

615 SC 1 VOLUME, SUNSET REVIEWS (HEALTH CARE)

As previously noted, present statutes are considered to be appropriate to Board operation. While there have been no particular difficulties with advertising in the profession, AS 08.80.420(b) should be repealed in keeping with recent federal court decisions which deal with this subject. A statutory provision is also recommended which would require continuing education and which would clarify qualifications for temporary registration.

Board policies which allow for one member to act on matters of licensing and which circumvent the administrative agency's responsibility in the areas of fees collection and applicant files are felt to impede effective regulation. There is also indication that applicants are notified of approval for licensure but no certificate is issued until the applicant passes the jurisprudence examination. If certification is to be withheld in this manner, the Board and the regulations should clearly indicate that this examination is a prerequisite to licensure.

Available records further indicate that temporary registrants may have been practicing without authorization. In several instances temporary registrations expired prior to the effective date of licensure with no record of an extension having been applied for or approved. At least one applicant was granted two temporary permits with a three-month interruption between them. The effective date of licensure was beyond initial temporary registration even with an extension period. Temporary registrations are statutorily provided for applicants for licensure by endorsement pending National Board certification. They have, on occasion, been issued pending receipt of such items as birth certificate notarization. The Board should grant temporary registration privileges as provided by statutes and in a uniform manner. It further should act on these matters as a Board and ensure that adequate documentation exists for action.

The desires of the Board to delete AS 08.80.030(6), .040(7), .160(13), .380, and .480(19) concerning shopkeepers is concurred with as being unrealistic in terms of regulation or control. Opposition previously cited regarding regulation of potentially dangerous medicines and preparations has made these statutory provisions unenforceable under present circumstances.

The Board of Pharmacy has experienced some difficulty in its administrative operations with respect to personnel and budgetary restrictions. Support staff is provided by the Division of Occupational Licensing and is presently adequate to serve Board needs although high employee turnover has impeded continuity and follow-up on Board requests. All fees and revenues 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 for budgetary purposes. An expanded budget which would allow for increased inspection scheduling would be desirable if this Board is to be effective in administration of its duties.

Consideration should be given to an increased number of scheduled meetings to allow the Board to consider matters needing action and to facilitate documentation of subsequent action.

The Board of Pharmacy has experienced the same difficulties as have all other boards and commissions with respect to investigative services coming under the jurisdiction of the administrative agency. During the past year two investigator positions remained unfilled. As a result, one of these positions was abolished by the Legislature. One position was recently filled in Anchorage. Moreover, 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 poten-

tially injurious licensing complaints. It must be noted that until recently this Board was unaware of the number of complaints on file concerning the profession.

It is undeniably in the public interest to enforce the laws promulgated for the protection of public health and welfare and to take expeditious action upon receipt of potentially serious complaints. The administrative agency will continue to address the need for initial assessment and follow through on complaints with emphasis on magnitude of offense as it relates to public safety.

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

Health care legislation enacted in 1976 provided amendments to existing statutes relating to the Board and the practice of pharmacy concerning: (1) addition of lay members to the Board; (2) Medical Indemnity provisions; (3) applicability of the Administrative Procedure Act; (4) expansion of violations provisions; and (5) general "housekeeping" items.

The Board of Pharmacy has discussed and recommended statutory and regulatory changes which it has determined would be of benefit in regulating the practice of pharmacy. Specific recommendations of direct benefit to the public are absent from Board records, however, increased administrative efficiency has an overall beneficial public effect.

D. To what extent has the Board of Pharmacy 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?

The Board is conscientious and sensitive to public concern and to aspects of public health and welfare. However, very little public interest or participation in the activities of the Board has been shown in the form of attendance at Board meetings, hearings, or as written input. Most public concern is expressed by individuals with particular problems directly approaching Board members. Notices of pending meetings and new or changing regulations are published in major newspapers in the State. It can be assumed that members of the public are somewhat reluctant to involve themselves in areas of a technical or scientific nature and which may be considered too complex for anything but minimal scrutiny by a layperson. A technical and professional "barrier" of sorts exists, due to the nature of the occupation involved, which probably tends to deter public knowledgeability and participation.

The Board has not taken any overt action to solicit general public response to its quality and availability of service. Positive steps could be taken to solicit interest and make the public aware of the existence and functions of the Board, such as public service radio announcements. Wider dissemination of general information regarding the Board may help to mitigate public disinterest.

Public interests are furthered by the existence of public members on professional boards. The State of California, which provides for a one-third public membership on health care boards and a public majority on other boards, has indicated that its experience with public members has been highly rewarding.<sup>2</sup>

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<sup>2</sup>Shimberg, B. and Roederer, D., Occupational Licensing: Questions a Legislator Should Ask, The Council of State Governments, Lexington, Kentucky, March, 1978, p. 20.

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

As of June, 1978 there were 15 complaint cases pending in agency files. Most of these deal with advertising and would be invalid in view of recent court rulings. Until recently the Board has been unaware of the number and nature of these complaints and little action was taken. The administrative agency is currently addressing complaints and investigative procedures and the need for timely disposition of issues. Investigation services to all boards and commissions under its jurisdiction are expected to improve.

There have been no complaints against the Board of Pharmacy or its members and no complaints regarding the Board or profession were reported received by the Office of the Ombudsman.

An accelerated inspection program by the Board is recommended to ensure adherence to laws, quality of premises and quality of services provided. Concurrently, it is recommended that budgetary allowances be made for such inspections throughout the State.

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

Applicants for licensure are not sponsored by the Board of Pharmacy. Individuals wishing to practice within the State must submit fees and application with documentation of qualifications. Two examinations each year are currently scheduled. Applicants who demonstrate the required level of knowledge and proficiency are granted a license by examination or by endorsement.

High professional standards are advocated by this Board and members have exhibited a willingness to serve to the utmost to assure those high standards. Exceptions to procedure and statute and inconsistencies noted in this report are not felt to be a result of professional disinterest or disregard of public welfare. On the contrary, entry into the profession is facilitated and expedited by the Board in most cases. Recommendations made should be implemented to correct any inequities and to increase administrative efficiency. The Board should consider scheduling one or two additional meetings each year for the purpose of acting on Board business and coordinating its actions.

- G. To what extent have State personnel practices, including affirmative action requirements, been complied with by the Board of Pharmacy 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 (responsible for two other boards) who is hired through the State Personnel System and, therefore, subject to affirmative action requirements.

The Board of Pharmacy issues licenses on the basis of specific education and performance criteria. Affirmative action requirements are not applicable to licensure qualifications.

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

AS 08.80.030(6), .040(7), .160(13), .380 and .480(19), concerning shopkeepers, should be repealed as being unenforceable and unrealistic in terms of control. AS 08.80.420(b) should also be repealed as inappropriate with respect to advertising restrictions. The Board should be given specific statutory direction concerning the subjects of continuing education requirements and temporary permit qualifications.

The Board of Pharmacy has adequate regulatory authority. The Board should act to comply with AS 08.80.040(6) which requires issuance of a list of dangerous medicinal ingredients or preparations. It should also clarify the requirement for a jurisprudence examination as it relates to disbursement of certification. Board members should discontinue the practice of acting independently from the Board and from requesting or retaining materials that should be directed to and maintained by the administrative agency. This would also facilitate compliance with .040(4) which requires reports to the Legislature on the condition of pharmacy in the State. The administrative agency will establish procedures and ensure maintenance of records to facilitate assistance to the Board and accountability to the public or other interested parties. The agency will also continue to address the need for efficient and responsive investigation of complaints.

Board and administrative expenses outweigh the revenues collected through regulation of this profession. Fees collected are simply not adequate to cover transportation and per diem for meetings and examinations, and the Division of Occupational Licensing administrative overhead such as staff salary, examination expenses and investigative services. Resources which would enable the Board to conduct periodic inspections of premises throughout the State are not available. This function of the Board is necessary to insure compliance with laws and standards and to inspect the quality of establishments and services. Budgetary allowances are needed for adequate inspection scheduling and for an increase in meetings when necessary to conduct Board business.

Current Board composition is also determined to be adequate. It is recommended, however, that the number of terms served be restricted to one in view of the fact that members serve for a five-year period.

### III. Conclusion

The Board of Pharmacy and State regulation of this profession is justified in terms of protection of public health, safety and welfare.

### IV. Summary of Recommendations

The Board of Pharmacy should be reestablished for an additional four-year period. The following recommendations are made:

1. The Board should comply with statutory provisions and apply those provisions uniformly.
  - a. The Board should comply with § 040(6) which requires that it "issue a list of potentially dangerous medicinal ingredients or preparations that may be sold only under the direct supervision of a licensed pharmacist;" (See discussion on p. 9)
  - b. The Board should "promulgate regulations to ensure adequate security for all dangerous drugs" as authorized by § 030(8). (See discussion on p. 9)
  - c. The Board and the administrative agency should comply with § 040(4) which requires a report to the Legislature on the condition of pharmacy within the State. (See discussion on p. 10)
  - d. The Board should apply the requirements for the issuance of temporary registrations as delineated by statute. While the Board is proposing a change which would make 540 hours of postgraduate supervision under a licensed pharmacist mandatory, this is not presently a requirement for temporary registration. (See discussion on p. 11)

2. The Board should clarify its position with respect to a jurisprudence examination and its relationship to licensure. (See discussion on p. 13)
3. A statutory change is recommended which sets out mandatory continuing education requirements for this profession and any appropriate exceptions. The Board should then address the kinds of educational courses which meet the requirements. (See discussion on p. 12)
4. Consideration should be given to deleting § .420(b) concerning advertising and § .030(6), .040(7), .160(13), .380, and .480(19) concerning shopkeepers and their regulation. (See discussion on p. 10)
5. The Board should act on all matters pertaining to licensure and examination privileges as a body at a regular business meeting. Individual members should not act independently of the Board in granting or denying these privileges. (See discussion on p. 10)
6. It is recommended that the Board expand its inspection duties to encompass periodic inspections of all establishments throughout the State and that it increase the number of meetings scheduled each year when necessary for the efficient conduct of Board business. The Board will not, however, be able to accomplish this without adequate budgetary allowances. (See discussion on p. 9)
7. It is recommended that membership on the Board be restricted to one five-year term unless initially appointed to fill a vacant term or following a term of absence. (See discussion on p. 19)

## Chapter 80. Pharmacy Act.

### Article

1. The Board of Pharmacy (§§ 08.80.010—08.80.100)
2. Licensing and Registration (§§ 08.80.110—08.80.265)
3. Duties of Licensed Pharmacists (§§ 08.80.270—08.80.365)
4. Unlawful Acts (§§ 08.80.370—08.80.460)
5. General Provisions (§§ 08.80.470—08.80.490)

### Article 1. The Board of Pharmacy.

#### Section

10. Creation and membership of Board of Pharmacy
20. Term of office
30. Powers of the board
40. Duties of the board
50. Applicability of Administrative Procedure Act

#### Section

60. Meetings of the board
70. Quorum
80. Expenses of members
90. Disposition of fees
100. [Repealed]

#### **Sec. 08.80.010. Creation and membership of Board of Pharmacy.**

There is created the Board of Pharmacy, composed of seven members, five of whom shall be pharmacists licensed in the state who have been actively engaged in the practice of pharmacy in the state for a period of three years immediately preceding their appointment. Two shall be persons with no direct financial interest in the health care industry. Whenever possible, the board shall include at least one member from each judicial district. (§ 3 ch 194 SLA 1955; am § 25 ch 102 SLA 1976)

**Effect of amendment.** — The 1976 amendment, in the first sentence, substituted "seven members, five" for "five members, each," "pharmacists" for "a pharmacist," "have" for "has," and

"their" for "his." The amendment also added the present second sentence.

