination and/or licensing authority in professions. A number of recommendations were made regarding procedures and practices of the Division of Occupational Licensing, most of which were concurred with by DOL and most of which have been implemented.

According to the FY'78 Annual Report from the Department of Commerce and Economic Development, the goal of the Division of Occupational Licensing is to "provide preventive consumer protection in occupational areas where the potential harm is so great that the remedies available for recourse to general law will frequently be insufficient to compensate the aggrieved party."

The Division of Occupational Licensing is statutorily charged with administrative and investigative support services for twenty-one boards and commissions and three occupations which are regulated but have no board. Approximately one hundred and twenty-five members serve on the following boards and commissions:

Board of Chiropractic Examiners  
Board of Dental Examiners  
State Medical Board  
Board of Nursing  
Board of Dispensing Opticians

Board of Examiners in Optometry  
Board of Pharmacy  
Board of Veterinary Examiners  
Board of Psychologist and Psychological Associate Examiners  
Board of Nursing Home Administrators  
Physical Therapy Board  
Board of Public Accountancy  
Board of Barber Examiners  
Collection Agency Board  
Board of Hairdressing and Beauty Culture Examiners  
Board of Electrical Examiners  
State Board of Registration for Architects, Engineers and Land Surveyors  
Guide Licensing and Control Board  
Board of Marine Pilots  
Real Estate Commission  
Board of Welding Examiners

Professions regulated without a board are Mortuary Science, Construction Contractors, and Concert Promoters.

The Division has a total of twenty-one employees. Two investigators, two Executive Officers, and two administrative support persons comprise the Anchorage Field Office personnel. Juneau personnel consists of eight licensing examiners, one licensing supervisor, one chief investigator, one regulation specialist, one management analyst, three administrative support persons and the Director. The Executive Officer and Executive Secretary located in Anchorage are partially exempt positions and are providing administrative support to the Board of Nursing and the Real Estate Commission.

In FY '79, the Division's staff scheduled and coordinated approximately 71 board meetings and 52 examinations for 3,000 candidates, responded to more than 20,000 inquiries, processed and issued 2,742 new licenses and

8,000 renewal licenses, collected over \$717,000 in fees, and maintained more than 28,000 license files.

It should be stressed that DOL is statutorily mandated to provide administrative and budgetary services to boards and commissions; the Division has no authority or decision-making control over any individual board. Legal advice on board activities is provided by the Department of Law, when sought.

Almost without exception the licensing boards have declared their financial independence. That is, they have maintained that they are self-supporting, that revenues from fees charged exceed regulation expenses of their particular profession. Almost without exception this is not the case. Because revenues from all professions are deposited into the general fund, and all expenditures must be allocated from the Division's authorized budget, a penny-by-penny expenditure breakdown is simply not kept for individual boards. The following information was compiled by deducting figures for contractors and mortuary science (who have no board), deducting variables, and assigning administrative expenditures based on number of licensees in each profession in each fiscal year indicated.

	FY '76		FY '77		FY '78		FY '79	
	Revenues	Expen- ditures	Revenues	Expen- ditures	Revenues	Expen- ditures	Revenues	Expen- ditures
Board of Barber Examiners	\$ 4,087.00	\$ 2,489.19	\$ 4,970.54	\$ 2,913.27	\$ 4,400.18	\$ 2,933.76	\$ 4,274.00	\$ 4,381.59
Board of Chiropractic Examiners	320.00	2,838.78	1,910.00	2,377.00	1,070.00	4,218.07	3,047.00	4,709.43
Collection Agency Board	4,164.00	--	8,064.00	811.59	6,950.00	4,126.22	3,697.55	4,670.76
Board of Dental Examiners	10,769.40	8,654.19	14,437.00	6,400.79	5,970.24	8,775.88	16,937.00	15,480.40
Board of Electrical Examiners	7,857.00	2,645.49	28,359.00	7,895.32	15,437.14	6,666.42	36,746.00	6,791.03
Board of Registration for Architects, Engineers and Land Surveyors	101,377.00	17,876.76	31,056.00	19,323.14	110,870.75	21,250.48	26,388.43	23,827.90
Board of Hairdressing and Beauty Culture Examiners	23,075.00	5,096.55	21,963.00	5,944.05	21,821.00	4,512.32	26,970.00	5,989.43
Board of Marine Pilots	990.00	2,713.52	11,122.10	5,515.11	1,780.00	3,819.64	10,722.00	8,707.44
Medical Board	14,485.00	5,553.36	62,023.00	5,855.54	17,551.25	6,346.32	69,919.00	14,979.85
Board of Nursing	54,646.00	13,931.98	40,747.00	12,606.53	72,255.87	20,098.55	36,512.50	21,529.22
Board of Dispensing Opticians	2,720.00	1,728.34	1,060.00	2,091.32	2,190.00	1,910.81	2,210.00	2,287.85
Board of Optometry	530.00	2,578.19	2,625.00	1,920.03	795.00	5,704.41	3,245.00	4,413.32
Board of Pharmacy	13,848.00	5,854.45	8,249.00	4,655.23	16,482.00	4,901.40	6,734.00	5,725.01
Board of Psychologist and Psychological Associates	1,580.00	3,303.51	1,550.00	2,369.43	2,680.00	5,637.68	4,435.00	7,617.52
Board of Public Accountancy	20,777.00	12,325.49	15,135.00	15,138.70	38,675.00	17,248.81	21,186.00	20,174.93
Real Estate Commission	178,497.50	19,188.47	119,533.00	29,648.93	285,634.92	38,177.92	142,659.72	40,652.49
Board of Veterinary Examiners	705.00	1,706.94	4,186.50	1,110.19	1,160.00	1,640.42	5,685.00	2,076.94
Nursing Home Administrators	1,100.00	1,942.91	2,000.00	2,489.84	1,830.00	1,703.66	1,435.00	4,226.97
Physical Therapy Board	1,800.00	804.38	1,455.00	673.68	3,132.00	1,745.59	1,215.00	2,293.47
Guide Licensing and Control	38,300.00	10,070.31	38,695.50	10,257.33	41,617.00	16,828.17	40,996.00	14,249.25
Board of Welding Examiners	--	2,898.01	--	4,918.99	--	2,982.25	1,815.00	4,711.91
Construction Contractors	229,175.00	1,924.60	195,638.50	1,739.75	332,895.40	2,812.54	247,124.05	2,839.58
Mortuary Science	--	--	4,485.00	24.00	802.00	451.49	3,575.00	319.91
<b>TOTALS</b>	<b>\$711,382.90</b>	<b>\$126,125.42</b>	<b>\$619,264.14</b>	<b>\$146,679.76</b>	<b>\$986,009.77</b>	<b>\$184,492.81</b>	<b>\$717,523.25</b>	<b>\$222,256.20</b>
- direct expenditures	<u>126,125.42</u>		<u>146,679.76</u>		<u>184,492.81</u>		<u>222,256.20</u>	
	\$585,257.48		\$472,584.38		\$801,516.94		\$495,272.05	
DOL Budget (Actual Expenditures)	\$470,100.		\$648,000.		\$779,500.		\$901,072.	

FISCAL YEAR 1976

DOL Actual Expenditures:	\$478,100.00	
- Contractor Expenditures:	1,924.60	
- Licensing Examiner:	12,996.00	
- Executive Officers:	26,400.27	
	18,083.29	
- Direct Board Expenditures	<u>124,200.82</u>	
TOTAL:	\$294,495.02	÷ 12,601 Licenses = \$23.37 per license

BOARD	REVENUES	# OF LICENSES	ALLOCATION PER LICENSES	+	DIRECT EXPENDITURES	=	TOTAL COST PER BOARD
Board of Barber Examiners	\$ 4,097.00	275	\$ 6,426.75		\$ 2,489.19		\$ 8,915.94
Board of Chiropractic Examiners	320.00	31	721.47		2,838.78		3,563.25
Collection Agency Board	4,164.00	47	1,098.39		---		1,098.39
Board of Dental Examiners	10,769.40	365	8,530.05		8,654.19		17,184.24
Board of Electrical Examiners	7,857.00	241	5,632.17		2,645.49		8,277.66
Board of Registration for Architects, Engineers and Land Surveyors	101,377.00	2,418	56,508.66		17,876.76		74,385.42
Board of Hairdressing and Beauty Culture Examiners	23,075.00	1,415	33,068.55		5,096.55		38,165.10
Board of Marine Pilots	990.00	46	1,075.02		2,713.52		3,788.54
Medical Board	14,485.00	786	18,368.82		5,553.36		23,922.18
Board of Nursing	54,646.00	3,324	77,681.88	(Exec. Sec.)	13,931.98	26,400.27	118,014.13
Board of Dispensing Opticians	2,720.00	46	1,075.02		1,728.34		2,803.36
Board of Optometry	530.00	38	888.06		2,578.19		3,466.25
Board of Pharmacy	13,848.00	324	7,571.88		5,854.45		13,426.33
Board of Psychologist and Psychological Associates	1,580.00	32	747.84		3,303.51		4,051.35
Board of Public Accountancy	20,777.00	332	7,758.84		12,325.49		20,084.33
Real Estate Commission	178,497.50	1,754	40,990.98	(Exec. Off.)	19,188.47	18,083.29	78,262.74
Board of Veterinary Examiners	705.00	72	1,682.64		1,706.34		3,389.58
Nursing Home Administrators	1,100.00	15	350.55		1,942.91		2,293.46
Physical Therapy Board	1,880.00	76	1,776.12		804.38		2,580.50
Guide Licensing & Control	38,800.00	911	21,290.07		10,070.31		31,360.38
Board of Welding Examiners	---	53	1,230.61		2,898.01		4,136.62
TOTALS:		12,601	\$294,405.37		\$168,684.38		\$463,169.75

FISCAL YEAR 1977

DOL Actual Expenditures:	\$548,000.00		
- Contractor Expenditures:	1,739.75		
- Licensing Examiner:	13,644.00		
- Mortuary Sciences:	24.00		
- Executive Officers:	32,339.29		
	29,331.19		
- Direc Board Expenditures:	144,916.01		
<b>TOTAL:</b>	<b>\$426,005.76</b>	<b>÷</b>	<b>14,566 Licenses = \$29.24 per license</b>

BOARD	REVENUES	# OF LICENSES	ALLOCATION PER LICENSES	+	DIRECT EXPENDITURES	×	TOTAL COST PER BOARD
Board of Barber Examiners	\$ 4,970.54	252	\$ 7,368.48		\$ 2,913.27		\$ 10,281.75
Board of Chiropractic Examiners	1,910.00	30	877.20		2,377.00		3,254.20
Collection Agency Board	8,064.00	50	1,462.00		811.59		2,273.59
Board of Dental Examiners	14,437.00	316	9,239.84		6,400.79		15,640.63
Board of Electrical Examiners	28,359.00	252	7,368.48		7,895.32		15,263.80
Board of Registration for Architects, Engineers and Land Surveyors	31,056.00	2,725	79,679.00		19,323.14		99,002.14
Board of Hairdressing and Beauty Culture Examiners	21,963.00	1,638	47,895.12		5,944.05		53,839.17
Board of Marine Pilots	11,122.10	49	1,432.76		5,515.11		6,947.87
Medical Board	62,023.00	844	24,678.56		5,855.54		30,534.10
Board of Nursing	40,747.00	3,469	101,433.56	(Exec. Sec.)	12,606.53 32,339.29		146,379.38
Board of Dispensing Opticians	1,060.00	49	1,432.76		2,091.32		3,524.08
Board of Optometry	2,625.00	55	1,608.20		1,920.03		3,528.23
Board of Pharmacy	8,249.00	388	11,345.12		4,655.23		16,000.35
Board of Psychologist and Psychological Associates	1,550.00	38	1,111.12		2,369.43		3,480.55
Board of Public Accountancy	15,135.00	402	11,754.48		15,138.70		26,893.18
Real Estate Commission	119,533.00	2,833	82,836.92	(Exec. Off.)	29,648.93 29,331.19		141,817.04
Board of Veterinary Examiners	4,186.50	82	2,397.68		1,110.19		3,507.87
Nursing Home Administrators	2,000.00	30	877.20		2,489.84		3,367.04
Physical Therapy Board	1,455.00	82	2,397.68		673.68		3,071.36
Guide Licensing & Control	38,695.50	927	27,105.48		10,257.33		37,362.81
Board of Welding Examiners	---	55	1,608.20		4,918.99		6,527.19
<b>TOTALS:</b>		<b>14,566</b>	<b>\$425,909.84</b>		<b>\$206,506.49</b>		<b>\$632,496.33</b>

ISCAL YEAR 1978

DOL Actual Expenditures:		\$779,500.00			
- Contractor Expenditures:		2,812.54			
- Licensing Examiner:		14,832.00			
- Mortuary Sciences:		451.49			
- Executive Officers:		23,807.99			
- Direct Board Expenditures:		30,310.73			
		181,228.78			
TOTAL:		\$526,056.47	÷	17,376 Licenses = \$30.27 per license	
BOARD	REVENUES	# OF LICENSES	ALLOCATION PER LICENSES	+ DIRECT EXPENDITURES	= TOTAL COST PER BOARD
Board of Barber Examiners	\$ 4,400.18	267	\$ 8,092.09	\$ 2,933.76	\$ 11,015.85
Board of Chiropractic Examiners	1,070.00	44	1,331.88	4,218.07	5,549.95
Collection Agency Board	6,950.00	54	1,634.58	4,126.22	5,760.80
Board of Dental Examiners	5,970.24	383	11,593.41	8,775.88	20,369.29
Board of Electrical Examiners	15,437.14	305	9,232.35	6,666.42	15,898.77
Board of Registration for Architects, Engineers and Land Surveyors	110,870.75	2,941	89,024.07	21,250.48	110,274.55
Board of Hairdressing and Beauty Culture Examiners	21,821.00	1,878	56,847.06	4,512.32	61,359.38
Board of Marine Pilots	1,780.00	85	2,572.95	3,819.54	6,392.59
Medical Board	17,551.25	910	27,545.70	6,346.32	33,892.02
Board of Nursing	72,265.87	4,245	128,496.15	20,098.55	172,402.69
				(Exec. Sec.) 23,807.99	
Board of Dispensing Opticians	2,190.00	54	1,634.58	1,910.81	3,545.39
Board of Optometry	795.00	63	1,907.01	5,704.41	7,611.42
Board of Pharmacy	16,482.00	414	12,531.78	4,901.40	17,433.18
Board of Psychologist and Psychologist Associates	2,680.00	44	1,331.88	5,637.68	6,969.56
Board of Public Accountancy	38,675.00	482	14,590.14	17,248.81	31,838.95
Real Estate Commission	285,634.92	3,615	109,426.05	38,177.92	177,914.70
				(Exec. Off.) 30,310.73	
Board of Veterinary Examiners	1,160.00	93	2,815.11	1,640.42	4,455.53
Nursing Home Administrators	1,830.00	37	1,119.99	1,703.66	2,823.65
Physical Therapy Board	3,132.00	102	3,087.54	1,745.59	4,833.13
Guide Licensing & Control	41,617.00	1,295	39,199.65	16,828.17	56,027.82
Board of Welding Examiners	---	65	1,967.55	2,982.25	4,949.80
TOTALS:		17,376	\$525,971.52	\$235,347.50	\$761,319.02

*Do not correlate to figures in all sections.*

FISCAL YEAR 1979

DOL Actual Expenditures:	\$901,072.00	
- Contractor Expenditures:	2,839.58	
- Licensing Examiner:	15,102.00	
- Mortuary Sciences:	319.91	
- Executive Officers:	32,196.12	
	34,324.92	
- Direct Board Expenditures:	219,096.71	
TOTAL:	\$597,192.76	19,477 Licenses = \$30.66 per license

BOARD	REVENUES	# OF LICENSES	ALLOCATION PER LICENSES	DIRECT EXPENDITURES	TOTAL COST PER BOARD
Board of Barber Examiners	\$ 4,274.00	276 <i>244</i>	\$ 8,462.16	\$ 4,381.59	\$ 12,843.75
Board of Chiropractic Examiners	3,047.00	54	1,655.64	4,709.43	6,365.07
Collection Agency Board	3,697.55	61 <i>48</i>	1,870.26	4,670.76	6,541.02
Board of Dental Examiners	16,937.00	419	12,846.54	15,480.40	28,326.94
Board of Electrical Examiners	36,746.00	378 <i>312</i>	11,589.48	6,791.03	18,380.51
Board of Registration for Architects, Engineers and Land Surveyors	26,388.43	3,119 <i>3,095</i>	95,628.54	23,827.90	119,456.44
Board of Hairdressing and Beauty Culture Examiners	26,970.00	2,037 <i>1,774</i>	62,454.42	5,989.43	68,443.85
Board of Marine Pilots	10,722.00	88 <i>52</i>	2,698.08	8,307.44	11,005.52
Medical Board	69,919.00	1,001	30,690.66	14,979.85	45,670.51
Board of Nursing	36,512.50	4,832	148,149.12	21,529.22	
				(Exec. Sec.) 32,196.12	201,874.46
Board of Dispensing Opticians	2,210.00	59	1,808.94	2,287.85	4,096.79
Board of Optometry	3,245.00	72	2,207.52	4,413.32	6,620.84
Board of Pharmacy	6,734.00	429	13,153.14	5,725.01	18,878.15
Board of Psychologist and Psychological Associates	4,435.00	50	1,533.00	7,617.52	9,150.52
Board of Public Accountancy	21,186.00	562 <i>401</i>	17,230.92	20,174.93	37,405.85
Real Estate Commission	142,659.72	4,202 <i>2,758</i>	128,833.32	40,652.49	
				(Exec. Off.) 34,324.92	203,810.73
Board of Veterinary Examiners	5,685.00	107	3,280.62	2,076.94	5,357.56
Nursing Home Administrators	1,435.00	39	1,195.74	4,226.97	5,422.71
Physical Therapy Board	1,215.00	125	3,832.50	2,293.47	6,125.97
Guide Licensing & Control	40,996.00	1,467 <i>- 858</i>	44,978.22	14,249.25	59,227.47
Board of Welding Examiners	1,815.00	100 <i>- 63</i>	3,066.00	4,711.91	7,777.91
TOTALS:		19,477	\$597,164.82	\$285,096.71	\$882,782.57

With respect to specific recommendations made by the Division of Legislative Audit, appropriate steps for implementation have been taken in most instances.

Recommendation No. 1: The Division of Occupational Licensing's investigation unit should be transferred to the Department of Public Safety.

*Unconstitutional  
or against  
some  
law*

As of this date, a thorough analysis of such a transfer is continuing. The feasibility of an RSA between the Department of Commerce and Economic Development and the Department of Public Safety is a valid option that may have considerable merit in that the functions could be assumed by the Department of Public Safety in an expedited time frame. If our review indicates a transfer of the unit is merited, the transfer would take place prior to February 15, 1980.

Improvements have been made in this unit within the past year. Complaints are now being screened and prioritized, and reports by investigative staff are being made to the boards. Approximately 1,700 cases were purged from the Division files in the fall of 1978; these are pending board approval for closure due to age, lack of jurisdiction, or no apparent violation. Effective December, 1979, approximately 400 have been closed. The Division is in the process of organizing all investigative files and forwarding appropriate material to the State archives; this is expected to be completed by the end of January, 1980.

The Division's enforcement staff received 298 complaints for investigation in FY '79, ranging in priority from urgent public harm to minor technical violations. In FY '79, 44 cases were closed due to one of the following reasons: no jurisdiction, no violation, voluntary compliance or age. Charges were filed against 27 which required process for hearing. Out of the 27 litigation cases, 3 licenses were revoked, 1 license was suspended, 2 licenses were denied, 1 case was dropped due to no violation, 2 closed with the stipulation that they retake the board examination and pass, 1 applicant was allowed to resubmit an application after

1 year, and license was granted with the other 16 litigation cases still pending. As of December 10, the Division had 307 open cases on file.

Recommendation No. 2: Statutory amendments are needed to assure that appropriate action is taken on consumer complaints against licensed persons.

The Office of the Governor has indicated that appropriate amendments to AS 45.50.471, and its application, are being pursued.

Recommendation No. 3: The Office of the Governor should keep the appointments of members of the occupational licensing boards current.

We agree with this recommendation; the Division has solicited and submitted recommendations for board appointments.

Recommendation No.4: Legislation should be enacted limiting the length of service for all board members to two consecutive terms.

We agree with this recommendation and the reasoning supporting it.

Recommendation No. 5: The Department of Commerce and Economic Development should improve the operation, security and internal control of the 3M-Linolex minicomputer system.

To designate a data entry person is a valid recommendation, however, budget restrictions do not allow us to hire one individual solely to enter data. This would be very costly.

The Division is currently locking all copied data diskettes in its fire proof safe. These disks are kept current by creating new copies to replace the old ones after 20 changes have been made to any one master disk. It would be very difficult for a person to come into the office and be able to open a data disk without prior training. The State also maintains security personnel who walk the floors constantly and who question any individual working in the offices after hours. If, by chance, a disk was ruined we would have a current backup disk in the safe.

It is felt that if we prenumbered the blank licenses, it would add to more confusion to the licensee. This would have to be a four digit number, which is the same number of digits in a license number. The cost is also high.

A system utilization log has been established and is maintained daily.

The only operating procedures manual at this time is the one distributed by 3M. For data entry it is very good, for correcting errors on disks caused by power failure and/or fluctuations, it is poor. Time has not allowed us to complete a manual at present.

Recommendation No.6: The Department of Commerce and Economic Development should review the license fee structure of all boards and seek appropriate revisions.

Agreed. The Division has reintroduced legislation (SB 94 in the Senate Finance Committee) which would allow the Department to set fees after consultation with the boards. This request was also made to the 1978 Legislature but no action was taken.

Recommendation No. 7: The Department of Commerce and Economic Development should include the goals, objectives and quantifiable measures of each board in the Division of Occupational Licensing's budget documents and submit performance reports for each board as required by AS 37.07.

In April of 1979, all boards and commissions were contacted by the Division and requested to submit goals and objectives for inclusion in the FY '81 budget documents; 15 boards complied. Boards were also requested to submit performance reports for FY '79; 14 boards complied with this request.

Recommendation No. 8: The Division of Occupational Licensing should collect, record and maintain, for five year periods, files, and statistics of license and testing applicants, and related workload of the licensing examiners.

For the past year, monthly activity reports have been maintained by the Division containing information on board activities and examiner workload. Examiners are also submitting interim reports to the boards which outline licensure activity between meetings. This encourages feedback from the boards regarding staff performance.

Recommendation No. 9: The Department of Commerce and Economic Development, in conjunction with the Office of the Governor, should prepare a board member orientation booklet, including a code of conduct.

A manual for board members was prepared by the Department of Law and was distributed to all members. In addition to this manual, new board members receive information regarding complaint handling and the board's role in investigation and adjudication, an application packet for the regulated profession, appropriate statutes and regulations, a copy of the Administrative Procedure Act, information on the availability of teletype service, a listing of other members' names and address on the particular board, and a listing of Division employees.

Recommendation No. 10: The 11 health-related boards, in conjunction with the Division of Occupational Licensing, should review their applications for licensure and delete any questions which could lead to discrimination against applicants.

All 21 boards and commissions are cognizant of the need to ensure against appearances or charges of discrimination, and of their responsibilities in this area. The process of application review is time consuming for most boards due to the infrequency of meetings; however, all boards have, or will, consider this recommendation, with assistance from the Division.

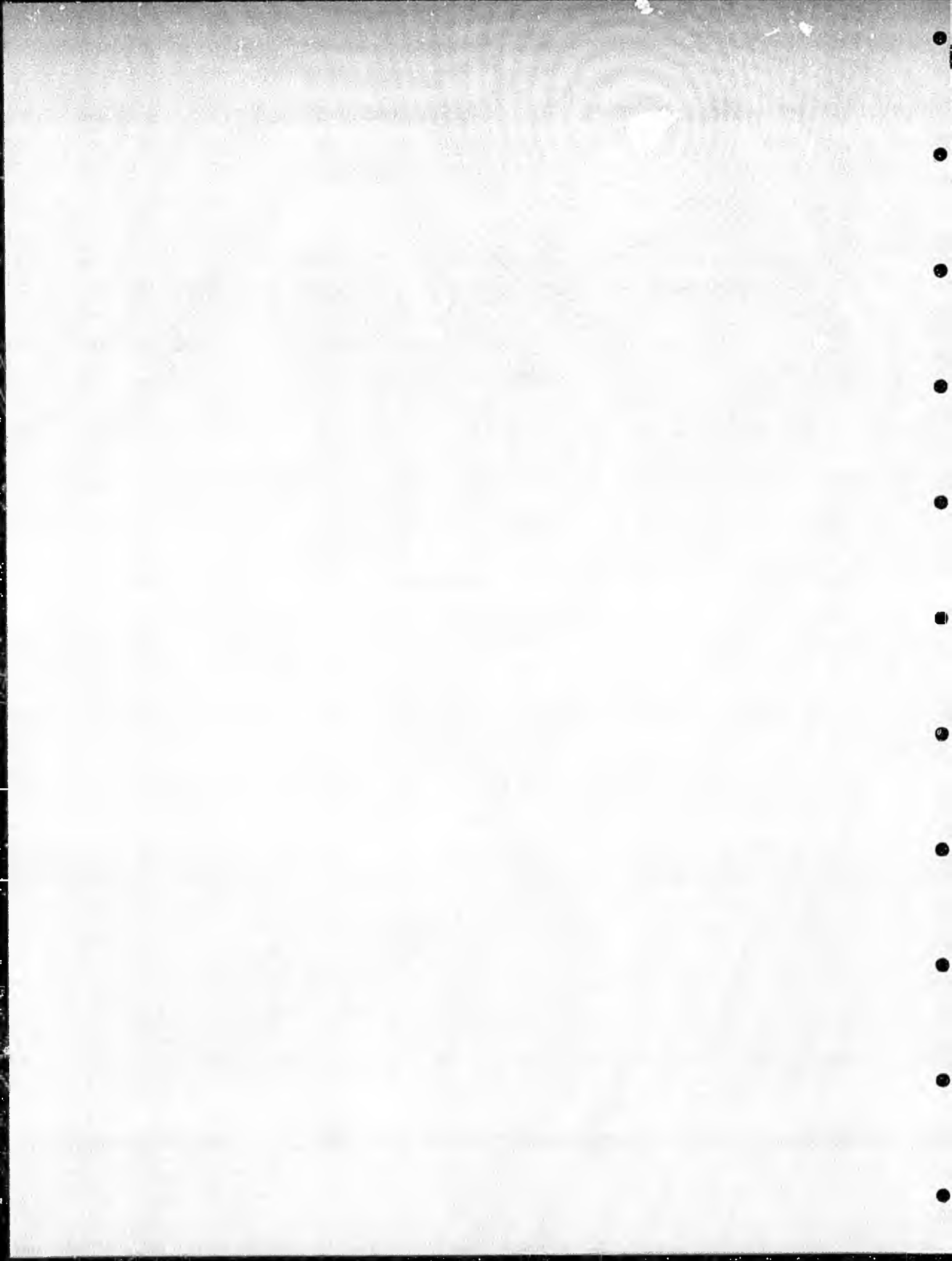
Recommendation No. 11: The Department of Commerce and Economic Development should improve formal board minutes.