**Am. Jur. and C.J.S. references.**—17 Am. Jur., Drugs and Druggists, §§ 7 to 13.  
28 C.J.S. Druggists §§ 1, 2, 4.

**Sec. 08.80.020. Term of office.** Members of the board are appointed by the governor, and confirmed by the legislature in joint session, for overlapping terms of five years, or until their successors are appointed and qualified. The terms of the public members shall be staggered so that they do not expire at the same time. An appointment to fill a vacancy is for the unexpired term. The term of office begins on April 1 of each year. (§ 3 ch 194 SLA 1955; am § 26 ch 102 SLA 1976)

**Effect of amendment.** — The 1976 amendment added the present second sentence.

**Sec. 08.80.030. Powers of the board.** The board may

- (1) elect a president and secretary from its membership and adopt rules for the conduct of its business;
- (2) examine applicants for registration as pharmacists;
- (3) investigate individually, collectively, or through its agent, for violations of this chapter, or of any other state or federal statute relating to the practice of pharmacy;
- (4) adopt regulations and do whatever else is necessary and advisable to carry out the purposes of this chapter;
- (5) promulgate regulations to carry out the purposes of this chapter;
- (6) examine applicants for shopkeeper permits;
- (7) register intern pharmacists and promulgate rules relating to their minimum experience requirements;
- (8) promulgate regulations to ensure adequate security for all dangerous drugs. (§ 4 ch 194 SLA 1955; am § 1 ch 72 SLA 1969; am § 9 ch 69 SLA 1970; am § 1 ch 206 SLA 1972; am § 1 ch 187 SLA 1976)

**Effect of amendment.** — The 1976 amendment substituted “investigate individually, collectively, or through its agent, for” for “investigate, individually, collectively, all alleged” in paragraph (3).

**Legislative committee report.**—For report on ch. 69, SLA 1970 (HB 564), see 1970 House Journal Supplement No. 2, p. 7.

**Sec. 08.80.040. Duties of the board.** The board shall

- (1) examine qualified applicants for registration as pharmacists; each examination shall be graded by a member who resides in a judicial district other than the district in which the applicant resides;
- (2) grant certificates of registration;
- (3) initiate prosecution of any person violating this chapter;
- (4) report to the legislature on the condition of pharmacy in the state; the report shall include a resumé of the proceedings of the board during the year and the names of all persons registered under this chapter;
- (5) maintain a record of the name and place of business of each person registered under this chapter, together with evidence adequate to justify registration;
- (6) issue a list of potentially dangerous medicinal ingredients or preparations that may be sold only under the direct supervision of a licensed pharmacist; the failure to include an ingredient or preparation in this list does not affect any law or regulation, which prohibits or restricts the sale of the ingredient or preparation; and
- (7) issue shopkeeper permits in accordance with § 380 of this chapter. (§ 5 ch 194 SLA 1955; am § 2 ch 206 SLA 1972)

**Sec. 08.80.050. Applicability of Administrative Procedure Act.** The board shall comply with the Administrative Procedure Act (AS 44.62).

**Sec. 08.80.060. Meetings of the board.** The board shall meet at least once each year at the call of the president for the transaction of business

properly before it. The president shall also call the board into session when requested in writing by at least two members. The secretary shall give at least 30 days written notice to all members before a meeting. (§ 6 ch 194 SLA 1955)

**Sec. 08.80.070. Quorum.** Four members constitute a quorum for the transaction of business. However, when the board meets for the purpose of examining applications for registration, three members of the board constitute a quorum. (§ 6 ch 194 SLA 1955; am § 27 ch 102 SLA 1976)

**Effect of amendment.** — The 1976 amendment substituted "Four members" for "Three members" at the beginning of the section and "three members" for "two members" near the end of the section.

**Sec. 08.80.080. Expenses of members.** Members of the board are entitled to reimbursement for actual travel expenses incidental to the discharge of their duties and, while in the performance of their duties, are entitled to the per diem expenses allowed by law. (§ 7 ch 194 SLA 1955)

**Sec. 08.80.090. Disposition of fees.** The fees collected by the secretary of the board shall be deposited in the general fund of the state. (§ 21 ch 194 SLA 1955)

**Sec. 08.80.100. Board secretary as certifying officer.**  
Repealed by § 3 ch 59 SLA 1966.

## Article 2. Licensing and Registration.

Section	Section
110. Qualifications for registration	220. Prescription department required for issuance of license
115. Registration of pregraduate and postgraduate intern pharmacist	230. Sanitary conditions required for issuance of license
117. Malpractice insurance	240. Form and display of registration certificate and license
120. Grading and content of examination	250. Renewal of lapsed registration
130. Re-examination	260. Grounds for refusing or revoking a license
140. License by endorsement	265. Limits or conditions on license; discipline
150. Temporary registration	
155. Emergency permit	
160. Fees	
170—210. [Repealed]	

**Sec. 08.80.110. Qualifications for registration.** An applicant for registration as a pharmacist shall

(1) be fluent in the reading, writing and speaking of the English language;

(2) furnish the board with at least two affidavits from reputable citizens, whom he has known for at least one year, attesting to his good moral character and freedom from addiction to the use of drugs or alcoholic liquors;

(3) be a graduate of a college of pharmacy recognized by the National Association of Boards of Pharmacy;

(4) pass an examination by a board of pharmacy which board has been approved by the National Association of Boards of Pharmacy;

(5) have completed at least 1,500 hours of internship training under the direct supervision of a licensed pharmacist in a licensed pharmacy, 540 hours of which must have been completed after graduation. (§ 8 ch 194 SLA 1955; am § 1 ch 24 SLA 1968; am § 2 ch 72 SLA 1969; am §§ 3, 4 ch 206 SLA 1972; am § 16 ch 127 SLA 1974)

**Effect of amendment.** — The 1974 amendment deleted "a citizen of the United States and" following "be" in paragraph (1).

**Legislative committee report.** — For report on ch. 127, SLA 1974 (SCSHB 817 am S), see 1974 House Journal, p. 657.

Cited in *Hicklin v. Orbeck*, Sup. Ct. Op. No. 1435 (File No. 3025), 565 P.2d 159 (1977).

**C.J.S. references.** — 28 C.J.S. Druggists § 3; 53 C.J.S. Licenses §§ 32 to 34.

**Sec. 08.80.115. Registration of pregraduate and postgraduate intern pharmacist.** (a) An applicant for registration as a postgraduate intern pharmacist shall meet the requirements of § 110(1) — (3) of this chapter and pay the required fee.

(b) An applicant for registration as a pregraduate pharmacist shall meet the requirements of § 110(1) and (2) and shall be enrolled in a pharmacy school recognized by the National Association of Board of Pharmacy and shall be declared a junior by the pharmacy school. An applicant for registration as a pregraduate internship pharmacist may be on recognized vacation from the pharmacy school; however, the vacation may not exceed one quarter or one semester. The pregraduate internship pharmacist shall pay the required fee.

(c) The registration of postgraduate or pregraduate internship pharmacists is valid for one year and may be renewed upon application. (§ 5 ch 206 SLA 1972)

**Sec. 08.80.117. Malpractice insurance.** If medical malpractice insurance for pharmacists becomes unavailable on the voluntary market and the director of insurance finds, after public hearing, that the unavailability is impairing the delivery of pharmacist services to the public, the director of insurance may require all persons licensed under this chapter to carry medical malpractice insurance and to purchase their insurance from the Medical Indemnity Corporation of Alaska established under AS 21.88. If a finding of unavailability of insurance on the voluntary market and impairment of services has been made under this section, purchase of medical malpractice insurance from the Medical Indemnity Corporation of Alaska is a condition of licensure under this chapter. The provisions of this section are satisfied if the licensee's employer maintains insurance for him from the Medical Indemnity Corporation of Alaska. (§ 28 ch 102 SLA 1976)

**Sec. 08.80.120. Grading and content of examination.** To pass the state pharmacy examination each applicant must attain a general average of not less than 75 per cent and a grade of not less than 60 per cent in any one category of the National Association of Board of Pharmacy Standard Examinations for licensure or an equivalent examination given by the board. (§ 89 ch 194 SLA 1955; am § 2 ch 24 SLA 1968; am § 6 ch 206 SLA 1972; am § 1 ch 50 SLA 1974)

**Effect of amendment.** — The 1974 amendment, at the end of the section, substituted the language beginning "any one category" and ending "examination given by the board" for "each of the following subjects on the examination: jurisprudence, chemistry, mathematics,

pharmacy, pharmacology and related subjects, and in the discretion of the board, oral theory and practical pharmacy."

**Legislative committee report.** — For report on ch. 50, SLA 1974 (HB 588), see 1974 House Journal, p. 311.

**Sec. 08.80.130. Re-examination.** An applicant unsuccessful in his initial examination may take a second examination within one year without further application and upon payment of the re-examination fee. If the applicant fails to take a second examination within one year, he must submit a new application for any examination. (§ 8 ch 194 SLA 1955; am § 7 ch 206 SLA 1972)

**Sec. 08.80.140. License by endorsement.** The board may register without examination an applicant who has been certified as a registered pharmacist by the National Association of Boards of Pharmacy, if the applicant meets the requirements of § 110(1) — (4) of this chapter. (§ 8 ch 194 SLA 1955; am § 3 ch 24 SLA 1968; am § 3 ch 72 SLA 1969; am § 8 ch 206 SLA 1972)

**Sec. 08.80.150. Temporary registration.** The board shall issue a temporary license to an applicant applying for registration as a pharmacist under § 140 of this chapter upon written or oral examination before a member of the board and certification by the member to the secretary of the board that the applicant is competent to receive a temporary license. The temporary license is valid for three months, or until the next regular meeting of the board, whichever is longer. A temporary license is not renewable, but at the discretion of the issuing board member may be extended for a period not to exceed 60 days, and an applicant may not receive more than one temporary license. An applicant whose registration has been denied by the board is not eligible to receive a temporary license. (§ 9 ch 194 SLA 1955; am § 9 ch 206 SLA 1972)

**Sec. 08.80.155. Emergency permit.** (a) The board may in its discretion grant an emergency permit to a pharmacist for the purpose of providing coverage in a pharmacy which is temporarily without the services of a pharmacist due to death, illness or other emergency circumstances.

(b) A pharmacist applying under (a) of this section must submit proof that he holds a license in good standing in a state recognized by the National Association of Boards of Pharmacy, and pay the fee required under § 160 of this chapter.

(c) A permit issued under this section is valid for a period not to exceed 60 days. (§ 10 ch 206 SLA 1972)

**Sec. 08.80.160. Fees.** The following fees shall be imposed under this chapter when applicable:

(1) examination fee . . . . .	\$50
(2) re-examination fee . . . . .	15
(3) reciprocity investigation fee . . . . .	25
(4) biennial pharmacist license fee . . . . .	50
(5) temporary license fee . . . . .	10
(6) wholesale drug dealer biennial license fee . . . . .	50
(7) retail pharmacy biennial license fee . . . . .	50
(8) pharmacy intern registration fee . . . . .	10
(9) emergency permit fee . . . . .	10
(10) hospital pharmacy biennial license fee (in and out-patient) . . . . .	50
(11) hospital drug room biennial license fee (inpatient) . . . . .	25
(12) nursing home and related facilities biennial license fee for inpatient dispensing . . . . .	25
(13) shopkeepers biennial permit fee . . . . .	10
(14) license amendment or replacement fee . . . . .	2

(§ 10(a) ch 194 SLA 1955; am § 4 ch 24 SLA 1968; am § 11 ch 206 SLA 1972)

**Sec. 08.80.170. Examination fee.**

Repealed by § 7 ch 24 SLA 1968.

**Sec. 08.80.180. Temporary registration fee.**

Repealed by § 7 ch 24 SLA 1968.

**Sec. 08.80.190. Renewal fee.**

Repealed by § 7 ch 24 SLA 1968.

**Sec. 08.80.200. Wholesale dealer license fee.**

Repealed by § 7 ch 24 SLA 1968.

**Sec. 08.80.210. Retail dealer license fee.**

Repealed by § 7 ch 24 SLA 1968.

**Sec. 08.80.220. Prescription department required for issuance of license.** The board shall issue a license to operate a pharmacy only to an establishment which operates a bona fide prescription department. (§ 10 ch 194 SLA 1955)

**Sec. 08.80.230. Sanitary conditions required for issuance of license.** Failure to have proper sanitary appliances and to maintain orderly and sanitary premises are grounds for refusing a license to a pharmacy. (§ 10 ch 194 SLA 1955)

**Sec. 08.80.240. Form and display of registration certificate and license.** The registration certificate and license shall be in the form, and issued in the manner prescribed by the board. The license and certificate shall be conspicuously displayed in the premises for which issued or in which the licensee is employed. (§ 10 ch 194 SLA 1955)

**Sec. 08.80.250. Renewal of lapsed registration.** A previously licensed pharmacist who has not been registered for a period of three years or more shall take an oral examination before the board and satisfy it of his competence before the renewal of his registration. He may take a written examination if he desires. (§ 10 ch 194 SLA 1955; am § 5 ch 24 SLA 1968)

**Sec. 08.80.260. Grounds for refusing or revoking a license.** The board may refuse to issue, or may suspend or revoke a license to practice pharmacy for any of the following grounds:

(1) conviction of a felony or conviction of a misdemeanor involving moral turpitude;

(2) selling, bartering, or making available, morphine, cocaine or other narcotic to a person addicted to the use of drugs except upon prescription issued by a licensed physician;

(3) drug addiction;

(4) intemperance in the use of alcohol;

(5) violation of this chapter;

(6) conduct or habits inconsistent with professional standards;

(7) conviction of selling federal legend drugs without prescription of a licensed physician, surgeon, dentist or veterinarian;

(8) falsely stating in any license application that the applicant has not been convicted of or is not presently charged with any violation of pharmacy, liquor or narcotic laws;

(9) violation of regulations pertaining to the provision of adequate security for dangerous drugs. (§ 14 ch 194 SLA 1955; am § 6 ch 24 SLA 1968; am § 12 ch 206 SLA 1972)

Cited in *Leege v. Martin*, Sup. Ct. Op. No. 131 (File No. 256), 379 P.2d 447 (1963).

ALR and C.J.S. references. — What amounts to conviction within statute making conviction a ground for refusing or

cancelling license or special privilege, 113 ALR 1179.

28 C.J.S. Druggists §§ 2 to 5; 53 C.J.S. Licenses § 44.

**Sec. 08.80.265. Limits or conditions on license; discipline.** (a) In addition to action under § 260 of this chapter, upon a finding that by reason of demonstrated problems of competence, experience, education, or health the authority to practice pharmacy under this chapter should

be limited or conditioned or the practitioner disciplined, the board may reprimand, censure, place on probation, restrict practice by specialty, procedure or facility, require additional education or training, or revoke or suspend a license.

(b) The Administrative Procedure Act (AS 44.62) applies to any action taken by the board under this section. (§ 28 ch 102 SLA 1976)

### Article 3. Duties of Licensed Pharmacists.

Section	Section
270. Report of employee	310. Record of sales
280. Responsibility for goods sold	320. Pharmacist required
290. Affixing of label	330. Licensed pharmacist as manager
295. Substitution	340. Who may prepare prescriptions
297. Prescription prices available to consumer	350. Technical aids required
300. Record of prescriptions	360. Sale of dangerous materials
	365. Partial closure of pharmacy

**Sec. 08.80.270. Report of employee.** (a) An owner or manager of a pharmacy shall report to the board at the time the board directs, but not more often than twice each year, the names of all pharmacists employed in his pharmacy.

(b) An owner or manager of a pharmacy shall forward to the board a change of employee notice within 10 days of hiring or dismissing a pharmacist. (§ 11(a) ch 194 SLA 1955; am § 13 ch 206 SLA 1972)

**Sec. 08.80.280. Responsibility for goods sold.** An owner, or, if the owner is not a licensed pharmacist, a manager of a pharmacy, is responsible for the quality of drugs, chemicals and other medicines sold or dispensed by him, except those sold in the original packages of the manufacturer, and except those articles and preparations known as patent or proprietary medicines. (§ 11(b) ch 194 SLA 1955)

C.J.S. reference. — 28 C.J.S. Druggists  
§§ 6, 11 to 13

**Sec. 08.80.290. Affixing of label.** At the time of dispensing a prescription, there shall be affixed to the container of a prescription, a label bearing the name and address of the pharmacy compounding the prescription, the serial number of the prescription, the name and directions of the prescriber, the name of the patient, the date of dispensing, and the initials of the registered pharmacist who compounded the prescription. In addition a pharmacist shall indicate on the drug container the name and strength of the drug contained in it, unless specifically directed otherwise by the prescribing physician, osteopathic physician, dentist or veterinarian. If a drug is a mixture of pharmacologically active substances, only the name of the mixture need be indicated on the container, or in the absence of a name, the term

"physician's mixture" may be used. (§ 11(c) ch 194 SLA 1955; am § 14 ch 206 SLA 1972)

**Sec. 08.80.295. Substitution.** (a) Except as limited by (b) and (c) of this section, with the consent of the purchaser, the pharmacist may substitute a drug product with the same generic name in the same strength, quantity, dose and dosage form as the prescribed drug which is, in the pharmacist's professional opinion, therapeutically equivalent and meets the standards of (f) of this section. Upon substitution the pharmacist shall notify the purchaser and the person who prescribed the drug of the substitution and of the drug substituted.

(b) A person authorized to prescribe drugs shall specify in writing or by oral communication whether or not the pharmacist may substitute a drug under (a) of this section. Written specification may be accomplished either by (1) the physician personally initialing or checking the appropriate box on a prescription order form labeled "DISPENSE AS WRITTEN" or "SUBSTITUTION ALLOWED"; or (2) by handwriting on the prescription order. If the physician fails or neglects to give written specification, the prescription shall be dispensed as written. If the person communicating the specification does so orally, the pharmacist shall indicate that fact in handwriting on the written copy of the prescription order.

(c) Preprinted prescription order forms used by a person authorized to prescribe drugs shall contain boxes labeled "DISPENSE AS WRITTEN" and "SUBSTITUTION ALLOWED" to be checked or initialed by the person issuing the prescription.

(d) A pharmacist shall substitute a drug product under (a) of this section only when there will be a savings in cost to the purchaser.

(e) For a period of two years following September 16, 1976, every pharmacy shall post a sign in a location easily seen by patrons at the counter where prescriptions are dispensed stating that "Under Alaska law a therapeutically equivalent but less expensive drug may, in some cases, be substituted for the drug prescribed by your doctor. Please consult your pharmacist or physician." The printing on the sign shall be in block letters not less than one inch in height.

(f) If a person authorized to prescribe drugs is temporarily unavailable, the pharmacist may, if he cannot supply the drug requested, substitute a drug or preparation of approximately equal therapeutic value so long as he notifies the author of the prescription at an early opportunity. The pharmacist in all cases of substitution, except when specifically indicated to the contrary by the prescriber, shall relate the nature of the change to the purchaser.

(g) A pharmacist may not substitute a product under the provisions of this section unless it has been manufactured with the following minimum good manufacturing standards and practices:

(1) maintain quality control standards equal to those of the Food and Drug Administration;

(2) comply with regulations promulgated by the Food and Drug Administration;

(3) mark products with identification code or monogram;

(4) label products with expiration date;

(5) provide reasonable services to accept returned goods that have reached their expiration date;

(6) maintain 24-hour resources for product information where practicable and financially feasible;

(7) maintain recall capabilities for unsafe or defective drugs;

(8) shall not refuse to sell to any properly licensed pharmacy.

(h) As used in this section, unless the context requires otherwise,

(1) "brand name" means the proprietary or trade name selected by the manufacturer and placed upon a drug, its container, label or wrapping at the time of packaging;

(2) "generic name" means the official title of a drug or drug ingredients published in the latest edition of a nationally recognized pharmacopoeia or formulary;

(3) "substitute" means to dispense without prescriber's express authorization a different drug product in place of the drug ordered or prescribed;

(4) "therapeutically equivalent" means drugs that will provide essentially the same efficacy and toxicity when administered to an individual in the same dosage regimen. (§ 15 ch 206 SLA 1972; am § 2 ch 187 SLA 1976)

**Effect of amendment.** — The 1976 amendment rewrote this section.

**Sec. 08.80.297. Prescription prices available to consumer.** A pharmacist shall disclose the price of filling any prescription when requested by the consumer. (§ 3 ch 187 SLA 1976)

**Sec. 08.80.300. Record of prescriptions.** Each pharmacy shall maintain a record of every prescription compounded or dispensed. The record shall be kept for a period of not less than five years, and shall be open at all times to inspection by the board, its members, agents or employees, and by the medical doctor who issued the prescription. (§ 11(d) ch 194 SLA 1955)

**C.J.S. reference.** — 28 C.J.S. Druggists §§ 6, 9, 10.

**Sec. 08.80.310. Record of sales.** (a) The owner, or, if the owner is not a licensed pharmacist, the manager, of every drug store, shall maintain in his place of business a record in which sales of the following items shall be entered: the compounds and salts of arsenic and mercury (calomel excepted); caustic hydrates of sodium and potassium; the concentrated mineral acids; hydrocyanic acids and their salts; yellow

phosphorous; the essential oils of pennyroyal, tansy and savine; croton oil, aconite; carbolic acid; and the poisonous alkaloids or alkaloidal salts.

(b) The record shall state the quantity and date of purchase, the purpose for which it is to be used, and the name and address of the buyer. The record shall be available during hours of business and subject to inspection by the attorney general, a federal, state or municipal peace officer, acting within his area of jurisdiction, and an authorized agent of the board. A record of each sale shall be retained for a period of five years from the date of the sale. (§ 11(e) ch 194 SLA 1955; am § 16 ch 206 SLA 1972)

**Sec. 08.80.320. Pharmacist required.** (a) A pharmacy shall have a pharmacist, licensed and registered under this chapter, on duty during the hours that the pharmacy is open for business.

(b) In communities which have one licensed pharmacy, the owner of the pharmacy shall have a pharmacist, licensed and registered under this chapter, on duty, or on call, at all times that the pharmacy is open for business. (§ 11(f) (i) ch 194 SLA 1955; am § 17 ch 206 SLA 1972)

ALR and C.J.S. references. — chemical store, without registered  
Construction of statutes in relation to pharmacist, 74 ALR 1084.  
operation of drugstore, pharmacy or 28 C.J.S. Druggists § 6.

**Sec. 08.80.330. Licensed pharmacist as manager.** (a) If the owner of a pharmacy is not a licensed pharmacist, he shall place a licensed pharmacist, designated the manager, in full charge and control of the pharmacy. The manager shall insure compliance with all laws, rules and regulations governing the operation of the pharmacy. The licensed pharmacist shall immediately advise the board of his appointment as manager.

(b) No license may be issued to a pharmacy unless there is a licensed registered pharmacist in charge whose name appears on the face of the license. (§ 11(g) ch 194 SLA 1955; am § 18 ch 206 SLA 1972)

**Sec. 08.80.340. Who may prepare prescriptions.** No person except a licensed pharmacist or a licensed intern pharmacist under the direct supervision of a licensed pharmacist may compound and dispense the prescription of a physician. However, this section does not limit the authority of a licensed medical doctor to compound and dispense medicinal preparations. (§ 11(h) ch 194 SLA 1955; am § 19 ch 206 SLA 1972)

**Sec. 08.80.350. Technical aids required.** Each licensed pharmacy shall have on the premises a copy of the most recent revision of the "United States Dispensatory" or "Remington's Practice of Pharmacy" or both the "National Formulary" and the "United States Pharmacopoeia." In addition, each pharmacy shall have sufficient technical equipment to properly compound prescriptions and

pharmaceutical preparations. No license may be issued until the requirements of this section are met. (§ 11(j) ch 194 SLA 1955; am § 20 ch 206 SLA 1972)

**Sec. 08.80.360. Sale of dangerous materials.** Drugs or medical supplies which contain poisonous, potent, habit-forming or deleterious ingredients shall be dispensed only by a licensed pharmacist. At the time of the sale, the pharmacist shall make the nature of the drug or medical preparation known to the purchaser. (§ 11(k) ch 194 SLA 1955)

**C.J.S. reference.** — 28 C.J.S. Druggists  
§§ 6, 8 to 13.

**Sec. 08.80.365. Partial closure of pharmacy.** A pharmacy or pharmacy drug department which is open for business at times different than the remainder of the store or building in which the pharmacy is located shall

(1) be accessible to the remainder of the store or building only through an entrance which is capable of being locked;

(2) be advertised by the methods described in §§ 420 and 430 of this chapter only if the signs or symbols are attached or located within the portions of the store or building where the pharmacy is located;

(3) be locked during nonbusiness hours; and

(4) have all keys to the pharmacy or drug department in the possession of a pharmacist, licensed and registered under this chapter. (§ 21 ch 206 SLA 1972)

#### Article 4. Unlawful Acts.

Section	Section
370. Vending machine sales prohibited	420. Certain advertising prohibited
380. Issuance of shopkeepers permits	430. Use of pharmacy symbols prohibited
390. Pharmacists required in hospitals and clinics	440. Denial of examination or license
400. Practice of medicine not affected	450. Disciplinary action
410. Use of term "pharmacist" prohibited	460. Violation

**Sec. 08.80.370. Vending machine sales prohibited.** No mechanical device or vending machine wherever located, may be used to dispense a drug, medicine or preparation containing poison. (§ 12 ch 194 SLA 1955)

**C.J.S. reference.** — 28 C.J.S. Druggists  
§§ 6, 11 to 13.

**Sec. 08.80.380. Issuance of shopkeepers permits.** The board shall, upon proper application and payment of the required fee, issue a shopkeepers permit to sell substances or preparations not of a poisonous nature, in the original unbroken packages only. These remedies shall be

sold under restrictions and regulations as the board may adopt. The board may include in shopkeeper permits permission to sell other remedies not prohibited by law. (§ 12 ch 194 SLA 1955; am § 22 ch 206 SLA 1972)

**Sec. 08.80.390. Pharmacists required in hospitals and clinics.** (a) A hospital, clinic, nursing home, infirmary or related facility which dispenses drugs for outpatient treatment shall have a licensed pharmacist in charge of the dispensary, except that prescriptions may be compounded and dispensed by or under the supervision of the prescribing physician.