The Division has been implementing this recommendation and will continue to do so. A decrease in licensing examiner turnover has resulted in substantial improvements to board minutes preparation.

Recommendation No. 12: The Department of Commerce and Economic Development and all licensing boards should ensure that public notices of examinations are sufficiently and timely advertised.

Public notices for board meetings and examinations are advertised according to legal requirements.

In conclusion, the DOL wishes to ensure the Legislature and the public that every effort is being made within available resources to accomplish the directives outlined in Title 8. The recommendations made as a result of the Sunset process, in addition to any other appropriate suggestions from any source, have been and will continue to be evaluated.



A

STATE OF ALASKA  
BOARD OF WELDING EXAMINERS  
May, 1979

Findings

The Board of Welding Examiners was created in 1968 and was charged at that time with numerous responsibilities regarding regulation of the welding profession. While it is felt that quality assurance is needed within the industry, the review process indicates that the Board is duplicating the standards and efforts of the American Welding Society (AWS) and is only minimally active in carrying out its statutory duties.

We believe that the existence of this board and State licensing is inappropriate as a matter of public interest.

/ Sunset

I. General Information

A. Regulated Parties

1. Welding Inspectors
2. Testing Facilities (by statute)

B. Definitions

"(16) 'welder' means welder, welding, welding operator and tacker;

(17) 'welding' means the metal joining process used in making welds;

(20) 'welding procedure' means a written document specifying the essential variables as listed in the appropriate welding or engineering code or both;" (12 AAC 72.900)

C. Nature and Composition of Board

1. Board members and terms:

Five-year term (no restrictions on consecutive terms or numbers of terms).

Tim Farrell	ends December 16, 1983
Peter Millar	ends December 16, 1979
Don Lockman (Chairman)	ends December 16, 1981
Don Delk	ends December 16, 1980
Philip Davis	ends December 16, 1983
J.C. Wingfield	ends December 16, 1983
George Fox	ends December 16, 1983

2. Representation:

Profession = 7

Public = 0

3. Qualifications:

"Each member of the board shall be a citizen of the United States and a resident of the state. At least three members shall be persons with engineering degrees or registration as an engineer and each engineer member shall have at least five years engineering experience. All members shall have extensive experience in welding." (AS 08.99.050)

Members are appointed from a list prepared by the Alaska Chapter of the American Welding Society and the Alaska Society of Professional Engineers.

D. Licensing Data

Current licenses (effective May, 1979)

in-State = 37  
out-of-State = 26  
Total = 63

E. Fees

1. welding inspector application \$25.00  
2. annual renewal 10.00

Total subsidy  
\$10 x 63 =  
\$630.00  
←

F. Board Revenues and Expenditures

	FY ' 76	FY '77	FY '78	FY '79
Receipts	\$ -	\$ -	\$ -	\$1,830.00
- refunds	-	-	-	15.00
Total	-	-	-	\$1,815.00
Expenditures				
Transportation	815.24	1,151.11	1,020.43	1,486.36
Per Diem	1,583.43	1,711.40	1,564.25	2,004.90
Phone	34.03	90.08	196.75	335.66
Printing, Adver. & Postage	448.46	1,907.80	200.82	482.64
Fees & Services	16.85	58.60	-	250.00
Rents, Leases & Other	-	-	-	152.35
Total	<u>2,898.01</u>	<u>4,918.99</u>	<u>2,982.25</u>	<u>4,711.91</u>
Surplus	-	-	-	-
Deficit	\$2,898.01	\$4,918.99	\$2,982.2F	\$2,896.91

(EXCLUDES DIVISION OF OCCUPATIONAL LICENSING ADMINISTRATIVE OVERHEAD)

G. Complaints

Year	Received	Closed	To Litigation
1975	0	0	0
1976	1	0	0
1977	4	0	0
1978	0	5	0
1979	1	0	0
(through April)			

Pending: 1 complaint against five individuals

The five cases closed in 1978 were closed due to age. Only one complaint was received from a member of the public and none alleged harm to the public.

#### H. Qualifications

Trade school or vocational training.

#### II. Analysis

- A. To what extent has the Board of Welding Examiners operated in the public interest?

---

The Board of Welding Examiners is statutorily required (AS 08.99.080(a)(1)) to establish rules and regulations concerning certification of welders in the State. The Board has done this indirectly by licensing a form of middle man, the "welding inspector," who in turn certifies welders and welding procedures in accordance with standards established by the industry nationwide and designated by the project engineer and/or designer. The certification procedure involves a practical demonstration of welding competence supervised by a licensed inspector. Inspector licensure is granted on the basis of Alaska Welding Society (AWS) certification and proof of all position welding qualification. [Procedurally, an applicant must apply for examination and qualify for certification through the American Welding Society prior to application for State licensure.]

A national AWS test is utilized; it is monitored by the licensing examiner from the Division of Occupational Licensing, usually by one or two Board members, and by an Alaska Chapter representative of the

Society. Tests are well secured and are graded by the Society. The State does not have access to its contents nor to individual scores; only "pass or fail" information is attainable if requested. Candidates for testing are charged a \$50.00 fee by the American Welding Society.

As of April, 1979, the Society is also requesting that the State pay \$250.00 for each use of the examination in addition to expenses for one of its representatives to travel to Alaska and ensure that the test is being administered properly. The AWS test is given four times a year in accordance with 12 AAC 72.085.

*Elave!*

*which is this the national or state?*

It is suggested that if the Board and/or licensing is retained, the function of AWS testing be eliminated as a State responsibility.

"Welders" are not certified, licensed or registered by the Board or the State. "Welding Inspectors" are licensed based on authorization of the American Welding Society. The applicant for State licensure must submit only a copy of his American Welding Society certificate and All Position Welding Qualification. These documents are merely photocopies; they are not certified. The All Position Welding Qualification may come in many forms from many sources all over the country with nonverifiable signatures. The requirements for a welding inspector license, with one exception, are exact requirements of AWS certification. The application upon which qualifications are enumerated is submitted to AWS, not to the State, yet these qualifications appear in Board regulations as State requirements. State licensure should be indicative of compliance with criteria established to protect the health, safety and welfare of its citizens. It is questionable whether such a significant government authorization should be based on two photocopies of "presumed" validity or solely upon authorization from a national society.

*Licensure*

§ 080(a)(2) requires that the Board "establish and define certification tests as they apply to various types and categories of work done in or for the state." This provision is accomplished by adherence to national

applicable codes and standards which define certification tests and procedures. These procedures may also be developed by weld testing facilities.

§ 080(a)(3) requires the Board to "work with federal and private agencies and specifying engineers to establish uniform testing and certifying methods" for welders. Again, this is determined by national codes and standards of the industry.

§ 080(a)(4) requires that the Board "work with federal agencies and the agencies of other states to establish reciprocity agreements." *Reciprocity* Reciprocity agreements mandate licensure contingent upon formal interstate concurrence rather than utilization of individual qualification criteria. Such agreements have not been formulated nor are they appropriate to the nature of this industry. Under present board operation all applicants meeting the qualifications are licensed in Alaska without regard to place of residency or licensure in another jurisdiction.

§ 080(a)(5) provides that the Board "set up criteria and define experience and documentary requirements which may be accepted in lieu of physical certification tests." The Board has done this to the extent that welders need not be recertified if continuously employed on the process for which certification was obtained. Continuous employment is defined as employment without interruption of more than 90 consecutive days, unless otherwise specified by an applicable code. Certification and recertification expenses are normally borne by the prospective employer.

*fees.*

§ 080(a)(6) requires the Board to "set the fees for the welder certification tests." This has not been done, nor is it felt to be appropriate. Testing costs may vary depending on facility equipment or location and fees charged should remain within the industry.

§ 080(a)(7) obligates the Board to "examine, certify, and renew" certification. This is done by the Board insofar as it examines and licenses welding inspectors. No examination, certification or renewal is done by the Board with respect to welders.

*Reports of Board*

§ 080(a)(8) mandates submission of an annual report to the governor and the legislature. The Board reports that this has been complied with, however, no information of this type has been received by the administrative agency.

§ 080(a)(9) concerns promulgation of regulations regarding weld and welder qualifications and designation of reporting procedures which certify compliance. The Board has adopted the AWS qualifications set for the industry. There is no record of designated reporting procedures, however, the function of welding inspectors is to certify compliance of welders to welding processes.

§ 080(a)(10) provides that the Board shall "designate and approve persons qualified to administer welding tests," and "designate and approve" testing facilities. The Board is approving persons qualified to administer welding tests -- almost to the exclusion of all else. This appears to be one area of statutory authority which the Board is actively involved in. It has adopted lengthy and detailed regulations outlining the qualifications and responsibilities of an inspector, most of which is duplication of AWS standards.

Several testing facilities were approved by the Board during the years 1974 through 1976. One was approved in November of 1977. Once approval is given, facilities are under no further review or renewal process to insure on-going compliance with standards or approval criteria. At least one facility is now operating in the State without Board approval. Apparently, with the advent of welding inspectors, the Board decided it no longer needed to approve facilities as required.

The Board of Welding Examiners is comprised of seven members and as of May, 1979, regulates 63 welding inspectors. The Board meets four times a year, most often for one to three hours. Members may be appointed only from nominations submitted by the Alaska Chapter of AWS and the Alaska Society of Professional Engineers. Some members of the industry have expressed a desire to serve on the Board but felt this nomination method constituted a barrier. Some also indicated that they felt nominations submitted are subject to Board endorsement. Members of the industry also expressed concern that the Board not be weighted with representatives from testing facilities, or any one facet of welding. This is recommended for any board to avoid the appearance of conflicting interests.

Barrier to get onto the board.

Finally, Board statutes address compliance with and enforcement of regulations, rules and orders. There is apparently some question regarding authority. AS 08.99.080(b) has been interpreted by opinion of the Department of Law as providing for enforcement by the Department of Labor and by the Department of Commerce and Economic Development. Due to some confusion among the concerned parties regarding this matter, it is suggested that the advice given to "work out an arrangement" be followed (see Appendix A).

deal power for enforcement  
see page 30

As previously mentioned, Board regulations and activities have concentrated directly on licensure of welding inspectors rather than on certification of welders. The Board has adopted almost verbatim and in its

entirety the "Standard for Qualification and Certification of Welding Inspectors" of the American Welding Society as its own regulations. State licensure is contingent upon AWS certification. Thus, current Board operation is redundant in its exclusive reliance on industry established criteria.

*NO  
Teeth.*

No statutory prohibition against noncertified or nonlicensed activity exists. The Board has accomplished this through its regulations. Welders who are tested and perform satisfactorily are certified by the inspector and must remain "continuously employed" on that particular process to maintain certification. Interrupted employment of more than 90 days requires recertification unless otherwise cited in the project specifications.

Compliance documents are submitted to AWS, not to the State. Only the "all position welding qualification" is a State imposed and regulated requirement. State licensure in this instance amounts to notice that the inspector is AWS qualified. The services of welders and welding inspectors are utilized by members of the industry (eg., contractors and engineers), who are responsible for the work done and who are well able to judge for themselves the competence and qualifications of welders.

*are  
regulated.*

*NOT  
Regulated*

Inspection and regulation of the type of establishment the average consumer may do business with (eg., small welding shops and marina repair facilities) is not taking place.

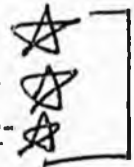
There is no question that weldment failure can and has involved "hazard to life or property." However, the State is not active in inspection of work performed. There is no requirement for inspection of a welding operation in which weldment failure would involve hazard to life and

property, only that if one does inspect, one must be licensed. Liability for damages resulting from weldment failure is usually against the contractor; the "welding inspector" is only liable to his employer, if he has one. It is also noted that a "welding inspector" is not required to be an active welder while the designer/engineer who specifies the welding procedures to be used may not inspect them for compliance unless licensed by the State as an inspector.