(b) The board shall issue a license to a hospital drug room, nursing home drug room or related facility which dispenses drugs from bulk supply for inpatient treatment, providing the facility employs a licensed pharmacist on a continual or consultant basis. (§ 12 ch 194 SLA 1955; am § 23 ch 206 SLA 1972)

**Sec. 08.80.400. Practice of medicine not affected.** This chapter does not affect the practice of medicine by a licensed medical doctor, and does not limit him in supplying a patient with any medicinal preparation or article which he considers proper. (§ 12 ch 194 SLA 1955)

**Sec. 08.80.410. Use of term "pharmacist" prohibited.** It is unlawful for a person to assume or use the title "pharmacist," or any variation of the title, or to hold himself out to be a pharmacist, without being registered. (§ 13(a) ch 194 SLA 1955)

**Sec. 08.80.420. Certain advertising prohibited.** (a) It is unlawful for a person to use or exhibit the title "pharmacist," "assistant pharmacist," or "druggist," or the descriptive term "pharmacy," "drug store," "drug sundries," or other similar title or term containing the word "drug," in any business premises, or in an advertisement through the media of press, or publication, or by radio or television, unless the business has a licensed pharmacist in regular and continuous employment.

(b) A person may not advertise in any manner, prices, percentiles of prices or discounts for drugs requiring a prescription. (§ 13(b) ch 194 SLA 1955; am § 24 ch 206 SLA 1972)

**Sec. 08.80.430. Use of pharmacy symbols prohibited.** It is unlawful for a person to display in a place of business the characteristic pharmacy symbol of bottles, or globes, which are colored or contain colored liquids unless the business has a pharmacist licensed and registered under this chapter on duty under § 320 of this chapter. (§ 13(c) ch 194 SLA 1955; am § 25 ch 206 SLA 1972)

**Sec. 08.80.440. Denial of examination or license.** The board may deny an applicant the opportunity to be examined, may deny a license to an applicant who has successfully completed the prescribed examination, or may deny a license to an applicant for registration by

reciprocity, or institute proceedings to suspend, revoke or otherwise terminate a registration, but only upon the basis of a specific complaint. Complaints shall be in the form of an affidavit and shall be filed in duplicate with the secretary of the board. (§ 15 ch 194 SLA 1955)

**Sec. 08.80.450. Disciplinary action.** The board may consider a complaint based upon the alleged violation of any provision of this chapter, and may by a majority vote of a quorum dismiss the complaint, reprimand a licensee, or take other punitive action as the nature of the facts warrant. Orders issued by the board shall be in writing, signed by a majority and filed with the secretary of the board. The accused shall receive an authenticated copy of the order. (§ 17 ch 194 SLA 1955)

**Sec. 08.80.460. Violation.** (a) A person who violates a provision of this chapter for which no punishment is provided is guilty of a misdemeanor and is punishable by a fine not to exceed \$1,000, or by imprisonment for a period not to exceed three months or by both.

(b) A person who violates the provisions of § 295 of this chapter is punishable by a civil fine in an amount established by the board in a schedule or schedules establishing the amount of civil fine for a particular violation. The schedule or schedules shall be adopted by the board by regulation. Any civil fine imposed under this section may be appealed in the manner provided for appeals in the Administrative Procedure Act (AS 44.62). (§ 19 ch 194 SLA 1955; am § 26 ch 206 SLA 1972; am § 4 ch 187 SLA 1976)

**Effect of amendment.** — The 1976 amendment added subsection (b).

**C.J.S. references.** — 28 C.J.S. Druggists §§ 6, 11 to 13; 53 C.J.S. Licenses §§ 56 to 71.

## Article 5. General Provisions.

Section	Section
470. Construction	480. Definitions
475. Exception	490. Short title

**Sec. 08.80.470. Construction.** Nothing in this chapter amends, modifies, repeals or otherwise changes any provision of the Uniform Narcotic Drug Act (AS 17.10) or the Alaska Food, Drug and Cosmetic Act (AS 17.20). (§ 20 ch 194 SLA 1955)

**Sec. 08.80.475. Exception.** This chapter does not apply to the safe storage, preservation, dispensing, or control of drugs in any federally operated hospital or institution. (§ 1 ch 49 SLA 1974)

**Legislative committee report.** — For report on ch. 49, SLA 1974 (HB 589), see 1974 House Journal, p. 312.

**Sec. 08.80.480. Definitions.** As used in this chapter, unless the context otherwise requires,

(1) "board" means the Board of Pharmacy;

(2) "drug" or "drugs" means drugs or medical supplies which contain poisonous, potent, habit-forming or deleterious ingredients, or medicines containing ingredients which may be considered dangerous or harmful if taken in overdose;

(3) "medical supplies" means items for the cure or treatment of disease or injury which do not require prescription by a physician and which do not contain poisonous, potent, habit-forming or deleterious ingredients, or an ingredient which may be considered dangerous or harmful if taken in overdose;

(4) "owner" means the owner of a place of business for wholesaling, retailing, compounding or dispensing drugs, medicines or poisons;

(5) "pharmacy" includes "drug store" and "pharmacy or drug department" and means a place of business in which physicians' prescriptions are compounded or dispensed and in which drugs and medicines are compounded or dispensed;

(6) Repealed by § 11 ch 53 SLA 1973.

(7) "recognized college of pharmacy" means a college, school or department of pharmacy whose entrance requirements and courses of study are approved by the National Association of Boards of Pharmacy;

(8) "manager" means a licensed pharmacist in charge of a pharmacy or drug store, or of a pharmacy or drug department, where the owner is not a licensed pharmacist;

(9) "retail" means sale to the ultimate user;

(10) "retail pharmacist" means a person who sells to the ultimate user;

(11) "sell" means to possess in violation of the intent of this chapter, exchange, barter, give away or otherwise dispose of;

(12) "wholesale" means sale by a manufacturer, wholesale dealer, distributor, or jobber to a person who sells, or intends to sell, directly to the user;

(13) "wholesale drug dealer" means a manufacturer, wholesale dealer, distributor or jobber;

(14) "bulk supply" means drugs in original containers not labeled as required by § 290 of this chapter;

(15) "drug room" means an area provided only for the proper and safe storage, preservation and control of bulk supply drugs and which is under the responsibility of a continuously employed or consultant pharmacist;

(16) "hospital pharmacy" means and includes a pharmacy, licensed by the board, located within any hospital, institution or establishment which maintains and operates organized facilities for the diagnosis, care and treatment of human illness and provides for the obtaining, storage and

dispensing of drugs to both inpatients and outpatients and which is under the responsibility of a staff pharmacist;

(17) "outpatient dispensing" means dispensing drugs for administration outside of the hospital pharmacy's control;

(18) "prescription department" means that section of a business in which prescriptions for medications are compounded, filled and dispensed by a licensed pharmacist;

(19) "shopkeeper" means a retail dealer who sells over the counter medicinal preparations in original unbroken packaging which do not require a prescription for dispensing. (§ 2 ch 194 SLA 1955; am §§ 27 — 29 ch 206 SLA 1972; am § 11 ch 53 SLA 1973)

**Effect of amendment.** — The 1973 amendment repealed paragraph (6).

**Legislative committee report.** — For report on ch. 53, SLA 1973 (CSHB 382), see 1973 House Journal, pp. 793, 885.

**Sec. 08.80.490. Short title.** This chapter may be known as the Pharmacy Act. (§ 1 ch 194 SLA 1955)

**CHAPTER 52.  
BOARD OF PHARMACY**

**Article**

1. Internship
2. Hospital Pharmacies
3. General Provisions

**ARTICLE 1.  
INTERNSHIP**

**Section**

10. Record of experience of pregraduate and postgraduate pharmacy intern
20. Training requirements for pharmacy intern
30. Intern experience in a hospital
40. Internship in government-operated institutions

**12 AAC 52.010. RECORD OF EXPERIENCE OF PREGRADUATE AND POSTGRADUATE PHARMACY INTERN.** A pharmacy intern shall submit a record of his intern experience every three months on a form provided by the board. The form must be certified by a pharmacist, licensed and registered under AS 08.80.110, who supervises the pharmacy intern's work. (Eff. 4/11/76, Reg. 58)

Authority: AS 08.80.030(4),(5) and (7)

**12 AAC 52.020. TRAINING REQUIREMENTS FOR PHARMACY INTERN.** (a) A pharmacy intern shall

(1) write one comprehensive outline for each 40 hours of employment, of at least 300 words about a pharmaceutical preparation, drug or specialty in the notebook required under (b) of this section until he has accumulated 500 hours of internship; pharmacy interns with 500 or more hours of internship need not comply with this requirement;

(2) record the prescriptions or chart orders filled in the notebook required under (b) of this section and personally fill at least at the rate of 100 prescriptions per 40 hours worked after completion of 1,000 hours of internship;

(3) observe the dispensing and recording of sales of controlled substances as those substances are defined by federal and state laws and regulations;

(4) study the method of controlled substance inventory in compliance with federal and state laws and regulations; and

(5) make out official order forms, except for signature, for the purpose of controlled substances.

(b) A pharmacy intern must record in a suitable notebook the experience he has gained to show he has met the training requirements outlined in (a) of this section. The notebooks will be reviewed and considered by the board in determining whether or not a pharmacy intern has met the training requirements in (a) of this section. (Eff. 4/11/76, Reg. 58)

Authority: AS 08.80.030(4),(5) and (7)

**12 AAC 52.030. INTERN EXPERIENCE IN A HOSPITAL.** Pharmacy intern experience in a hospital must be obtained in a hospital pharmacy licensed as an inpatient and outpatient hospital pharmacy as defined in AS 08.80.480(16). (Eff. 4/11/76, Reg. 58)

Authority: AS 08.80.030(4),(5) and (7)

**12 AAC 52.040. INTERNSHIP IN GOVERNMENT-OPERATED INSTITUTIONS.** The completion of an internship served in a pharmacy not licensed by the board but operated in an institution established by the state will be sufficient to meet the requirements set out in AS 08.80.110(5) if the following conditions are met:

(1) the applicant has served his internship under the supervision of a pharmacist licensed by the state; and

(2) supervising pharmacist certifies that the pharmacy in which the internship was completed meets all of the requirements set out by federal law and regulation, the Alaska Statutes, and this chapter. (Eff. 4/11/76, Reg. 58)

Authority: AS 08.80.030(4) and (5)  
AS 08.80.110(5)

**ARTICLE 2.  
HOSPITAL PHARMACIES**

**Section**

100. Preparation of list of noncontrolled legend drugs

- 110. Prepackaging noncontrolled legend drugs
- 120. Labeling prepackaged noncontrolled legend drugs
- 130. Supervision of prescribing physician; procedure for delivery to patient of prepackaged, noncontrolled legend drugs
- 140. Pharmacist in charge of hospital pharmacy

**12 AAC 52.100. PREPARATION OF LIST OF NONCONTROLLED LEGEND DRUGS.** The licensed pharmacist or licensed consultant pharmacist in charge of a hospital pharmacy or drug room, in consultation with the hospital's medical staff, shall prepare a list of noncontrolled legend drugs which may be delivered to outpatients receiving emergency treatment when a licensed pharmacist is not on duty and the prescribing physician is not present. (Eff. 12/17/76, Reg. 60)

Authority: AS 08.80.030(4) and (8)  
AS 08.80.390

**12 AAC 52.110. PREPACKAGING NON-CONTROLLED LEGEND DRUGS.** Licensed pharmacists may prepackage noncontrolled legend drugs identified on the list prepared under sec. 100 of this chapter. There shall be no more than six doses of the drug in each prepackaged container. (Eff. 12/17/76, Reg. 60)

Authority: AS 08.80.030(4) and (8)  
AS 08.80.390

**12 AAC 52.120. LABELING PREPACKAGED NONCONTROLLED LEGEND DRUGS.**

(a) Drugs prepackaged under sec. 110 of this chapter must be labeled by the pharmacist at the time of packaging.

(b) The prescription label or unit dose package label must contain

(1) a blank space for the name of the patient;

(2) a blank space for the name of the prescribing physician;

(3) the name of the drug;

(4) the strength of the drug;

(5) the expiration date of the drug, if applicable;

- (6) the lot number of the drug;
- (7) the date of prepackaging;
- (8) a blank space for the date of delivery to patient;
- (9) a prescription number;
- (10) initials of the pharmacist who prepackaged the drug;
- (11) the name and address of the hospital;
- (12) directions to the patient or, if not predetermined, a blank space for special instructions of the prescribing physician; and

(13) a blank space for the name or initials of the person delivering the drug. (Eff. 12/17/76, Reg. 60)

Authority: AS 08.80.030(4) and (8)  
AS 08.80.390

**12 AAC 52.130. SUPERVISION OF PRESCRIBING PHYSICIAN; PROCEDURE FOR DELIVERY TO PATIENT OF PREPACKAGED, NONCONTROLLED LEGEND DRUGS.** (a) If a licensed pharmacist is not on duty, emergency room personnel may deliver noncontrolled legend drugs, prepackaged in accordance with secs. 100-120 of this chapter, to a person receiving emergency outpatient treatment on receiving on order from a licensed physician. The physician's order may be by written or telephonic communication. No more than one prepackaged container of the same drug may be delivered to a person receiving emergency outpatient treatment, unless more than one package is required to sustain the patient until the first available pharmacist is on duty in the community.

(b) When delivering drugs under this section, the person doing so shall

(1) complete the label affixed to the container with all required information except that the name and strength of the drug may be deleted on order of the prescribing physician; and

(2) prepare a record of delivery which includes all of the information listed in sec. 120 of this chapter.

(c) The record prepared under (b)(2) of this section shall be given to the pharmacist in charge of the hospital pharmacy at the beginning of the pharmacist's next duty day.

(d) This section does not authorize other than emergency room personnel on a hospital's staff to deliver noncontrolled legend drugs to outpatients receiving emergency treatment.

(e) This section does not authorize the delivering of controlled legend drugs by any person not authorized by law to dispense controlled legend drugs. (Eff. 12/17/76, Reg. 60)

Authority: AS 08.80.030(4) and (8)  
AS 08.80.390

**12 AAC 52.140. PHARMACIST IN CHARGE OF HOSPITAL PHARMACY.** (a) The pharmacist in charge of the hospital pharmacy shall within a reasonable time record all drugs delivered to outpatients under sec. 130 of this chapter in the pharmacy record book maintained for the recording of all medication delivered from the emergency room under this chapter.

(b) The entry made under (a) of this section must include logging the prescription number and all information required by the record of delivery prepared under sec. 130(b)(2) of this chapter and must be shown as a completed prescription.

(c) The pharmacist in charge of the hospital pharmacy shall determine what constitutes an adequate supply of prepackaged, noncontrolled legend drugs for use under the provisions of this article. (Eff. 12/17/76, Reg. 60)

Authority: AS 08.80.030(4) and (8)  
AS 08.80.390

### ARTICLE 3. GENERAL PROVISIONS

#### Section 900. Definitions

**12 AAC 52.900. DEFINITIONS.** In this chapter unless the context otherwise requires

(1) "board" means the Board of Pharmacy;

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

(3) "completed prescription" means the prescribed drug has been delivered to the patient, on a physician's order, that blank spaces on the label have been filled in, and a record of doing so has been given to the pharmacist so he may file the prescription as required by law;

(4) "deliver to patient" means completing the blank spaces on the label of the prepackaged drug and actually handing the package to the patient, or the patient's representative;

(5) "dose" means the amount of medication that is to be given at one specific time, as determined by the physician;

(6) "emergency room personnel" means those employees of a hospital who are designated by the administrator of the hospital, or by the personnel committee of the hospital, to be employed in the emergency room of the hospital for the purpose of administering emergency treatment to patients;

(7) "noncontrolled legend drug" means any drug that bears on the label the legend, "TO BE DISPENSED ONLY ON OR BY THE PRESCRIPTION OF A PHYSICIAN," but not drugs that have been classified as "CONTROLLED SUBSTANCES" under the Federal Controlled Substances Act of 1970 (21 USC Section 801 et seq.);

(8) "pharmacy record book" means a book kept for the sole purpose of logging all information pertinent to the delivery of noncontrolled legend drugs under secs. 100-140 of this chapter;

(9) "physician's order" means an order given to the emergency room personnel by a physician licensed to practice in Alaska or recognized by the hospital as a physician who may practice medicine in the hospital;

(10) "prepackage" means placing in a container that meets federal and state qualifications as a legal container, not more than six doses of a noncontrolled legend drug and affixing a label to the container that includes all of the information required under sec. 120 of this chapter;

(11) "present" means physically present in the emergency room of the hospital with the patient. (Eff. 12/17/76, Reg. 60)

Authority: AS 08.80.030(4)  
AS 08.80.390

IX

STATE OF ALASKA  
Board of Nursing Home Administrators  
(October, 1978)

Findings

Legislation creating the Board of Nursing Home Administrators was enacted in 1975 in response to federal legislation mandating that eligibility for Medicaid and/or Medicare funds be contingent on State licensure of the institutional administrator. There are currently 28 licensed practitioners in the State, excluding hospital administrators, and administrators of government or military facilities who are exempt. Also exempt are administrators of the Alaska Pioneers' Homes although some hold licenses.

No evidence has been shown which would indicate that licensing of this profession by a State board is in the best interests of the public. In view of the initial reason for creation of the Board, the nature of the profession and the absence of evidence reflecting general public protection, it is advocated that the Board of Nursing Home Administrators be allowed to terminate and that the administrative agency assume responsibility for examining and licensing applicants.

Should reestablishment of the Board be determined to be in the public interest, recommendations are made throughout this report the implementation of which is felt to be desirable in its continued operation.

I. General Information

A. Regulated Parties

1. Nursing Home Administrators

B. Statutory Definition of Regulated Parties

"(6) 'nursing home administrator' means a person who manages, supervises, or is in general charge of a nursing home, even though the duties are shared with another person; a member of a board of directors of a nursing home is an administrator only if he also serves in the administrative capacity defined in this paragraph." (AS 08.70.180)

C. Nature and Composition of Board

1. Board members and terms:

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

Jane Hanna, RN (Chairman)	ends October 1, 1980
Roberly R. Potter, (Admin.)	ends October 1, 1979
Donna M. Stephens (Admin.)	ends October 1, 1980
Sister Patrick Mary	ends October 1, 1978
Unappointed public member	

2. Representation:

Profession = 3  
Public = 1 (2 provided)

3. Qualifications:

"The board consists of five members: two nursing home administrators licensed under this chapter and practicing in the state, a registered nurse licensed in the state, and two persons from the general public." (AS 08.70.020(a))

D. Licensing Data

Currently Licensed

in-State	24
out-of-State	<u>5</u>
Total	29

E. Fees

1) examination	\$25.00
2) investigation	25.00
3) annual license	50.00

F. Board Revenues and Expenditures

	FY '75*	FY '76	FY '77	FY '78
Receipts	-	\$1,100.00	\$2,000.00	\$1,875.00
-refunds				45.00
Total	-	1,100.00	2,000.00	1,830.00
Expenditures				
Per Diem	-	366.00	534.50	397.50
Transportation	-	383.42	241.94	489.65
Phone	-	25.60	12.79	14.80
Printing,				
Advertising				
& Postage	-	537.89	898.61	241.71
Fees & Services	-	630.00	610.00	490.00
Rents, Leases,				
Other	-	-	192.00	70.00
Total	-	\$1,942.91	\$2,489.84	\$1,703.66
Surplus	-	-	-	126.34
Deficit	-	842.91	489.84	-

\* Created in 1975

(EXCLUDING DIVISION OF OCCUPATIONAL LICENSING ADMINISTRATIVE OVERHEAD)

G. Complaints

	Received	Closed	To Litigation
1975	0	0	0
1976	0	0	0
1977	0	0	0
1978	1	0	0
(through June)			

Pending: 1

The sole complaint received and still pending consists of a protest over termination and allegations of nursing malpractice between a nurse and a nursing home administrator. None were received by the Office of the Ombudsman and none were received from the public.

H. Qualifications

No specific training for this profession is provided or generally required by all states. Requirements usually take the form of college coursework with emphasis on business or health administration, or on administrative experience.

## II. Criteria and Analysis

- A. To what extent has the Board of Nursing Home Administrators operated in the public interest?

The operation of the Board and licensing of administrators by the Board has not been shown to protect the public interests. Whether or not an administrator is licensed has no effect per se on the direct health and welfare of consumers. Rather, other facility personnel are responsible for the health and well being of its users while the administrator "manages, supervises, or is in general charge..." It undoubtedly is desirable to employ persons with health care and administrative knowledge. It is also likely that employers will hire those persons with the most desirable qualifications.

A review of agency and license files indicates a number of inconsistencies in the operation of the Board. Should it be continued, steps need to be taken to insure consistent application of Board statutes, regulations and policies.

There are numerous instances of material missing from files that routinely is required in the application and licensing process. Missing documents include character references, renewal applications and information, certification of continuing education compliance, education transcripts, examination materials and results, and approval (or denial) of the Board regarding licensure and/or relicensure. Only 14 of 25 administrators licensed for 1978 were formally approved for relicensure by the Board at its regular meeting, three without documentation of continuing education. Several files were found of qualified applicants who successfully completed examination but who are not licensed. There is no evidence to indicate that these licenses were approved or issued, or lapsed, or that the applicant subsequently refused or was refused licensure.

A National Association of Board of Nursing Home Administrations, Inc. examination is utilized as allowed by AS 08.70.050(2), 110(1), 120 and 12 AAC 46.010-030. Examinations are generally given twice each year, are proctored by the administrative agency, and may be scheduled in separate locations for convenience of applicants. Grading is done by the national board and an average of 75% is the minimum passing score set by the Alaska Board. Applicant records reveal that applicants have, on occasion, been approved for and passed the examination prior to completion of the application file. This practice should be discontinued and applicants approved for examination only after the necessary materials have been received by the administrative agency.

Although much documentation is absent, the Board has apparently licensed only by examination and never by endorsement as authorized by .110(3). A request for a reciprocity agreement from another state was denied because "provisions in the law only address licensure by examination or endorsement." Availability of practitioners is one measure of public service. However, in this instance, availability of practitioners depends on job openings and there is a limited market for this service within the State.