In reviewing the August, 1978 regulations, one might conclude that those regulations and the current operation of the Board have, in practice and in fact, supplanted the statutes, albeit not necessarily by specific design. The statutory responsibilities of the Board would be monumental tasks given the nature of the industry and other restrictions such as time and budgeting. (Enforcement and regulation in the manner which is statutorily mandated indicates effort by a body of well-trained, well-qualified and well-paid individuals to carry out the tasks of inspection, certification, governmental interaction, and rule-making.

We believe that the Board and State regulation should be allowed to terminate on June 30, 1980 thereby letting the industry rely on AWS, national codes, and national standards. Oklahoma is the only other state to license welding inspectors. It should be noted, however, that individuals holding AWS certification are exempt from licensure requirements while this is the major criteria by which Alaska licenses. The Oklahoma Department of Labor, Boiler Inspection Department, has administrative responsibility for this occupation (see Appendix B). Another option is to create an information/public relations position to verify that welders throughout the State are indeed certified.

If the Board of Welding Examiners is continued, consideration also should be given to representative membership, to allowance of nominations from any and all sources, and to limiting numbers of terms which may be served.



} Board  
Comparison

B. To what extent has the operation of the Board of Welding Examiners been impeded or enhanced by existing statutes, procedures and practices which it has adopted, or any other matter, including budgetary, resource and personnel matters?

The Board. { A major impediment to Board operation has been the prodigious nature of its statutory responsibilities. Given the number of Board members, frequency and duration of meetings, inadequate financial resources, and limited support services, a Board of this nature would find it difficult to comply with all of its obligations. It could, however, accomplish more toward its objectives than is presently the case. The administrative agency will be working with the Board to establish objectives and improve its operations.

? { The Board of Welding Examiners has experienced some difficulty with respect to personnel and budgetary restrictions. Support staff is provided by the Division of Occupational Licensing and is presently adequate. Employee turnover has, in the past, impeded continuity and follow through on Board requests. Fees and revenues for all boards and commissions under the jurisdiction of the Division of Occupational Licensing are collected through the Division and are deposited into a general fund. Monies deposited and withdrawn are identified by codes so that direct board revenues and expenses may be determined. Although this Board has been in existence since 1968 and was actively licensing, no fees were charged and no revenues collected until FY '79.

The Board has encountered some problems with respect to investigative services provided by the administrative agency. During FY '78 two investigator positions were vacant; as a result, one position was abolished by the Legislature. At the present time, two investigators are located in Anchorage with a Chief Investigator located in Juneau. An additional investigator position was approved in the FY '80 budget

but will probably not be filled immediately due to vacancy factors incorporated into the personal service category of the budget. Procedural constraints of the administrative adjudication article of the Administrative Procedure Act (AS 44.62.330-630), while necessary, restrict timely disposition of litigation. Prioritization based on time, staffing and nature of alleged offense results in pursuit of only the most flagrant and potentially injurious licensing complaints.

Nominations for membership on the Board should be allowed from any source rather than just the Alaska Chapter of the American Welding Society and the Alaska Society of Professional Engineers. At least two public members should be included on the Board without increasing total membership. Consideration should be given to decreasing the number of Board members to five and to methods of ensuring representation from different areas of the industry.

BOARD  
Composition  
See page 9  
"ARTICLE"

Statutory changes which would facilitate Board functions would be desirable. The Division will continue to work with the Board to establish reasonable alternatives to the present statutes.

C. To what extent has the Board of Welding Examiners recommended statutory changes which are generally of benefit to the public interest?

Board functions  
not carried  
out.

No statutory amendments have been made to AS 08.99 since 1970.

Board minutes from the past three years reflect no recommended statutory changes, whether specifically in the public interest or otherwise. The Board has concentrated most of its efforts on the regulations which went into effect in August of 1978. These regulations were two years in the making with considerable industry controversy and testimony.

- D. To what extent has the Board of Welding Examiners encouraged interested persons to participate in and report to it concerning the making and effect of its regulations and decisions, or to report to it concerning the effectiveness, economy, and availability of service which it has provided?

---

Participation and interest in services, regulations and decisions of the Board is from the industry. As previously noted, recent regulations effected considerable industry interest and concern. Board meetings are routinely attended by a few members of the industry. Very little, if any, "public" interest has been shown in the form of attendance at meetings, hearings, or as written input. Positive steps could be taken to make the general public aware of the existence and functions of the Board. However, the field of welding is somewhat technical and complex and members of the public may not wish to concern themselves without a particular reason for doing so.

Public interests are felt to be furthered by the presence of public members on professional boards. The Board of Welding Examiners has no public members. "In recent years a number of states have added one or more public members (citizens with no particular interest in the occupation or profession governed by the board) to licensing boards in an effort to ensure that the interests of the public would be represented in decisionmaking."<sup>1</sup> The State of California, which provides for a one-third public membership on health care boards and a public majority on others, has indicated that its experience with public members has been highly rewarding.

*California Law!*

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<sup>1</sup>Shimberg, B. and Roederer, D., Occupational Licensing: Questions a Legislator Should Ask, The Council of State Governments, Lexington, Kentucky, March, 1978, pg. 20

E. How efficiently are public inquiries or complaints regarding the activities of the Board of Welding Examiners processed and resolved?

---

Complaints received regarding this occupation have been from the industry for unlicensed activity. None alleged harm or danger to the public.

No formal complaints have been filed against the Board or its members although allegations regarding conflict of interest (members owning testing facilities) are found in agency files.

F. To what extent does the Board of Welding Examiners present qualified applicants to serve the public?

Board not meeting Responsibility.

---

None. Applicant qualifications are determined and certified to by the American Welding Society.

G. To what extent have State personnel practices, including affirmative action requirements, been complied with by the Board of Welding Examiners in its own activities, and in its area of activity or interest?

---

Board staff consists of the support services of a licensing examiner employed by the Division of Occupational Licensing (also responsible for services to another very large regulated occupation) who is hired through the State Personnel System and is subject to affirmative action.

Welding Inspector licenses are issued on the basis of AWS certification without consideration to affirmative action requirements.

H. To what extent are statutory, regulatory, budgetary, or other changes necessary to enable the Board of Welding Examiners to better serve the interests of the public?

---

The administrative agency will be working with the Board in an attempt to delineate realistic objectives and functions. However, until and unless its statutory duties are changed, the Board should take positive action to comply with them.

Board composition should be reviewed in terms of representation and total membership. Source of nominations for appointment should also be considered. The Board should consider a regulatory amendment to make licenses renewable on a biennial basis rather than annually. It also should refuse renewal to those licentiates not meeting renewal requirements, specifically, evidence of having passed an eye examination (or change the requirements).

Fees. Board and administrative expenses outweigh revenues collected through regulation of this profession. The current fee schedule, \$25 for license application and \$10 for license renewal, is established by Board regulations and the Board has indicated a reluctance to consider raising fees. Fees collected are not adequate to cover transportation and per diem for meetings and examinations, and Division of Occupational Licensing administrative overhead, such as staff salaries and examination expenses.

## Chapter 99. Board of Welding Examiners

### Section

10. Creation and membership of board
20. Term of office
30. Source of appointments
40. Removal from office
50. Qualifications of board members
60. Meetings
70. Quorum
80. Powers and duties of the board
90. Applicability of Administrative Procedure Act
100. Expenses
110. Codes
120. Penalty

Sec. 08.99.010. Creation and membership of board. There is created the Board of Welding Examiners, consisting of seven members appointed by the governor. (§ 1 ch 151 SLA 1968)

Sec. 08.99.020. Term of office. Board members serve a term of five years. However, of the members first appointed, one shall be appointed for a term of one year, one for two years, one for three years, one for four years, and three for terms of five years. (§ 1 ch 151 SLA 1968)

Sec. 08.99.030. Source of appointments. The governor shall appoint board members from a list of persons prepared by the Alaska Chapter of the American Welding Society and the Alaska Society of Professional Engineers and submitted at least 30 days before the expiration of a term and not more than 60 days after a vacancy occurs in an unexpired term. The list shall contain not less than two recommended candidates for each appointment. The governor shall make appointments within 30 days after receiving the list. (§ 1 ch 151 SLA 1968; am § 1 ch 151 SLA 1970)

Sec. 08.99.040. Removal from office. Each member holds office at the pleasure of the governor notwithstanding the member's term. (§ 1 ch 151 SLA 1968)

Sec. 08.99.050. Qualifications of board members. Each member of the board shall be a citizen of the United States and a resident of the state. At least three members shall be persons with engineering degrees or registration as an engineer and each engineer member shall have at least five years engineering experience. All members shall have extensive experience in welding. (§ 1 ch 151 SLA 1968; am § 2 ch 151 SLA 1970)

Sec. 08.99.060. Meetings. The board shall meet at least once a year. (§ 1 ch 151 SLA 1968)

Sec. 08.99.070. Quorum. A majority of the board constitutes a quorum. (§ 1 ch 151 SLA 1968)

Sec. 08.99.080. Powers and duties of the board. (a) The board shall

(1) establish and promulgate rules and regulations concerning certification of welders in the state;

(2) establish and define certification tests as they apply to various types and categories of work done in or for the state;

(3) work with federal and private agencies and specifying engineers to establish uniform testing and certifying methods for all welders throughout the state;

(4) work with federal agencies and the agencies of other states to establish reciprocity agreements;

(5) set up criteria and define experience and documentary requirements which may be accepted in lieu of physical certification tests in the state;

(6) set the fees for the welder certification tests;

(7) examine, certify, and renew the certification of qualified applicants;

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

(9) promulgate regulations concerning the quality of welds and qualifications of welders required in specific areas of industry and construction and designate reporting procedures necessary to certify compliance with these quality standards;

(10) designate and approve persons qualified to administer welding tests, and designate and approve shops, laboratories, or other establishments qualified for testing coupons and weldments.

(b) The board may request technical personnel from the Department of Labor for the purpose of reviewing and analyzing reports and may request field inspection by the department for the purpose of assuring compliance with, and enforcement of the regulations, rules and orders promulgated under §§ 10 - 110 of this chapter. (§ 1 ch 151 SLA 1968; am §§ 3 - 5 ch 151 SLA 1970)

Sec. 08.99.090. Applicability of Administrative Procedure Act. The board shall comply with the Administrative Procedure Act (AS 44.62). (§ 1 ch 151 SLA 1968)

Sec. 08.99.100. Expenses. Members of the board are entitled to the per diem and travel expenses allowed by law. (§ 1 ch 151 SLA 1968)

Sec. 08.99.110. Codes. The United States of America Standards Institute Codes listed below are established as the piping codes for the state:

- (1) B 31.10.0 - 1967 power piping;
- (2) B 31.2 - 1968 fuel gas piping;
- (3) B 31.8 - 1968 gas transmission and distribution piping system;
- (4) B 31.3 - 1966 petroleum refining piping;
- (5) B 31.4 - 1966 and B 31.4a - 1968 liquid petroleum transportation piping systems. (§ 6 ch 151 SLA 1970)

Sec. 08.99.120. Penalty. A person who violates a regulation adopted under §§ 10-110 of this chapter is guilty of a misdemeanor and upon conviction is punishable by a fine of not more than \$500. (§ 7 ch 151 SLA 1970)

CHAPTER 72.  
BOARD OF WELDING EXAMINERS

## Article

1. Codes
2. Welders
3. Welding Inspectors
4. General Provisions

ARTICLE 1.  
CODES

## Section

5. Rating
10. (Repealed)

12 AAC 72.005. RATING FOR WELDERS. Ratings for welders shall be governed by the code requirements in the job specifications. In the absence of code requirements, welders shall be certified in accordance with the applicable American Welding Society Code. (Eff. 8/21/78, Reg. 67)

Authority: AS 08.99.080(a)(1),(2) and (9)

12 AAC 72.010. CERTIFICATE REQUIRED. Repealed. (8/21/78, Reg. 67)

ARTICLE 2.  
WELDERS

## Section

15. Welder qualification certificate required
20. (Repealed)
25. Requirements for welder qualification certificate
30. (Repealed)
35. Welder qualification certificate issued
40. (Repealed)
45. Requirements for maintaining a current welder qualification certificate

12 AAC 72.015. WELDER QUALIFICATION CERTIFICATE REQUIRED. A person may not perform a welding operation in the state for compensation, in which weldment failure would involve hazard to life or property unless he or she holds a current, valid welder qualification certificate in the appropriate rating. (Eff. 8/21/78, Reg. 67)

Authority: AS 08.99.080(a)(1),(2),(5) and (9)

12 AAC 72.020. DURATION AND RENEWAL. Repealed. (8/21/78, Reg. 67)

employed on the welding process for which he is certified.

12 AAC 72.025. REQUIREMENTS FOR WELDER QUALIFICATION CERTIFICATE.

(b) The expiration or revocation of one rating does not affect any remaining rating. (Eff. 8/21/78, Reg. 67)

(a) Testing of welders shall be done under the direct supervision of a licensed welding inspector.

Authority: AS 08.99.080(a)(1),(5) and (10)

(b) An applicant for a welder qualification certificate or a company desiring to have a welder qualified shall

ARTICLE 3.  
WELDING INSPECTORS

(1) submit to the welding inspector the welding procedure specifications or the welding performance specifications, or both when indicated, for the appropriate rating; and

Section

- 50. (Repealed)
- 55. Welding inspector license required
- 60. (Repealed)
- 65. Requirements for welding inspector license
- 70. (Repealed)
- 75. Application for welding inspector license
- 80. (Repealed)
- 85. Examination for welding inspector license
- 90. (Repealed)
- 95. Welding inspector license issued
- 105. Welding inspector license expiration and renewal
- 115. Duties and responsibilities of welding inspector
- 125. Prohibited conduct of welding inspector

(2) complete the welding test for the appropriate rating according to the terms of the welding procedure specifications or the welding performance specifications, or both when indicated.

(c) Prequalified procedure specifications may be used for test administration according to applicable codes. (Eff. 8/21/78, Reg. 67)

Authority: AS 08.99.080(a)(1),(2),(5) and (9)

12 AAC 72.030. TEST SELECTION. Repealed. (8/21/78, Reg. 67)

12 AAC 72.050. TEST FACILITIES. Repealed. (8/21/78, Reg. 67)

12 AAC 72.035. WELDER QUALIFICATION CERTIFICATE. The welding inspector shall issue the welder qualification certificate in the appropriate rating to the applicant or company upon the applicant's successful completion of the examination. (Eff. 8/21/78, Reg. 67)

12 AAC 72.055. WELDING INSPECTOR LICENSE REQUIRED. A person may not test a welder for the purpose of issuing a welder qualification certificate or inspect a welding operation in the state in which weldment failure would involve hazard to life or property unless he or she holds a current, valid welding inspector license. (Eff. 8/21/78, Reg. 67)

Authority: AS 08.99.080(a)(1),(7) and (10)

Authority: AS 08.99.080(a)(7) and (10)

12 AAC 72.040. QUALIFICATION. Repealed (8/21/78, Reg. 67)

12 AAC 72.060. WELDER QUALIFIER. Repealed. (8/21/78, Reg. 67)

12 AAC 72.045. REQUIREMENTS FOR MAINTAINING A CURRENT WELDER QUALIFICATION CERTIFICATE. (a) A welder qualification certificate is valid if

12 AAC 72.065. REQUIREMENTS FOR WELDING INSPECTOR LICENSE. (a) An applicant for a welding inspector license must

(1) it is kept current in compliance with the code under which it is issued unless stated otherwise in the job specification; and

(1) be a high school graduate or hold a state or military approved high school equivalency diploma;

(2) the welder has been continuously

(2) have no less than five years' experience at the technical level in an occupational function that directly involved

(A) design experience such as preparation of plans and drawings for weldment construction according to a code, standard or specification;

(B) construction experience such as actual construction or fabrication and erection of weldments in accordance with a code, standard, specification or drawing;

(C) maintenance experience such as detection and measurement of weld inadequacies or discontinuities in accordance with specified procedures; and

(D) repair experience such as repair or replacement of welds that were determined inadequate or defective by reference to a code, standard, specification or drawing;

(3) be familiar with and understand the fundamentals of shielded metal arc welding, stud arc welding, submerged arc welding, flux cored arc welding, gas metal arc welding, gas tungsten arc welding, electroslag welding, oxyfuel gas welding, brazing, thermal cutting and mechanical cutting;

(4) be capable of writing clear and concise reports and maintaining records;

(5) pass an eye examination to prove natural or corrected near distance acuity for reading J-1 letters at a distance of not less than 12 inches on Jaeger's standard test type chart for near vision, or equivalent test, and natural or corrected far distance acuity of 20/40 as evidenced by a written, signed statement from a physician or an optometrist;

(6) pass a closed book test on welding inspection fundamentals such as welding processes, nondestructive testing methods, and interpretation;

(7) pass an open book test on general code or standard requirements such as fabrication tolerances and preheat requirements;

(8) pass a demonstration of competency in

the use of tools, gauges, and instruments pertaining to weld inspection; and

(9) submit evidence of having previously passed an all position welding qualification test in at least one welding process.

(b) The requirements of (a)(3) - (8) of this section will be waived for an applicant possessing a current welding inspector certificate issued by the American Welding Society in accordance with AWS QC 1-77, "Standard for Qualification and Certification of Welding Inspectors."

(c) An applicant may substitute up to two years of post-high-school education for two years of the five-year experience relevant to any of the functions covered by (a)(2) of this section and approved by the board. (Eff. 8/21/78, Reg. 67)

Authority: AS 08.99.080(a)(5) and (10)

12 AAC 72.070. TEST FEES. Repealed. (8/21/78, Reg. 67)

12 AAC 72.075. APPLICATION FOR WELDING INSPECTOR LICENSE. Application for a welding inspector license must be made to the department on a form provided by the department and must be accompanied by a fee of \$25. (Eff. 8/21/78, Reg. 67)

Authority: AS 08.99.080(a)(6) and (10)

12 AAC 72.080. CODES. Repealed. (8/21/78, Reg. 67)

12 AAC 72.085. EXAMINATION FOR WELDING INSPECTOR LICENSE. Examinations for welding inspector licenses will be conducted four times a year. Additional examinations may be conducted if the applicant furnishes all necessary facilities and pays all expenses incurred by the examiners. (Eff. 8/21/78, Reg. 67)

Authority: AS 08.99.080(a)(1),(2), (7) and (10)

12 AAC 71.090. DEFINITIONS. Repealed. (8/21/78, Reg. 67)

12 AAC 72.095. WELDING INSPECTOR LICENSE ISSUED. The department will issue a welding inspector license to an applicant who

meets the requirements of sec. 65 of this chapter. (Eff. 8/21/78, Reg. 67)

Authority: AS 08.99.080(a)(7) and (10)

**12 AAC 72.105. WELDING INSPECTOR LICENSE EXPIRATION AND RENEWAL.** (a) A welding inspector license is valid until March 1 of each year unless revoked for reasons stated in sec. 125 of this chapter.

(b) Application for renewal of a welding inspector license must be made to the department on a form provided by the department no later than February first of each year and must be accompanied by a fee of \$10.

(c) An application for renewal of a welding inspector license must contain

(1) evidence of compliance with the requirement of sec. 65(a)(5) of this chapter; and

(2) evidence of employment as a welding inspector in the form of

(A) a signed statement of an employer;

(B) payroll records indicating the position held; or

(C) affidavits of two fellow employees attesting to employment activity of the applicant.

(d) Application for renewal of a welding inspector license which has lapsed is considered a new application. (Eff. 8/21/78, Reg. 67)

Authority: AS 08.99.080(a)(7) and (10)

**12 AAC 72.115. DUTIES AND RESPONSIBILITIES OF A WELDING INSPECTOR.** (a) A welding inspector shall, when applicable

(1) keep the department advised of his current address for the mailing of renewal notices;

(2) verify that the work inspected conforms to the requirements of the applicable codes, standards and job specifications;

(3) verify that the base materials and consumable welding materials conform to the

specification requirements and that the specified welding filler metals are used on each base metal or combination of base metals;

(4) verify that the welding equipment to be used for the work is that which is specified in the welding procedure and has the capability to produce the specified welds;

(5) verify that the welding procedures are as specified, and are qualified and available to the welders for reference;

(6) verify that the welders have been properly qualified in accordance with the applicable codes and standards and that their qualification authorizes them to use the welding procedures specified for the work;

(7) observe the qualification tests when qualifying welders;

(8) verify that only specified and properly qualified welding procedures are used for the work;

(9) verify that the joint preparation and fit-up meets the requirements of the welding procedure and drawings;

(10) verify that the specified filler metals are used and that the filler metals are maintained in proper condition for use as specified;

(11) observe the technique and performance of each welder;

(12) examine the work for conformance to the requirements of the applicable codes, standards, specifications and drawings;

(13) identify the work inspected with specified marking methods or appropriate records;

(14) perform the necessary visual inspections;

(15) verify that the required visual and other nondestructive examinations have been performed by qualified personnel in the specified manner and review the resulting information to assure that the results are complete;

(16) perform nondestructive examinations that are specified, if he or she is qualified in accordance with the specified requirements;

(17) prepare clear and concise reports and keep necessary records of the welding procedure, the welding procedure qualifications, the welder qualifications, the control of welding materials and the results of inspections and tests:

(18) act with complete integrity in professional matters and be forthright and candid to the board or its representative on matters pertaining to this standard;

(19) to preserve the health and well-being of the public by performing the duties required of weld inspection in a conscientious and impartial manner to the full extent of his or her responsibilities and qualifications;

(20) undertake and perform assignments only when qualified by training, experience, and capability;

(21) be objective, thorough and factual in any written report, statement or testimony of the work and include all relevant or pertinent information in such communiques or testimonials;

(22) sign only for work that he or she has inspected, or for work over which he or she has personal knowledge through direct technical control; and

(23) conscientiously avoid conflict of interests with the employer or client and disclose any business association, interests, or circumstances that might be so considered.

(b) If there is evidence that the welder's work does not conform to the requirements of the applicable code, standard or specification, the welding inspector may require requalification of the welder. The welding inspector shall require a requalification of a welder if that person's qualification is not current by the requirements of the applicable codes, standards or specifications.

(c) If the welding inspector is to perform nondestructive examinations other than visual, and there are no specified qualification

requirements, he or she must be qualified and certified in accordance with the Recommended Practice No. SNT-TC-1A, "Personnel Qualification and Certification for Nondestructive Testing," June 1975. (Eff. 8/21/78, Reg. 67)

Authority: AS 08.99.080(a)(7),(9) and (10)

**12 AAC 72.125. PROHIBITED CONDUCT OF WELDING INSPECTOR.** (a) A welding inspector licensed under this chapter is prohibited from performing acts including

(1) signing a blank welder qualification certificate;

(2) issuing a welding qualification certificate to a welder not tested under his or her direct supervision;

(3) delegating his or her responsibility in testing of welders;

(4) paying, soliciting, or offering, directly or indirectly, any bribe or commission for professional employment with the exception of the usual commission required by employment agencies;

(5) falsifying, exaggerating, or indulging in the misrepresentation of personal academic and professional qualifications, past assignments, accomplishments, and responsibilities or those of his or her associates;

(6) issuing statements, criticisms, or arguments on weld inspection matters connected with public policy which are solicited or paid for by an interested party or parties, without first identifying the party and the speaker and disclosing any possible pecuniary interest;

(7) expressing an opinion on a weld inspection subject unless it is founded upon adequate knowledge of the facts in issue, upon a background of technical competence pertinent to the subject and upon honest conviction of the accuracy and propriety of the statement;

(8) accepting compensation, financial or otherwise, from more than one party for services on the same project, or for services pertaining to the same project, unless the circumstances are fully disclosed and agreed to by all interested parties or their authorized agents;

(9) soliciting or accepting gratuities, directly or indirectly, from any party or parties dealing with the client or employer in connection with the welding inspector's work; and

(10) associating with or knowingly participating in a fraudulent or dishonest venture.

(b) The board will suspend, refuse renewal of or revoke the welding inspector's license, place the license holder on probation, or reprimand the holder, if he or she is found to have engaged in prohibited conduct. (Eff. 8/21/78, Reg. 67)

Authority: AS 08.99.080(a)(7),(9) and (10)

#### ARTICLE 4. GENERAL PROVISIONS

Section  
899. Weld qualifier license  
900. Definitions

12 AAC 72.899. WELD QUALIFIER LICENSE. A weld qualifier license issued under the authority of this chapter as it existed between August 2, 1973 and the effective date of this section is valid until six months after the effective date of this section and may not be renewed. (Eff. 8/21/78, Reg. 67)

Authority: AS 08.99.080(a)(7)

12 AAC 72.900. DEFINITIONS. (a) In this chapter

(1) "appropriate rating" means that rating which is required by the specific code designated in the job specifications; when there is no job specification or a specific code is not designated in the job specification, appropriate rating is not less than the all-position certification issued in accordance with the current edition of the American Welding Society Code;

(2) "board" means the Board of Welding Examiners;

(3) "code" means nationally recognized welding, nondestructive testing or engineering principles or rules published as guides or requirements or both by societies or agencies charged with establishing such guidelines;

(4) "continuous employment" means

employment without interruption of more than 90 consecutive days unless otherwise specified in the code under which the certificate is being renewed;

(5) "coupon" means a piece of metal cut and sectioned for testing;

(6) "cutting process" means a process in which the severing or removing of metals is effected;

(7) "department" means the Department of Commerce and Economic Development;

(8) "direct supervision" means being physically present at the work site and in personal charge of the work being performed;

(9) "job specifications" means the written document setting out the specific construction standards to be adhered to for the project;

(10) "rating" means a particular skill level in the art of welding;

(11) "responsibility" means being accountable to the board or its agents or both for one's action relating to the requirements of this chapter;

(12) "standards" means minimum acceptable guidelines established by societies or agencies or both charged with the responsibility for promulgating such guidelines;

(13) "technical level" means a level of work in welding using mathematics and science such as would require at least two years of post-high-school study at an accredited engineering school or technical institute or equivalent study;

(14) "valid" means having legal force and properly executed and binding under the law and is in compliance with the appropriate code, standard or specification;

(15) "weld testing methods" means the destructive or nondestructive means of evaluating the integrity of the weld metal or heat affected zone of the base material or both;

(16) "welder" means welder, welding operator and tacker;

(17) "welding" means the metal joining process used in making welds;

(18) "welding inspector" means a person meeting the requirements of secs. 55 - 125 of this chapter;

(19) "welding performance specification" means a document required before testing, setting the criteria for demonstration of a welder's ability to produce welds meeting prescribed standards;

(20) "welding procedure" means a written document specifying the essential variables as listed in the appropriate welding or engineering code or both;

(21) "welding procedure specification" means a document required before welding on any structure, specifying the parameters and requirements which control the quality of the welding for that structure;

(22) "welding process" means the method of application of heat or filler metal or both to complete the joining process;

(23) "welding qualification certificate" means a certificate issued under the authority of the board by a licensed welding inspector to a person verifying that he or she has successfully performed one or more of the specific welding tests required for a certification to a particular welding or engineering code;

(24) "weldment" means an assembly whose component parts are joined by welding.