Board regulations stipulate that prior to January 1, 1978, applicants must have one year of administrative experience. From that date and through December 31, 1979, applicants must have an associate degree in administration from an accredited college. None of the five persons licensed through June of 1978 met this qualification. Subsequent to December 31, 1979, applicants will be required by Board regulation to have a baccalaureate degree in health care administration or a degree in business administration and one year of experience in a health care facility. This requirement appears to be overly restrictive considering the functions of an administrator and, again, the right of an employer to hire a person he deems qualified.

Annual relicensure and continuing competency documentation are required by statute. These requirements on an annual basis are considered to be excessive. It is recommended that relicensure be established on a biennial basis and that continuing competency requirements be deleted from the statutes. Documentation of education compliance is absent from files in many cases. Acceptable courses are supposed to be approved by the Board on an individual course basis prior to licensee participation. There is little evidence that this has been done. Lengthy Board regulations outline responsibilities of the "educational arm" and activities which are not acceptable for compliance with renewal requirements. However, there is no specific list of courses or particular criteria to guide the applicant in selecting suitable activities which will be acceptable. Some licensees have discovered too late that they and the Board have disagreed on what is acceptable with the result that renewals are refused.

In the absence of public protection evidence, restrictive applicant qualifications and mandatory continuing competency requirements are determined to be superfluous. Considering the primary reason for licensure, eligibility for federal health care funds, examination and licensure by the administrative agency would be adequate to serve that purpose. It is noted, as previously, that examinations are nationally formulated and graded, are written in nature and are already being proctored by the administrative agency. Standard reasonable qualifications, such as a two-year degree, a nursing degree, or administrative experience, may be established to guide the agency in examining and licensing appropriately.

If the Board of Nursing Home Administrators is to be reestablished, every effort should be made to insure that the public has representation. This Board has never had the two public members which were authorized by the Legislature at its creation. Public interests are not served by inadequate participation in professional board activities.

Because of recent concern regarding the need for occupational licensing, the questions raised concerning public welfare versus professional interests and concern regarding proliferation of regulated and licensed groups, appointment of knowledgeable lay members is a widely advocated step. "There has been a growing movement to place public members on regulatory boards to ensure that there will be input from groups other than those representing the regulated occupation."<sup>1</sup> Shimberg and Roederer further indicate that, "... if impact is the major criterion, one public member is probably too few, two would be the minimum, and three or four would increase the likelihood that the impact of public members would be felt, particularly if the board had from seven to ten members."

Fees allowed by statute should be reviewed and established within realistic bounds. It is suggested that an investigation fee may be inappropriate particularly in view of the fact that endorsement is not utilized. National examination costs are \$20 each without administration expenses. A separate fee for provisional licensure should be considered.

The statutorily required annual report on goals and activities of the Board and profession has not been submitted.

There is no evidence of compliance with 12 AAC 46.020(d) which requires a written statement of need from the prospective employer of an applicant for a provisional license. There also is no evidence of compliance with 12 AAC 070(1) requiring a sworn statement of "good moral character" as a condition of license renewal. 12 AAC 46.030(d) requiring a new application if a candidate fails to pass the examination within two years of initial application has not been complied with in at least one instance.

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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, p. 9.

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

Existing statutes, regulations and policies of the Board are more than adequate to accomplish the primary reason for licensing members of this profession. Operation of the Board has not been impeded with the exception of annual renewal and annual continuing education requirements which are felt to serve little purpose. Efficient operation in compliance with statutes and regulations has been impeded by the Board itself through inconsistent and restrictive policies as previously cited.

The Board of Nursing Home Administrators has experienced little difficulty in its administrative operations with respect to personnel or budgetary restrictions. Support staff is provided by the Division of Occupational Licensing and is presently adequate to serve Board needs. All fees and revenues 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 for budgetary purposes. It is recommended, however, that the present fee structure be reviewed.

Improved procedures are being developed within the administrative agency pertaining to organization of records, forms and examination information which will better enable the Board to perform its functions.

Only one complaint has been received by the administrative agency concerning this profession. This complaint, received in 1978, concerned an administrator and a nurse and is still pending. It is primarily due to the fact that no other complaints were received that this Board has encountered no difficulty with follow through by the administrative agency as have other boards. During the past year two investigator

positions remained unfilled. As a result, one of these positions was abolished by the Legislature. One position was recently filled in Anchorage. Moreover, 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. The administrative agency will continue to address the need for initial assessment and subsequent appropriate action with emphasis on magnitude of offense as it relates to matters of public safety and concern.

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

It must be remembered that statutes concerning this Board have only been in effect since July 1, 1975. Changes since that time have been minor "housekeeping" amendments.

The Board itself has recommended no statutory changes whether of public benefit or otherwise.

D. To what extent has the Board of Nursing Home Administrators 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?

Very little public interest in the activities of the Board has been shown in the form of attendance at Board meetings, hearings, or as written input. Interest has been from members of this or a related profession. Notices of pending meetings and new or changing regulations

are published in major newspapers in the State. Public interest and participation regarding the Board has been at least partially restricted by the absence since the creation of the Board of one public member.

The Board has not taken any overt action to solicit general public response to its quality and availability of service. Positive steps could be taken to solicit interest and make the public aware of the existence and functions of the Board, such as public service radio announcements. Wider dissemination of general information regarding the Board may partially mitigate public disinterest. Because regulation does not serve to protect the public, concern regarding public interest or disinterest may be considered irrelevant.

E. How efficiently are public inquiries or complaints regarding the activities of the Board of Nursing Home Administrators processed and resolved?

No complaints were received which were directed at the Board or its individual members. Only one has been received concerning a licentiate and is still pending.

F. To what extent does the Board of Nursing Home Administrators present qualified applicants to serve the public?

Inconsistencies in application of licensing and renewal requirements which do not function to serve public or licensee interests have been enumerated elsewhere in this report. Pending regulatory qualifications which will mandate that applicants have a baccalaureate degree in business administration and one year of administrative experience in a health care facility are unduly restrictive qualifications which would eventually result in licensure of a small elite interest group from which an employer would be forced to choose regardless of any other considerations. "Qualified" applicants in this profession do not serve the public directly but instead supervise the facility and personnel that do.

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

Board staff consists of the support services of a licensing examiner employed by the Division of Occupational Licensing (responsible for four other boards) who is hired through the State Personnel System and, therefore, subject to affirmative action requirements.

The Board of Nursing Home Administrators issues licenses on the basis of education and performance criteria. Affirmative action requirements are not applicable to licensure qualifications.

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

If the Board is determined to function in the best interests of the public, some statutory changes would be desirable. Continuing education requirements should be deleted from the statutes. Renewal of licenses should be on a biennial basis rather than annually. Fees charged should be reviewed with consideration given to raising the examination fee, deleting the investigation fee, and including a fee for provisional licensure.

The Board should review the future licensure qualifications it has established by regulations and consider qualifications which are realistic and allow reasonable licensure. The Board should consistently and equally apply statutes and its own regulations in licensing and relicensing.

Board and administrative expenses outweigh the revenues collected through regulation of nursing home administrators. Fees collected are simply not adequate to cover transportation and per diem for meetings and examinations and the costs of Division of Occupational Licensing administrative overhead, such as staff salary and examination expenses. Additionally, the need for protecting the public from financial and/or physical harm has not been demonstrated nor is the expense of regulation justified by this criteria.

### III. Conclusion

Licensure of nursing home administrators is required as a condition of eligibility for federal Medicaid funds. This is the sole reason for State licensure of nonexempt facility administrators.

### IV. Summary of Recommendations

- A. The Board of Nursing Home Administrators should be allowed to terminate on June 30, 1979. The functions of examination and licensure should be assumed by the administrative agency.

Applicant qualifications and conditions for licensure should be established by statute as a guideline for the agency.

- B. If the Board of Nursing Home Administrators is determined to function in the public interest and is reestablished, the following recommendations are made:

1. The Board and the administrative agency should insure adequate documentation of board activities and related files. (See discussion on p. 6)

2. The Board should apply statutory and regulatory provisions with respect to initial licensure and relicensure and do so uniformly. (See discussion on p. 7)
3. The Board should establish reasonable and nonrestrictive educational and experience requirements for applicants. It should also enforce requirements that are established. (See discussion on p. 7)
4. Relicensure should take place biennially rather than annually. Annual renewal is considered to be unnecessary and cumbersome to administer for the applicant, the Board, and the agency. (See discussion on p. 8)
5. Mandatory continuing education requirements should be deleted as being superfluous in the regulation of nursing home administrators. This subject is more appropriately a concern of the administrator and/or his/her employer. (See discussion on p. 8)
6. The Board should be allowed to function with a full membership. An excessive ratio of professional members on any board is not a desirable situation from the standpoint of a Sunset review concerned with public participation and knowledgeability. It is also recommended that members not serve consecutive terms unless initially appointed to an unexpired vacancy but may be reappointed following a term of absence. (See discussion on p. 8)
7. The Board, in conjunction with the administrative agency, should be given the authority to review fee structure and establish appropriate fees. (See discussion on p. 9)

8. The Board should prepare and submit an annual report to the Governor and Legislature as required by statute.  
(See discussion on p. 9)

## Chapter 70. Nursing Home Administrators.

Section	Section
10. Creation of Board of Nursing Home Administrators	90. Application
20. Membership board; source of appointments; term of office	110. Licensing
30. Election of officers	120. Examination
40. Board meetings: Quorum	130. Provisional licenses
50. Duties and powers of the board	140. Expiration and renewal
60. Expenses	150. Fees
70. Applicability of Administrative Procedure Act	160. Unlawful acts
80. License required	170. Penalties
	180. Definitions
	190. Facilities operated by religious organizations

**Sec. 08.70.010. Creation of Board of Nursing Home Administrators.** There is established the Board of Nursing Home Administrators. (§ 1 ch 123 SLA 1975)

Legislative committee report. — For [Judiciary] am H), see 1975 House Journal, report on ch. 123, SLA 1975 (HCSSB 132 p. 1221.

**Sec. 08.70.020. Membership board; source of appointments; term of office.** (a) The board consists of five members: two nursing home administrators licensed under this chapter and practicing in the state, a registered nurse licensed in the state, and two persons from the general public.

(b) Board members are appointed by the governor.

(c) Board members serve staggered terms of three years or until their successor is appointed, except that a member appointed to a vacated term serves the duration of that term. On the first board two members serve one-year terms, two members serve two-year terms, and one member serves a three-year term. (§ 1 ch 123 SLA 1975; am § 1 ch 77 SLA 1977)

Effect of amendment. — The 1977 amendment, in subsection (a), substituted "two nursing home administrators" for "one nursing home administrator" and deleted "a physician licensed in the state" following "registered nurse licensed in the state."

**Sec. 08.70.030. Election of officers.** The board shall annually elect a chairperson and a vice-chairperson from its members. (§ 1 ch 123 SLA 1975)

**Sec. 08.70.040. Board meetings: Quorum.** The board shall meet at least semiannually. A majority of the board constitutes a quorum. (§ 1 ch 123 SLA 1975)

**Sec. 08.70.050. Duties and powers of the board.** (a) The board shall

(1) adopt standards for licensing nursing home administrators to insure that licensees have knowledge and experience in health care and institutional administration necessary for competent administrators, and update the standards when necessary;

(2) examine, license, and renew the licenses of qualified persons;

(3) establish procedures to insure that licensees continue to uphold the board's standards; revoke, suspend, or refuse to renew licenses of persons who fail to uphold the standards;

(4) adopt criteria for educational programs for persons preparing for the licensing examination and for the continuing education of licensees; review the educational programs available in the state and accredit the programs meeting the criteria;

(5) keep a record of its proceedings and submit annual reports to the governor and the legislature.

(b) The board may adopt regulations necessary for the performance of its duties and to meet the requirements of Title 19 of the Social Security Act, the federal rules promulgated under it, and other federal requirements. (§ 1 ch 123 SLA 1975)

**Sec. 08.70.060. Expenses.** Board members serve voluntarily, except that members are entitled to the travel expenses and per diem allowed by law. (§ 1 ch 123 SLA 1975)

**Sec. 08.70.070. Applicability of Administrative Procedure Act.** The board shall comply with the Administrative Procedure Act (AS 44.62). (§ 1 ch 123 SLA 1975)

**Sec. 08.70.080. License required.** Only a licensed nursing home administrator may manage, supervise, or be generally in charge of a nursing home unless excepted by this chapter. Only a nursing home which is supervised by a licensed nursing home administrator may operate in Alaska unless specially excepted by the board. This section does not apply to the Alaska Pioneers' Homes. (§ 1 ch 123 SLA 1975)

**Sec. 08.70.090. Application.** Applicants shall file applications with the Department of Commerce and Economic Development on forms provided by the department. Information requested on the forms shall be given under oath. (§ 1 ch 123 SLA 1975; am § 50 ch 218 SLA 1976)

**Effect of amendment.** — The 1976 amendment substituted "Department of Commerce and Economic Development" for "Department of Commerce" in the first sentence.

**Sec. 08.70.110. Licensing.** (a) The board shall license

(1) applicants who pass the written examination administered by the board and meet the standards established by the board under § 50 of this chapter;

(2) persons licensed under emergency regulations 7AAC 12.045 promulgated in Register 51, July 8, 1974, who have practiced as administrators since licensing.

(b) The board may issue a license without examination to a person holding a current license as a nursing home administrator from another jurisdiction, if the board finds that the standards for licensing in the other jurisdiction are substantially equivalent to those in this state, and the person is otherwise qualified. (§ 1 ch 123 SLA 1975)

**Sec. 08.70.120. Examination.** The purpose of the examination is to test the applicant's knowledge of the health and safety standards of the state and his experience in the practice of health care. The board determines the content, scope, format, and grading procedure. Examinations shall be given at least annually, at the time and place chosen by the board. (§ 1 ch 123 SLA 1975)

**Sec. 08.70.130. Provisional licenses.** (a) A provisional license may be granted without examination to a person who meets the standards adopted by the board under § 50 of this chapter and who is needed to fill a vacancy in an administrative position.

(b) The provisional license is valid for six months and is nonrenewable. (§ 1 ch 123 SLA 1975)

**Sec. 08.70.140. Expiration and renewal.** (a) A nursing home administrator's license expires on December 31 of the year issued.

(b) An administrator may apply for renewal of his license by submitting an application for renewal to the board; application forms for renewal are provided by the department.

(c) A person whose license has expired for a period of 12 months or more must apply for a license and be examined in the same manner as an applicant who has not been licensed before. (§ 1 ch 123 SLA 1975)

**Sec. 08.70.150. Fees.** The following fees shall be imposed under this chapter when applicable:

- (1) examination fee ..... \$25
- (2) investigation fee for persons applying for a license under § 110 (b) of this chapter ..... \$25
- (3) annual license fee ..... \$50

(§ 1 ch 123 SLA 1975)

**Sec. 08.70.160. Unlawful acts.** No person may

- (1) sell or fraudulently obtain or furnish a license or aid another in doing so;
- (2) practice as a nursing home administrator under cover of a license illegally or fraudulently obtained;
- (3) practice as a nursing home administrator or use in connection with his name a designation tending to imply that he is a nursing home administrator unless licensed under this chapter;
- (4) practice as a nursing home administrator during the time his license issued under this chapter is suspended or revoked; or
- (5) otherwise violate this chapter. (§ 1 ch 123 SLA 1975)

**Sec. 08.70.170. Penalties.** A person convicted of violating a provision of this chapter is punishable by a fine of not more than \$500, or by imprisonment for not more than one year, or by both. (§ 1 ch 123 SLA 1975)

**Sec. 08.70.180. Definitions.** In this chapter

- (1) "board" means the Board of Nursing Home Administrators;
- (2) "department" means the Department of Commerce and Economic Development;
- (3) "license" means the certificate awarded by the board to a qualified person which entitles him to be a nursing home administrator in this state;
- (4) "licensee" means a person who has been granted a license to be a nursing home administrator in this state by the board;
- (5) "nursing home" means a facility which is operated in connection with a hospital or in which nursing care, intermediate care, and medical services are prescribed by or performed under the general direction of persons licensed to practice medicine or surgery within the state for the accommodation of convalescents or other persons who are not acutely ill but who do require skilled or intermediate nursing care and related medical services; the term "nursing home" is restricted to those facilities the purpose of which is to provide skilled or intermediate nursing care and related medical services for a period of not less than 24 hours a day to individuals admitted because of illness, disease or physical or mental infirmity;
- (6) "nursing home administrator" means a person who manages, supervises, or is in general charge of a nursing home, even though the duties are shared with another person; a member of a board of directors of a nursing home is an administrator only if he also serves in the administrative capacity defined in this paragraph. (§ 1 ch 123 SLA 1975; am § 51 ch 218 SLA 1976)

**Effect of amendment.** — The 1976 amendment substituted "Department of Commerce and Economic Development" for "Department of Commerce" in paragraph (2).

**Sec. 08.70.190. Facilities operated by religious organizations.** Nothing in this chapter or the regulation under this chapter is to be construed as requiring a person who applies for a license as administrator of a facility operated by a religious organization relying on spiritual means alone for healing to have skills in medical techniques or educational qualifications which are not in accord with the care and treatment provided in the facility. (§ 1 ch 123 SLA 1975)

CHAPTER 46.  
BOARD OF NURSING HOME  
ADMINISTRATORS

Section

- 10. Qualifications of applicant for initial license
- 20. Application for initial license
- 30. Examination of applicant
- 40. Continuing education required for license renewal
- 50. Accreditation of nonacademic continuing education program
- 60. Activities not eligible for nonacademic continuing education accreditation
- 70. Application for license renewal
- 900. Definitions

12 AAC 46.010 QUALIFICATIONS OF APPLICANT FOR INITIAL LICENSE. (a) To be eligible for an initial license as a nursing home administrator, a person must be

- (1) at least 19 years of age;
- (2) of sound physical and mental health;
- (3) a high school graduate or the equivalent; and
- (4) of good moral character.

(b) In addition to the requirements of (a) of this section, a person applying for a license

(1) before January 1, 1978, must have one year of administrative experience;

(2) after December 31, 1977, must possess an associate degree in administration from an accredited college; and

(3) after December 31, 1979, must possess a

(A) baccalaureate degree in health care administration from an accredited college; or

(B) baccalaureate degree in business administration from an accredited college and have one year of administrative experience in a health care facility. (Eff. 5/13/77, Reg. 62)

Authority: AS 08.70.050(a)(1) and (b)

12 AAC 46.020. APPLICATION FOR INITIAL LICENSE. (a) A person applying for an initial license as a nursing home administrator shall submit

(1) a completed application form;

(2) a written statement from a physician attesting to the fact that his or her physical and mental health is adequate to enable him or her to satisfactorily perform the duties involved in nursing home administration; and

(3) after December 31, 1977, an official transcript from his or her college of graduation.

(b) A person applying for an initial license by examination shall submit the documents in (a) of this section, accompanied by the examination fee required by AS 08.70.150(1), at least 30 days before the date of a scheduled examination, in order to be scheduled for that examination.

(c) In addition to the requirements of (a) of this section, a person applying for an initial license without examination shall submit

(1) evidence that he or she has passed the licensing examination for nursing home administrators of the Professional Examination Service or the National Association of Boards of Nursing Home Administrators, Inc. with a score of at least 75 percent;

(2) a copy of his or her current nursing home administrator license from another jurisdiction; and

(3) the investigation fee required by AS 08.70.150(2).

(d) In addition to the requirements of (a) of this section, a person applying for a provisional license shall submit a written statement from his or her prospective employer of the circumstances of his or her need to fill a vacancy in an administrative position. (Eff. 5/13/77, Reg. 62)

Authority: AS 08.70.050(b) AS 08.70.110(b)  
AS 08.70.090 AS 08.70.130(a)

12 AAC 46.030. EXAMINATION OF APPLICANT. (a) The examination required by

AS 08.70.110(a)(1) is the examination prepared and graded by the National Association of Boards of Nursing Home Administrators, Inc.

(b) A score of 75 percent is required to pass the examination.

(c) The examination is offered semiannually in May and November.

(d) A person who fails to pass the examination within two years of submitting his or her application for licensure shall submit a new physician's statement required by sec. 20(a)(2) of this chapter, along with a new application form. (Eff. 5/13/77, Reg. 62)

Authority: AS 08.70.050(b)  
AS 08.70.120

**12 AAC 46.040. CONTINUING EDUCATION REQUIRED FOR LICENSE RENEWAL.** (a) Continuing education required to maintain licensure as a nursing home administrator is at least

(1) one semester hour academic credit from an accredited college in a subject relevant to health care administration; or

(2) two continuing education units from the sponsoring organization of a nonacademic continuing education program approved by the board.

(b) Continuing education required by (a) of this section must be earned during the calendar year immediately preceding the year for which license renewal is being requested. (Eff. 5/13/77, Reg. 62)

Authority: AS 08.70.050(a)(3) and (b)

**12 AAC 46.050. BOARD ACCREDITATION OF NONACADEMIC CONTINUING EDUCATION PROGRAM.** (a) In order for a nonacademic continuing education program to be accredited by the board, the sponsoring organization must

(1) have an identifiable educational arm with designated professional staff empowered to administer and coordinate an organized schedule of continuing education programs;

(2) maintain, through its educational arm,

administrative control of all program elements to assure that both the immediate educational objectives and the requirements of this subsection are met;

(3) provide or arrange, through its educational arm, for appropriate educational facilities, library and reference materials and all necessary instructional aides and equipment consistent with the educational content, format and objectives of each learning experience;

(4) maintain a permanent individual record of participation and make the record readily available to each participant upon request;

(5) plan the program or activity in response to the educational needs of nursing home administrators, including the opportunity for input by representatives of nursing home administrators, as well as by other knowledgeable individuals having content expertise and an appreciation of the educational objectives to be met;

(6) prepare a clear statement of rationale, purposes and goals for each educational activity before the initiation of the program;

(7) directly involve qualified instructional personnel in conducting the educational activity;

(8) establish specific performance requirements for the award of continuing education units to participants before offering the program;

(9) include sufficient detail in participant registration to provide the necessary information for a permanent record of individual participation;

(10) use evaluation procedures determined during the planning process to measure the effectiveness of the program design and operation; and

(11) include in program administration a system for verification of satisfactory completion of the activity by each participant and for providing an approved list of those awarded continuing education units to the office responsible for preparing and maintaining permanent records for individual participants.

(b) An application for accreditation of a continuing education program must state the

(1) manner in which the sponsoring organization meets the requirements of (a) of this section; and

(2) starting date of the program.