(b) Terms not defined in this section shall be construed in accordance with American Welding Society A3.0-76, "Terms and Definitions." (Eff. 8/21/78, Reg. 67)

Authority: AS 08.99.080(a)(1) and (9)

TO: 

DATE: June 13, 1979

Don Hostak, Director  
Div. of Occupational Licensing  
Dept. of Commerce and  
Economic Development

FILE NO.

TELEPHONE NO

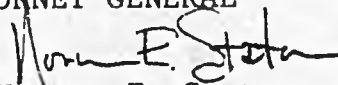
FROM

AVRUM M. GROSS  
ATTORNEY GENERAL

SUBJECT

AS 08.40 and AS 08.99  
Enforcement Responsibilities

By:

  
Norman E. Staton  
Assistant Attorney General.

You have requested an opinion as to which department has the authority and responsibility for enforcing the provisions contained in AS 08.99, regarding the Board of Welding Examiners and the Board of Electrical Examiners.

After reviewing the pertinent provisions, it is our opinion that the Department of Commerce and Economic Development ("Commerce") and the Commissioner of Labor ("Labor") have specific statutory authority for enforcement and investigation of complaints regarding Electrical Examiners, (AS 08.40) and therefore have concurrent discretionary authority. However, while Commerce has discretionary authority for enforcement and investigation of complaints regarding the Board of Welding Examiners (AS 08.99), Labor only has the authority to act if requested to act by the Board.

Commerce and Labor have concurrent discretionary authority to investigate and enforce provisions regarding Electrical Examiners (AS 08.40).

AS 08.01.087 provides:

Sec. 08.01.087. Powers and duties of department. (a) The department may upon its own motion, conduct investigations to determine whether any person has violated a provision of this chapter or a regulation adopted under it or a provision of a chapter in this title dealing with one of the boards listed in § 10 of this chapter or a regulation adopted by one of those boards, or to secure information useful in the administration of this chapter.

(b) If it appears to the commissioner that a person has engaged in or is about to engage in an act or practice in violation of a provision of this chapter or a regulation adopted under it, or any of the laws pertaining to or regulations adopted

by the boards listed in § 10 of this chapter, he may, if he considers it in the public interest, and after notification to all board members by telephone or telegraph of a proposed order or action unless a majority of the members of the board object within 10 days, . . . .

AS 08.01.110 provides in part: "(Definitions.) In this chapter . . . (2) 'department' means the Department of Commerce and Economic Development."

The powers and duties of Commerce embrace the boards listed in AS 08.01.010, which provides in part:

(Applicability of Chapter.) This chapter applies to the . . .

- (7) Board of Electrical Examiners;
- (17) Board of Welding Examiners

As a result, under the provisions of AS 08.01.087, AS 08.01.110(2) and AS 08.01.010(7) and (17), Commerce may, upon its own motion, conduct investigations and enforce the provisions of AS 08.40, Electrical Administrators and AS 08.99, Board of Welding Examiners.

AS 08.40.175, regarding Electrical Examiners, provides:

Sec. 08.40.175. Cease and desist order.

(a) If the commissioner of labor determines that a person is acting as an electrical administrator in violation of this chapter, he may issue a cease and desist order prohibiting further action by the person as an electrical administrator. The cease and desist order remains in effect until the person has submitted evidence acceptable to the commissioner of labor showing that the violation has been corrected.

(b) A person affected by an order issued under (a) of this section may seek equitable relief preventing the commissioner of labor from enforcing the order.

As a result, AS 08.40.175 grants authority to Labor to determine if an electrical examiner is acting in violation of the chapter. In order for Labor to make a determination, it must have the authority to investigate. If the commissioner determines that action is warranted, he or she may issue a cease and desist order and thereby enforce the provisions of the chapter.

Therefore, AS 08.01.87 and AS 08.40.175 grant Commerce and Labor concurrent discretionary authority to investigate and enforce the provisions of AS 08.40, Electrical Administrators.

Due to the fact that Commerce and Labor have concurrent discretionary authority, it would be advisable for the departments to cooperate and coordinate their activities in the area.

Commerce has discretionary authority to investigate and enforce provisions of the Board of Welding Examiners (AS 08.99) while Labor only has authority to do so if requested by the Board.

As discussed above, AS 08.01.087 grants Commerce discretionary authority upon its own motion, to conduct investigations and enforce the provisions of AS 08.99, Board of Welding Examiners.

On the other hand, AS 08.99.080(b) requires Labor to investigate and enforce provisions of the chapter upon request by the Board of Welding Examiners. AS 08.99.080(b) provides:

(b) The board may request technical personnel from the Department of Labor for the purpose of reviewing and analyzing reports and may request field inspection by the department for the purpose of assuring compliance with, and enforcement of the regulations, rules and orders promulgated under §§ 10-110 of this chapter.

(Emphasis added.) If requested to investigate or enforce, Labor would have concurrent authority with Commerce.

Don Hostak, Director  
Div. of Occupational Licensing

June 13, 1979

- 4 -

⊗ Although the Department of Commerce and Economic Development has discretionary authority while the Department of Labor has mandatory authority, we again recommend the departments work out an arrangement to handle this matter, or in the alternative, have the legislature resolve the matter.

NES:bwb

## Title 59. PROFESSIONS AND OCCUPATIONS

## CHAPTER 40. OKLAHOMA WELDING ACT (NEW)

Effective October 1, 1978

- Sec.  
 1624. Short title.  
 1625. Description and legislative intent.  
 1626. Definitions.  
 1627. Welding inspectors - Powers and duties.  
 1628. Applicants for certification - Qualifications.  
 1629. Certification of Applicants.  
 1630. Standards of skills, practice and conduct of welding inspectors.  
 1631. Unauthorized practice - Suspension, refused renewal or revocation of certification.  
 1632. Reinstatement.  
 1633. Recertification.  
 1634. United States of America Standard Institute Codes Adoption.  
 1635. Commission of Labor - Additional powers and duties.  
 1636. Fees.  
 1637. Disposition of revenues.  
 1638. Exemptions.  
 1639. Owner may require welder to qualify with appropriate code - Exempt equipment.  
 1640. Violations - Misdemeanor - Penalties.  
 1641. Construction of act.

§ 1624. Short title. This act shall be known and may be cited as the "Oklahoma Welding Act."

§ 1625. Description and legislative intent. A. This act describes the welding inspector's basic technical functions, the requirements by which welding personnel may become qualified, and the principles of conduct and practice by which certification may be maintained. The certification procedure shall apply to personnel who inspect weldments.

B. This act is intended to supplement any requirements of an employer, code, standard or specification and shall not be construed as a preemption of the employer's responsibility for the work or for the performance of such work.

§ 1626. Definitions. As used in this act:

1. "Certificate" means the document issued to an applicant upon successful examination;
2. "Certification" means the testimony of qualifications;

3. "Code" means United States of America Standard Institute Code;
4. "Committee" means the Oklahoma State Labor Department, Boiler Inspection Department, Chief Boiler Inspector;
5. "Qualification" means the successful completion of all parts of the requirements set out by the Oklahoma Department of Labor;
6. "Welding Inspector" means a person who has met the requirements of this act;
7. "Weld-testing facility" means a qualified and approved testing facility approved by the Oklahoma Department of Labor;
8. "Weldment" means a welded assembly in which the bulk of the component parts are prepared and joined by any combination of the cutting and welding processes covered by Section 5 of this act; and
9. "Work" means that portion of the product or weldment that specifically involves or affects the use of welding.

<sup>1</sup>Section 1628 of this title.

§ 1627. Welding inspectors - Powers and duties. A welding inspector shall have the following powers and duties:

1. Verify that the work which he inspects conforms to the requirements of the applicable codes, standards and job specifications;
2. Verify that the base materials and consumable welding materials conform to the specification requirements and that the specified welding filler metals are used on each base metal or combination of base metals;
3. Verify that the welding equipment to be used for the work is that which is specified in the welding procedure and has the capability to produce the specified welds;
4. Verify that the welding procedures are as specified, qualified and available to the welders for reference;
5. Verify that the welders have been properly qualified in accordance with the applicable codes and standards, and that their qualifications authorize them to use the welding procedures specified for the work. If there is evidence that the welder's work does not conform to the requirements of the applicable code, standard or specification, the welding inspector may require requalification of a welder, if that person's qualification is not current by the requirements of the applicable codes, standards or specifications;

6. When qualifying welders, the welding inspector shall observe the qualification tests;

7. Verify that only specified and properly qualified welding procedures are used for the work;

8. Verify that the joint preparation and fit-up meets the requirements of the welding procedure and drawings;

9. Verify that the specified filler metals are used and that the filler metals are maintained in proper condition for use as specified;

10. Observe the technique and performance of each welder;

11. Examine the work for conformance to the requirements of the applicable codes, standards, specifications and drawings;

12. Identify the work he inspects with specified marking methods or appropriate records;

13. Perform the necessary visual inspections;

14. Verify that the required visual and other nondestructive examinations have been performed by qualified personnel in the specified manner. He shall review the resulting information to assure that the results are complete. The welding inspector may perform nondestructive examinations that are specified, providing he is qualified in accordance with the specified requirements; and

15. Prepare clear and concise reports and keep necessary records of the welding procedure, the welding procedure qualifications, the welding qualifications, the control of welding materials and the results of inspections and tests. It shall be the duty of the welding inspector to see that all test results are forwarded to the Department of Labor for issuance of welder certification cards.

§ 1628. Applicants for certification - Qualifications. Each applicant for certification as a welding inspector shall have the following qualifications:

1. Maintenance experience involving the detection and measurement of weld inadequacies or discontinuities in accordance with specified procedures;

2. Repair experience involving the repair or replacement of welds that were determined inadequate or defective by reference to a code, standard, specification or drawing;

3. Familiarity with and understanding of the fundamentals of the following processes:

- a. shielded metal arc welding,
- b. stud arc welding,
- c. submerged arc welding,
- d. flux cored arc welding,
- e. gas metal arc welding,
- f. gas tungsten arc welding,
- g. electroslag welding,
- h. oxyfuel gas welding,
- i. brazing,
- j. thermal cutting, and
- k. mechanical cutting.

Cutting processes refer only to those processes that are applied to the fabrication and repair of weldments;

4. Capability in writing clear and concise reports and maintaining records; and

5. Competency in the use of tools, gauges and instruments pertaining to weld inspection.

§ 1629. Certification of applicants. The Oklahoma State Labor Department shall issue to each applicant successfully meeting the qualifications requirements provided in Section 5 of this act a certificate stating that the applicant has met the certification requirements. The certificate shall be valid for one (1) year unless revoked pursuant to Section 8 of this act.<sup>2</sup>

<sup>1</sup>Section 1628 of this title.

<sup>2</sup>Section 1631 of this title.

§ 1630. Standards of skills, practice and conduct of welding inspectors.

A. In order to safeguard the public health and well-being and to maintain integrity and high standards of skills, practice and conduct in the occupation of welding inspection, the certified welding inspector shall be cognizant of the principles provided in this section and the

scope to which they apply with the understanding that any unauthorized practice is subject to the Committee's review and may result in suspension or revocation of certification.

B. The welding inspector shall act with complete integrity in professional matters and be forthright and candid to the representatives on matters pertaining to this act.

C. The welding inspector shall preserve the health and well-being of the public by performing the duties required of welding inspectors in a conscientious and impartial manner to the full extent of his moral and civic responsibilities and qualifications. Accordingly, the welding inspector shall:

1. Undertake and perform assignments only when qualified by training, experience and capability; and

2. Be completely objective, thorough and factual in any written report, statement or testimony of the work and include all relevant or pertinent information in such communiques or testimonials.

D. With regard to public statements, the welding inspector shall:

1. Issue no statements, criticisms or arguments on weld inspection matters connected with public policy which are inspired or paid for by one or more interested parties without first identifying the party and speaker, and disclosing any possible pecuniary interest; and

2. Publicly express no opinion on a weld inspection subject unless it is founded upon an adequate knowledge of the facts in issue, upon a background of technical competence pertinent to the subject, and upon honest conviction of the accuracy and propriety of the statement.

E. With regard to conflicts of interest, the welding inspector shall:

1. Conscientiously avoid conflict of interest with his client and shall disclose any business association, interests or circumstances that might be so considered;

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

3. Not solicit or accept gratuities, directly or indirectly, from one or more parties dealing with the client or employer in connection with the welding inspector's work; and

4. Neither inspect, review nor approve any work on behalf of one or more parties, while serving in the capacity of an elected, retained or employed public official.

F. With regard to solicitation of employment, the welding inspector shall:

1. Neither pay, solicit nor offer, directly or indirectly, any bribe or commission for professional employment with the exception of the usual commission or fees required; and

2. Neither falsify, exaggerate nor indulge in the misrepresentation of personal academic and professional qualifications, past assignments, accomplishments and responsibilities, or those of his associates.

§ 1631. Unauthorized practice - Suspension, refused renewal or revocation of certification. The Oklahoma Commissioner of Labor shall have the power to suspend, refuse renewal of or revoke the welding inspector's certification, and the power to place on probation or to reprimand the holder, if he is found guilty of an unauthorized practice. The Commissioner of Labor may apply to any court of competent jurisdiction for an enforcement of its administrative decisions and rulings.

§ 1632. Reinstatement. Reinstatement of a revoked certification shall be allowed with no penalty or prejudice to the individual, provided the reason for such revocation has been rectified to the Commissioner of Labor's satisfaction.

§ 1633. Recertification. A. The welding inspector shall be recertified upon payment of the current fee and successful reexamination of complete facilities every year. However, renewal applicants who attest to continual or uninterrupted activity in the practice of welding inspection and who re comply with the provisions of Sections 141 through 147 of Title 40 of the Oklahoma Statutes and rule number 36 of the Oklahoma Boiler Code Manual shall be recertified upon payment of the current certification fee without reexamination.

B. Application for renewal of a certification that has expired shall be considered a new application.

C. The welding inspector shall be responsible for maintaining a current address with the State Department of Labor, Boiler Inspector Department, for mailing of renewal notices.

§ 1634. United States of America Standard Institute Codes - Adoption. The following United States of America Standard Institute Codes shall be the piping codes for this state:

1. The power piping code;
2. The fuel gas piping code;
3. The gas transmission and distribution piping system code;
4. The petroleum refining piping code; and
5. The liquid petroleum transportation piping system code.

The provisions of this act shall apply only to weldments required by the above codes.

§ 1635. Commission of Labor - Additional powers and duties. The Commissioner of Labor shall have the following duties in addition to any other duties prescribed by law:

1. Examine, certify and renew the certification of qualified applicants, keep a record of all such proceedings, and submit annual reports to the Governor;
2. Promulgate rules and regulations concerning the quality of welds and qualification of welders;
3. Designate and approve persons qualified to administer welding tests; and
4. Designate and approve shops, testing facilities or other establishments qualified for testing coupons and weldments.

§ 1636. Fees. A. The certification fee for each welder shall be Ten Dollars (\$10.00). The certification fee for each testing facility shall be Fifty Dollars (\$50.00).

B. Certificates for welders and testing facilities shall be issued for a period of one (1) year, and shall be renewed by January 1 of each year. Failure to renew the certificate within thirty (30) days of expiration shall require certification.

§ 1637. Disposition of revenues. All revenues collected under the provisions of this act shall be paid by the Department of Labor to the State Treasurer and by him placed to the credit of the General Revenue Fund of the state, to be used for governmental functions and to be paid out only pursuant to direct appropriation by the Legislature of the State of Oklahoma.

§ 1638. Exemptions. Upon the effective date of this act, owner-user inspectors following weldment procedures which conform to the applicable code for qualifying welders and testing weldments by non-

destructive or destructive methods shall be exempt from this act. Any inspector who has been certified by the American Welding Society shall be exempt.

§ 1639. Owner may require welder to qualify with appropriate code - Exempt equipment. If a welder holds a state certificate, the owner may require the welder to qualify in accordance with the appropriate code whenever deemed necessary, and reject the welder if qualifying test is failed. Any equipment fabricated in compliance with existing codes is exempt from this act.

§ 1640. Violations - Misdemeanor - Penalties. Any person who violates the provisions of this act shall be guilty of a misdemeanor and upon conviction thereof shall be punished by payment of a fine of Five Hundred Dollars (\$500.00).

§ 1641. Construction of act. Nothing in this act shall be construed to affect or modify any unexpired welder certification issued prior to the adoption hereof. Holders of unexpired welder certifications issued by the Commissioner of Labor shall be entitled to renew said certificates as herein provided.

B

STATE OF ALASKA  
Guide Licensing and Control Board  
May, 1979

Findings

The Guide Licensing and Control Board functions to establish guiding areas, limit the number of guides in areas, and assure that a guide is competent enough to care for himself and others in the remote setting. Guides are also concerned with environmental conservation and animal husbandry. Regulation of this profession is in the best interests of the State and should be continued. The Board is carrying out its duties in a responsible manner and appears to be meeting needs and demands reasonably; therefore, we believe the Board also should be continued. Guides and their clients are also subject to Alaska Department of Fish and Game hunting regulations.

Section 1, ch. 106, SLA 1976, provides: "Purpose. It is the purpose of this Act to protect the safety of the citizens of the state and better manage and protect its resources by licensing persons who transport hunters for hire so that reasonable standards and guidelines will be met and activities affecting the state's game resources will be more accurately monitored and assessed."

I. General Information

A. Regulated Parties

1. Master Guides
2. Registered Guides
3. Class-A Assistant Guides
4. Assistant Guides
5. Transporters

B. Definitions

"(2) 'guide,' 'guides' or 'guiding' means assisting another person to take game with the intent of receiving monetary or material remuneration for the services, by accompanying and directing that person personally or through a licensed assistant guide for the duration of a hunt, and not solely for the purpose of providing transportation services;

(5) 'transporting' or the 'activity of transporting' means conveying a person by any lawful means to an area for remuneration or material benefit in excess of normal operating costs, when the primary purpose of the person being conveyed is the taking of big game and the associated removing of big game meat and parts of big game after big game has been taken; big game as used in this paragraph means game which, if taken by a nonresident, would require a big game tag." (AS 08.54.240)

C. Nature and Composition of Board

1. Board members and terms:

Three-year term (no restrictions regarding consecutive terms or number of terms).

Marcus F. Jensen (Chairman)	ends June 15, 1980
Clark Engle	ends June 15, 1981
Glen Glenzer	ends June 15, 1980
Charles Keim	ends June 15, 1979
Hubert Weise	ends June 15, 1979
Norman Sutliff	ends June 15, 1979
Donald Harris	ends June 15, 1981

2. Representation:

Profession = 3  
Public = 4

3. Qualifications:

"...No more than three members of the board shall have a guide license. The other members shall have a general knowledge of the game resources of the state. A minimum of 10 years residence in the state is required for all members of the board."  
AS 08.54.010

D. Licensing Data

Current licenses (effective May, 1979)

Master guides	=	35
Registered guides	=	268
Class-A assistants	=	95
Assistant guides	=	413
Transporters	=	<u>47</u>
Total		858

All licentiates in this profession are in-State.

E. Fees

1. master guide license, annual	\$75.00
2. registered guide license, annual	75.00
3. class-A assistant guide, annual	15.00
4. assistant guide license, annual	10.00
5. transporter license	10.00
6. examination fee	25.00

(Also subject to Fish and Game fees under AS 16.05.340(e).)

F. Board Revenues and Expenditures

	FY '76	FY '77	FY '78	FY '79
Receipts	\$39,054.64	\$39,025.50	\$41,882.00	\$41,601.00
- refunds	<u>254.64</u>	<u>330.00</u>	<u>265.00</u>	<u>605.00</u>
Total	\$38,800.00	\$38,695.50	\$41,617.00	\$40,996.00
Expenditures				
Transportation	2,913.37	2,607.63	3,457.12	3,042.11
Per Diem	5,213.88	5,057.75	8,840.68	6,672.80
Phone	382.99	569.68	815.01	813.13
Printing, Adver. & Postage	966.17	1,592.27	2,584.38	626.51
Fees & Services	300.00	430.00	362.00	
Rents, Leases & Other	<u>293.90</u>	<u>-</u>	<u>768.98</u>	<u>3,094.70</u>
Total	<u>\$10,070.31</u>	<u>\$10,257.33</u>	<u>\$16,828.17</u>	<u>\$14,249.25</u>
Surplus	\$28,729.69	\$28,438.17	\$24,788.83	\$26,746.75
Deficit	-	-	-	-

(EXCLUDES DIVISION OF OCCUPATIONAL LICENSING ADMINISTRATIVE OVERHEAD)

G. Complaints

Enforcement of Guide Licensing and Control statutes and regulations is the responsibility of the Department of Public Safety, Division of Fish and Wildlife Protection. An Anchorage based Assistant Attorney General is specifically designated for the Board. Sixty-

one investigations were reported to have been conducted by the Division of Fish and Wildlife Protection during the period from April, 1977 through April, 1979. During this same period 35 accusations were filed for disciplinary hearings before the Board.

## II. Analysis

- A. To what extent has the Guide Licensing and Control Board operated in the public interest?

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The Board operates to protect the public interests by controlling hunting activity, promoting hunter safety, and protecting wildlife resources. Accordingly, the Board has statutory responsibility for: (1) preparation, grading and administration of examinations; (2) passing on applicant qualifications; (3) regulation of guide activity and performance standards; (4) maintaining a current register; (5) maintaining and publishing a list of active registered or master guides; (6) regulating guide activities and conduct; (7) revocation, denial and suspension of licenses; (8) establishing geographical guiding quotas; and (9) adoption of procedural and substantive regulations concerning guiding.

Special permit provisions exist for qualified applicants who are limited by language barriers. Candidates for examination who may not fully understand the English language may be given the examination orally in their native language. The Board has recently concentrated a great deal of effort in recruiting qualified guides from remote bush and coastal areas. A separate guiding district has been created (making a total of 27) which includes all western, northwestern and northern Alaska coastal areas north of latitude 50° north for the purpose of regulating marine mammal hunting. Board members have traveled to outlying villages to educate the populace on guide qualifications and to take applications for licensure. Meetings in Nome and/or Kotzebue are planned in 1979 assuming an Arctic guide program is started.

Examinations given by the Guide Licensing and Control Board are Board constructed. Only applicants for registered guide status must take a written examination. Oral examinations are administered by the Board to candidates for both registered and master guide. A passing score of 80% must be achieved. Even though the Board has failed applicants on the basis of the oral examination, it has not made or kept a record of these proceedings. The Board should record all oral examinations in support of its determinations and should ensure that its reasons for denial of applications and licenses are cited in meeting minutes and in notices to the applicant. Review indicated that this procedure is not always followed.

State licensure constitutes exclusive permission to engage in an activity that would otherwise be unlawful. Board procedures are designed to assure that those persons so licensed and engaged are qualified by virtue of past experience and demonstrated competence.

The Anchorage office of the Division of Fish and Wildlife Protection maintains records and files on all enforcement activities and on all guides. These records are complete and up to date. Individual guide files contain all relevant information from initial licensure to latest renewal. A transfer of the Board and regulation to the Division of Fish and Wildlife Protection should be given consideration, particularly in view of the fact that the division has responsibility for enforcement of guiding laws. In a memorandum dated November 8, 1978, to the Office of the Governor, an official of the Department of Public Safety indicated that such a transfer would be favorable. The Board also has indicated support for this proposal.

The Guide Licensing and Control Board is active in disciplinary proceedings concerning the profession. A number of hearings have been held by the Board and subsequent action taken. Viability of enforcement is

largely due to authorization of investigation, administrative support services and Department of Law assistance assigned particularly to guide activities.

AS 08.54.190(a) provides that all licenses expire every year on December 31. As of May, 1979, 858 licenses were in effect and the number increases every year. A statutory amendment should be considered which would allow for biennial renewal.

AS 08.54.200(c)(3) makes revocation of a guide license mandatory upon conviction of two violations of federal or State sport fish, game or guide statutes or regulations. The Board is presently given no discretion or latitude by which it may consider the seriousness of offenses or lesser disciplinary action such as suspension; the most minor violations must result in license revocation. SB 101, with which the board is in agreement, was introduced during the 1979 session of the Legislature (see Appendix A). Passage of this bill would allow the Board to take disciplinary action commensurate with the nature of offenses.

Transporters are required by AS 02.05.040 (the Alaska Air Commerce Act of 1960) to have "in force a certificate issued by the commission [Alaska Transportation Commission] authorizing that person to engage in air commerce as a certificated carrier, contract carrier, or air taxi operator." Title 02, § 170(f), also requires filing of game transporter reports with the Department of Fish and Game. The Alaska Business Act (43.70) requires that transporters maintain a current business license. An abundance of regulations covering this subject also exists under AS 16.05, Fish and Game Code. Licensed guides are exempt from license requirements for transporters. In view of the enforcement and regulatory difficulties encountered in this area, and the fact that transporters are otherwise regulated, it is suggested that appropriate revisions be made to Guide Licensing statutes.

12 AAC 38.055 provides for a limited time waiver of guide area use requirements in case of death of a permit holder. During this period "an heir may apply to the board for a reassignment of the permit to a person designated by the heir" (emphasis added). In case of mental incompetence, a guardian may, during this same limited period "apply to the board for a reassignment of the permit to a person designated by the guardian" (emphasis added). It is questionable whether designation of permit holders should be done by heirs and guardians and whether preference should be given by the Board to persons so designated. It should not be a function of a State board to protect the monetary interests of a licensee. Rather, the Board should consider the qualifications of all applicants, as is done in other instances, and grant permits on that basis alone.

B. To what extent has the operation of the Guide Licensing and Control Board been impeded or enhanced by existing statutes, procedures and practices which it has adopted, or any other matter, including budgetary, resource and personnel matters?

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Resources and services provided for this Board far exceed those provided for other boards and commissions under Title 8. As previously noted, enforcement and investigation of its statutes and regulations is adequately handled by the Department of Public Safety. The Board has been assigned an Assistant Attorney General, located in Anchorage, and issues have been pursued actively, both by the Department of Law and by the Board. Other support staff is provided by the Division of Occupational Licensing and is presently adequate. Employee turnover has impeded to some extent continuity and follow through on Board requests.

The Board has not been particularly impeded by budgetary constraints. Meetings and/or hearings have been scheduled as necessary. A special appropriation in the amount of \$10,000 was made by the Legislature in 1979 to allow the Board to conduct hearings and formulate procedures

related to hunting of marine mammals. Fees and revenues for all boards and commissions under the jurisdiction of the Division of Occupational Licensing are collected through the Division and are deposited into a general fund. Monies deposited and withdrawn are identified by codes so that direct board revenues and expenses may be determined.

The Board has expressed a desire to repeal statutes in Title 8 concerning transporters (§§ 142, 144 and 146). Interpretation of AS 08.54.130(2) has apparently caused some confusion in that it is not clear whether the supervisor of a Class-A assistant should be in the guide unit or merely giving direction from any location in the State. AS 08.54.190(a) should be amended to allow for biennial rather than annual renewal of licenses. SB 101, introduced in 1979, would give the Board some latitude in disciplinary actions where guides have been convicted of federal or State sport fish, game or guide laws.

Examinations for registered and master guides are given once a year in November or December, in Anchorage. Control and security of testing materials is maintained by the Department of Public Safety. Board regulations state that applicants who fail either the written or oral test may not be reexamined for six months. An annual examination procedure means that an applicant who fails will miss an entire subsequent hunting season before he can take the next examination. It is suggested that consideration be given to scheduling two examinations each year in two areas of the State to coincide with regular Board meetings.

Public members are included in the composition of the Board. Total membership of seven is felt to be adequate. Terms of membership are three years, however, at least two members have served since the Board was established in 1973.

C. To what extent has the Guide Licensing and Control Board recommended statutory changes which are generally of benefit to the public interest?

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In 1976 statutory amendments concerned regulation of transporters and "housekeeping" items. One significant 1976 amendment mandated that the Board "establish a quota of licensed operating guides who may operate within designated geographical game units or subunits of the state and provide for an equitable and reasonable procedure for limiting the number of guides to that quota" (AS 08.54.040(a)(8)). The Board has recently accomplished this directive.

Statutory recommendations made by the Board have been cited previously.

- D. To what extent has the Guide Licensing and Control Board encouraged interested persons to participate in and report to it concerning the making and effect of its regulations and decisions, or to report to it concerning the effectiveness, economy, and availability of service which it has provided?

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Guide Board meetings and hearings are well attended by interested parties. Petitioners before the Board will not even have their petitions considered unless they or their representative(s) are present. Any party possibly affected by a petition is also notified that the matter will be discussed so they may participate.

There is evidence to indicate that Board members have made themselves visible and available to members of the public and the industry. Some members have spent a considerable amount of time on personal correspondence and even personal visits with interested parties in some cases. For instance, members have traveled to Nunivak to meet with and recruit potential guides.

Public interests are felt to be furthered by the presence of public members on professional boards. "In recent years a number of states have added one or more public members (citizens with no particular interest in the occupation or profession governed by the board) to licensing boards in an effort to ensure that the interests of the public would be represented in decisionmaking."<sup>1</sup> The State of California, which provides for a one-third public membership on health care boards and a public majority on others, has indicated that its experience with public members has been highly rewarding.

E. How efficiently are public inquiries or complaints regarding the Guide Licensing and Control Board processed and resolved?

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Routine correspondence regarding Board activities may be responded to by the Division of Fish & Wildlife Protection, the Division of Occupational Licensing or by individual Board members. Review of Board files indicates that responses generally are made in an appropriate and timely manner.

Sixty-one investigations were reported to have been conducted by the Division of Fish and Wildlife Protection during the period from April, 1977 through April, 1979. Thirty-five Accusations for Disciplinary Hearings before the Board were filed during this time.

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<sup>1</sup>Shinberg, B. and Roederer, D., Occupational Licensing: Questions a Legislator Should Ask, The Council of State Governments, Lexington, Kentucky, March, 1978, pg. 20.

At least one complaint regarding the examination was filed with the Office of the Ombudsman and was determined by that office to have been partially justified.

- F. To what extent does the Guide Licensing and Control Board present qualified applicants to serve the public?

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Individuals seeking licensure must submit fees and qualifying documents to the administrative agency for consideration by the Board. Examinations for registered and master guides are given annually. Applicants who are qualified and/or demonstrate a specified level of knowledge and proficiency are issued a license.

Licensure does not, however, guarantee assignment of hunting units. This is also determined by past use, animal resources and number of guides already in the area, and compatibility with present users and facilities. Current policy limits the number of hunting units that a guide may be certified for; past assignments in excess of the general limit were not rescinded but once lost or forfeited are usually re-assigned to another qualified applicant. These procedures are intended to comply with § 040(a)(8).

- G. To what extent have State personnel practices, including affirmative action requirements, been complied with by the Guide Licensing and Control Board in its own activities, and in its area of activity or interest?

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Board staff consists of the support services of a licensing examiner employed by the Division of Occupational Licensing (also responsible for

two other boards) who is hired through the State Personnel System and is subject to affirmative action.

Licenses are issued on the basis of specific criteria. Affirmative action requirements are not applicable to these licensure qualifications.

H. To what extent are statutory, regulatory, budgetary, or other changes necessary to enable the Guide Licensing and Control Board to better serve the interests of the public?

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Transfer of licensing and record keeping functions to the Department of Public Safety would contribute to continuity and centralization of Board operations. Enforcement and investigative services provided by that Department, and the services of the Department of Law, have proved satisfactory.

AS 08.54.190(a) should be amended to allow for biennial renewals. § 200(c)(3) should be amended to vest some disciplinary discretion with the Board in instances concerning convictions of minor violations. §§ 142, 144 and 146, concerning transporters, should be repealed. This intent was also expressed by the Board by resolution at its April 3, 1979 meeting.

The Board should review its regulations with respect to implications that heirs and guardians of permit holders may designate successors. The Board should also consider regulatory clarification of "supervision" as cited in § 130(2).

The Board should reconsider its policy of scheduling examinations only annually and only in Anchorage.

## Article 1. Guide Licensing and Control Board.

### Section

10. Creation and membership of board
20. Appointment and term of office
30. Chairman of board
40. Powers and duties
45. Special guiding permit
50. Board regulations
60. Board hearing
70. Compensation and expenses

Sec. 08.54.010. Creation and membership of board. There is created the Guide Licensing and Control Board consisting of seven members. No more than three members of the board shall have a guide license. The other members shall have a general knowledge of the game resources of the state. A minimum of 10 years residence in the state is required for all members of the board. (§ 1 ch 17 SLA 1973)

Sec. 08.54.020. Appointment and term of office. The members of the board shall be appointed by the governor and confirmed by the legislature for staggered terms of three years or until their successors are appointed. Initial terms are as follows: three members for one year, two members for two years, and two members for three years. A member may be removed at the pleasure of the governor. (§ 1 ch 17 SLA 1973)

Sec. 08.54.030. Chairman of board. The board shall elect one of its members as chairman. (§ 1 ch 17 SLA 1973)

Sec. 08.54.040. Powers and duties. (a) Except as provided in § 45 of this chapter, the board shall

- (1) prepare, grade and administer examinations;
- (2) determine and pass on qualifications of applicants for licenses and authorize the issuance of licenses to those who qualify;
- (3) establish guide performance standards and regulate activity;
- (4) compile, maintain and publish a guide register of guides who have not been convicted of a violation of a federal or state sport fish, game, or guiding statute or regulation; a guide listed in the register whose license is revoked or suspended shall be removed from the register while his license is revoked or suspended;
- (5) compile, maintain and publish a record of registered or master guides who have completed a contract hunt in any of three years immediately preceding the publishing of the record;

(6) prohibit guiding activities which are unsportsmanlike, unethical, unsafe, against principles of conservation, degrading to the guiding profession, or which adversely affect the natural resources;

(7) after a hearing, revoke, suspend or deny renewal of a license in accordance with § 200 of this chapter;

(8) establish a quota of licensed operating guides who may operate within designated geographical game units or subunits of the state and provide for an equitable and reasonable procedure for limiting the number of guides to that quota; preference shall be given to qualified available and willing licensed guides who reside within the designated game unit or subunit.

(b) If a person is unable to competently understand the written portion of an examination given under (a)(1) of this section, he shall be given the complete examination orally in a language which he understands. (§ 1 ch 17 SLA 1973; am § 1 ch 133 SLA 1976)

Sec. 08.54.045. Special guiding permit. This chapter does not limit the power of the board or its authorized designee, to issue a special guiding permit, in place of a guide license, to a person to guide in a specifically designated area, if the person is considered sufficiently experienced to perform the services of a guide and is limited solely by language barriers from securing a regular guide license. (§ 1 ch 17 SLA 1973)

Sec. 08.54.050. Board regulations. The board shall adopt procedural and substantive regulations, under the Administrative Procedure Act (AS 44.62), required by this chapter or reasonably necessary for its administration. (§ 1 ch 17 SLA 1973)

Sec. 08.54.060. Board hearing. The Administrative Procedure Act (AS 44.62) applies to proceedings and hearings under this chapter. (§ 1 ch 17 SLA 1973)

Sec. 08.54.070. Compensation and expenses. Members of the board receive no salary, but are entitled to per diem and travel expenses authorized by law for other boards. (§ 1 ch 17 SLA 1973)

## Article 2. Licensing.

### Section

- 100. Qualifications for a master guide license
- 110. Qualifications for registered guide license
- 120. Qualifications for a class-A assistant guide license
- 130. Privileges and limitations of class-A assistant guides
- 140. Qualifications for assistant guide license
- 142. Qualifications for transporter license

144. Restriction to transportation
146. Transporter report
150. Responsibility of registered or master guide for violations
170. License fees
180. Examination fee
185. Additional fees
190. Expiration and renewal
200. Grounds for disciplining a licensee
210. Unlawful acts
220. Injunction against unlawful action

Sec. 08.54.100. Qualifications for a master guide license. A person is entitled to be licensed as a master guide if he

(1) has legally hunted in the state for a part of each of 10 years during which time a substantial source of his income was from guiding or related activities directly contributing to his experience and competency as a guide;

(2) meets all the requirements of a registered guide and has been actively engaged in licensed guiding activities in the state for at least five years preceding application;

(3) has not been convicted of a violation of federal or state sport fishing, game or guiding laws or regulations within the preceding five years;

(4) has consistently performed in a superior manner as evidenced by required reports submitted to the board and by inquiries made by the board to at least two of the guide's clients of record; and

(5) meets additional qualifications which the board may require. (§ 1 ch 17 SLA 1973)

Sec. 08.54.110. Qualifications for registered guide license. A person is entitled to be licensed as a registered guide if he

(1) is 21 years of age or more;

(2) is a resident of the state and maintains a permanent place of abode in the state;

(3) has practical field experience in the handling of firearms, hunting, judging trophies, field preparation of trophies, first aid and photography;

(4) is familiar with the terrain and transportation problems in the district for which the license is requested;

(5) has passed the qualification examination prepared and administered by the board;

(6) has demonstrated to the board sufficient standards of competence and ethical conduct and has not been convicted of a crime involving moral turpitude;

(7) has legally hunted in the state for all or part of each of five years in a manner directly contributing to his experience and competency as a guide;

(8) has been licensed as and performed the services of an assistant guide in the state for a part of each of three years;

(9) submits a written recommendation to the board from a registered guide for whom the applicant has worked;

(10) is capable of performing the physical duties associated with guiding activities;

(11) has been favorably recommended in writing by two hunters that he has guided or assisted in guiding during each year of his three years as an assistant guide, whose recommendations have been solicited by the board from a list provided by the applicant;

(12) meets additional qualifications which the board may require. (§ 1 ch 17 SLA 1973)

Sec. 08.54.120. Qualifications for a class-A assistant guide license. A person is entitled to be licensed as a class-A assistant guide if he

(1) has been employed for at least one season as a licensed assistant guide;

(2) has had at least 20 years experience in the guide district in which he is to be employed; for the purposes of this paragraph physical presence at some time of the year during each of the 20 years constitutes adequate evidence of experience, and military service outside the state for no more than six years shall be accepted as part of the required 20 years experience;

(3) has been recommended in writing as qualified by a registered or master guide to the board. (§ 1 ch 17 SLA 1973)

Sec. 08.54.130. Privileges and limitations of class-A assistant guides. A class-A assistant guide