(c) A sponsoring organization must apply to the board for accreditation of a continuing education program at least 60 days before the starting date of the program. (Eff. 5/13/77, Reg. 62)

Authority: AS 08.70.050(a)(4) and (b)

**12 AAC 46.060. ACTIVITIES NOT ELIGIBLE FOR NONACADEMIC CONTINUING EDUCATION ACCREDITATION.** The board will not accredit, for nonacademic continuing education,

(1) a program leading to a high school equivalency certificate or diploma;

(2) a program dealing with such internal topics as indoctrination in rights, benefits and responsibilities; organizational structure; on-the-job methods, processes or procedures;

(3) committee activities;

(4) conferences, delegate assemblies or similar meetings for policymaking purposes;

(5) meetings and conventions of societies and associations unless educational activities programmed independently and held concurrently with these meetings meet the requirements of sec. 50(a) of this chapter;

(6) participation in programs delivered through the media such as television, radio and newspapers unless these presentations are an integral part of an educational program which meets the requirements of sec. 50(a) of this chapter;

(7) attendance at lecture series, cultural performances, entertainment or recreational meetings or activities and participation in travel groups unless these activities are an integral part of a larger educational program which meets the requirements of sec. 50(a) of this chapter;

(8) on-the-job training, apprenticeships and other work experience unless structured as part of a planned educational experience which meets the requirements of sec. 50(a) of this chapter;

(9) independent writing of articles or research reports or the presentation of papers outside a planned educational program which meets the requirements of sec. 50(a) of this chapter;

(10) individual, self-directed studies or other forms of independent learning experiences which are not subject to later verification by testing for the acquisition of cognitive or affective skills;

(11) noneducational activities of associations and professional societies, which may otherwise be used to qualify for professional and occupational group membership or certification; or

(12) a program involving less than 10 contact hours of instruction. (Eff. 5/13/77, Reg. 62)

Authority: AS 08.70.050(a)(4) and (b)

**12 AAC 46.070. APPLICATION FOR LICENSE RENEWAL.** A person applying for renewal of his or her license as a nursing home administrator shall submit to the department

(1) a completed license renewal application form including a sworn statement that he or she has not violated the provisions of sec. 900(5) of this chapter;

(2) proof of meeting the continuing education requirement of sec. 40 of this chapter in the form of an official college transcript or a letter from the sponsor of a continuing education program, whichever is appropriate; and

(3) the annual license fee required by AS 08.70.150(3). (Eff. 5/13/77, Reg. 62)

Authority: AS 08.70.050(a)(2) and (3) and (b)

**12 AAC 46.900. DEFINITIONS.** In this chapter

(1) "accredited college" means an institution

that meets the accreditation standards set forth by the Northwest Association of Schools and Colleges or its equivalent;

public health center, and community mental health center and a facility for the mentally retarded. (Eff. 5/13/77, Reg. 62)

Authority: AS 08.70.050(b)

(2) "board" means the Board of Nursing Home Administrators;

(3) "continuing education unit" means 10 contact hours in an organized continuing education experience under responsible sponsorship, capable direction and qualified instruction;

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

(5) "good moral character" means that a person

(A) has not paid, given, caused to be paid or given or offered to pay or to give a commission or other valuable consideration for solicitation or procurement, either directly or indirectly, of nursing home patronage or has accepted such a payment;

(B) has not committed acts of misconduct in the operation of a nursing home including but not limited to fraud, deceit, or misrepresentation in his capacity as a nursing home administrator;

(C) is not addicted to or dependent upon the use of alcohol, morphine, cocaine or other drugs recognized as producing an abnormal effect;

(D) has not been convicted of a felony relative to work as a nursing home administrator; or

(E) has not engaged in conduct that demonstrates unfitness to practice as a nursing home administrator;

(6) "health care facility" means a place devoted primarily to the maintenance and operation of facilities for the diagnosis, treatment, or care of two or more nonrelated individuals suffering from illness, disease, injury or deformity, or a place devoted primarily to providing obstetrical or other medical or nursing care for two or more nonrelated individuals and includes a convalescent home, nursing home, a

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STATE OF ALASKA  
Board of Nursing  
(October, 1978)

Findings

Members of the nursing profession are responsible for a wide range of health care including treatments and therapeutic measures, administration of medications, and direct patient care, under the supervision and prescription of a licensed physician or dentist. Special provisions may be instituted which would allow for independent medical practice by qualified practitioners. The Board of Nursing has the responsibility for establishing and evaluating educational standards of institutions.

Dissolution of the Board and governmental deregulation would significantly and adversely affect the quality of health care provided to and received by the general public. Lack of control could result in financial loss, physical injury or death. Additionally, with the abrogation of complaint and enforcement responsibility, unqualified practitioners would be virtually unhindered in practice. Regulation of this profession, by State government and through a State Board, is considered to be in the best interests of the public.

I. General Information

A. Regulated Parties

1. Licensed Professional Nurses (registered)
2. Licensed Practical Nurses (vocational)

B. Statutory Definition of Regulated Profession

"(5) 'practice of professional nursing' means the performance for compensation of observation, care and counsel of the ill, injured, or infirm, or the maintenance of health or prevention of illness of others, the supervision and teaching of personnel; or the administration of medications and treatments prescribed by a licensed physician or dentist which require substantial specialized judgment and skill based on knowledge and application of the principles of biological, physical, and social science; but the foregoing do not include acts of medical diagnosis, or the prescription of medical therapeutic or corrective measures unless authorized by regulations promulgated jointly by the State Medical Board and the Board of Nursing and as implemented by the Board of Nursing."

"(6) 'practice of practical nursing' means the performance for compensation of selected acts in the care or prevention of illness, and in the care of the ill, injured, or infirm under the direction of a licensed professional nurse or a licensed physician or a licensed dentist not requiring the substantial specialized skill, judgment and knowledge required in professional nursing."

"(9) 'advanced nurse practitioner' means a registered professional nurse who by virtue of specialized education and experience, has become certified to perform acts of medical diagnosis, and prescription of medical, therapeutic or corrective measures as authorized by regulations promulgated under (5) of this section." (AS 08.66.410)

C. Nature and Composition of Board

1. Board members and terms:

Five-year term (members may not serve more than two consecutive terms unless filling an unexpired vacancy of two years or less).

Eileen Montano, R.N. (Chairman)	ends March 31, 1981
Norma J. Frank, R.N.	ends March 31, 1979
Marjorie Van Kooten, R.N.	ends March 31, 1978
Betty Irwin Hodo, R.N.	ends March 30, 1980
Carol Ann Verga, R.N., A.N.P.	ends March 31, 1982
Kandace Henry	ends March 31, 1980
Erna Rasmussen	ends March 31, 1981

2. Representation:

Profession = 5  
Public = 2

3. Qualifications:

"One member shall be currently involved in institutional nursing service, one member in community or public health nursing and two members in basic or continuing education, one nurse at large, and two persons who have no direct financial interest in the health care industry." (AS 08.68.010)

"The five members of the board who are nurses shall be licensed professional nurses in the state, and shall have been actively engaged in nursing for not less than four years before appointment, two years of which were within the five years preceding appointment." (AS 08.68.060)

D. Licensing Data

Currently licensed:

R.N.	in-State	=	2,240
R.N.	out-of-State	=	<u>362</u>
	Total		2,602

L.P.N.	in-State	=	588
L.P.N.	out-of-State	=	<u>114</u>
	Total	=	702

(Through September, 1978)

E. Fees

Professional or Registered Nursing

1. application	\$20.00
2. examination	20.00
3. endorsement	20.00
4. biennial renewal	15.00

Practical or Vocational Nursing

1. application	\$15.00
2. examination	15.00
3. endorsement	15.00
4. biennial renewal	15.00

F. Board Revenues and Expenditures

	FY '75	FY '76	FY '77	FY '78
Receipts	30,433.00	55,021.00	41,731.00	73,312.37
- Refunds	<u>385.00</u>	<u>375.00</u>	<u>984.00</u>	<u>1,046.50</u>
Total	30,048.00	54,646.00	40,747.00	72,265.87
Expenditures				
Per Diem	3,721.74	5,165.75	4,321.50	8,195.68
Transportation	2,654.17	3,962.57	3,293.07	6,815.61
Phone	875.37	380.75	206.58	445.99
Printing, Advert., and Postage	1,832.30	1,552.32	1,784.46	1,181.20
Fees & Services	1,482.67	2,113.54	2,429.00	2,687.09
Rents, Leases, Other	286.60	757.05	571.92	772.98
Executive Officer (Salary & Benefits)	<u>24,220.27</u>	<u>26,400.27</u>	<u>32,339.29</u>	<u>23,807.99</u>
Total	<u>35,073.12</u>	<u>40,332.41</u>	<u>44,945.82</u>	<u>43,906.54</u>
Surplus	-	14,313.59	-	28,359.33
Deficit	5,025.12	-	4,198.82	-

(EXCLUDES DIVISION OF OCCUPATIONAL LICENSING ADMINISTRATIVE OVERHEAD)

G. Complaints

	Received	Closed	To Litigation
1975	0	0	0
1976	8	1	1
1977	8	1	0
1978	0	0	0
(through June 30)			

Pending: 15

One complaint was received by the Office of the Ombudsman from an applicant who alleged that s/he was unfairly denied licensure by endorsement. This complaint was determined to be unsupported in fact. A case involving drug abuse and related charges was acted upon by authorities. Other complaints received included: (1) practicing without a license, (2) dispensing drugs without appropriate authorization, (3) misrepresentation, and (4) practicing beyond scope of authority, such as practicing midwifery without a license to do so.

H. Qualifications

1. Registered Nurse: Practitioners must have completed high school and from two to four years of nurse training. All states require successful completion of examination prior to initial licensure.
2. Licensed Practical Nurse: Practitioners must have completed a training program, usually one year, and must pass an examination prior to initial licensure.

## II. Criteria and Analysis

### A. To what extent has the Board of Nursing operated in the public interest?

The statutory duties of the Board include adoption of necessary rules and regulations, approval of educational curricula and adoption of educational program standards, accrediting of appropriate programs, and examining, licensing, and renewing licenses of qualified individuals.

Two methods of assuring licentiate competency are education and training evaluation. Nursing programs within the State are thoroughly reviewed by the Board prior to accreditation. Academic and clinical content must meet established criteria and must continue to do so. Continued evaluation is accomplished through survey visits by the Board and submission of annual reports related to faculty, students and current curriculum. Programs meeting all requirements are given full accreditation, new programs that have yet to fulfill all requirements are given provisional accreditation status, and those with demonstrated problems in compliance are given conditional accreditation for a one-year period. Because content and criteria of nursing programs nationwide are similar and because all states require examination for licensure, educational qualifications for out-of-State applicants present few problems.

Examinations for professional and practical nurses consist of the State Board Test Pool Examination (SBTPE). These tests are constructed, provided and graded by the National League for Nursing, Inc. under contract with the National Council of State Boards of Nursing. Elaborate procedures for test security exist and must be adhered to by states participating, which is all states but one. Examinations are administered nationwide simultaneously, that is, on the same date, at the same time, and in the same manner. Only the acceptable passing score varies among states. Candidates in Alaska must score at least 350 in

each area of the examination, may be reexamined in one or two failed areas, and must repeat theory and practice if unable to successfully complete the examination a third time. Alaska will proctor the examination for other states.

Standard training, education and examination criteria operate in the public interest by assuring minimum competency and validity of competency requirements. Public interests are further served by the utilization of reasonable opportunities for entry into the profession. Several Board policies operate to provide such opportunities. For instance, it was noted that the Board has on occasion assumed the responsibility for locating special refresher training for candidates who failed the examination.

Temporary permits are issued routinely to allow apparently qualified individuals to practice pending licensure. Applicants for endorsement may be issued a temporary permit valid for a period not to exceed four months by which time all endorsement materials should have been received. Candidates for examination may receive a temporary permit which is valid until the results of the next examination are published. Temporary permit provisions are felt to advance the public interests by allowing expeditious entry into the profession. There does appear, however, to have been some problems when graduates from foreign schools applied for licensure. One such applicant was notified that she would be eligible for examination but would not be granted a temporary permit. Other applicants were refused permits because they had "graduated from foreign schools" or because they had "not had U.S. employment." AS 08.68.210(b) provides for the issuance of permits to any candidate for examination who is otherwise qualified. The Board should apply permit provisions to foreign graduates as well as to all other eligible qualified applicants.

Documentation also indicates that potential licentiates have been notified that their applications are incomplete because they lack such items as four reference letters, but such requirements are not statutory or regulatory prerequisites. It would be advisable for the Board to adopt regulations governing application procedures and materials so that such requirements may be enforced.

All applicants for endorsement who qualify on the basis of training and who have achieved a minimum score of 350 in all test areas are eligible for licensure in Alaska. Only in a few instances are such individuals required to be reexamined, notably, if test security had been broken at the time of initial examination, a rare occurrence. Because California utilizes (after January 1, 1974) a State constructed L.P.N. examination, its recent L.P.N licensees are a routine exception.

Practitioners with lapsed or inactive licenses who have been inactive for a period of five years or more may apply for reinstatement. However, if the Board has reason to believe it necessary, it may require additional training or supervised work to assure competency of the individual. Continuing competency of current licensees is not a requirement at the present time. In view of the importance of proficiency in nursing and the likelihood that programs could be established within the State, it is recommended that continuing education be instituted as a condition of relicensure. This should be accomplished by statutes as should any exceptions that may be acceptable. The Board should then designate qualifying programs or courses.

With few exceptions, the Board of Nursing has operated in the public interest through its statutes, regulations and policies. Entry into the profession is facilitated by standardized qualifications and requirements of nurse candidates, and by nonrestrictive licensing practices.

B. To what extent has the operation of the Board of Nursing 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 functions of the Board have not been particularly impeded by existing statutes, regulations and policies. As previously noted, however, the Board should make every effort to apply temporary permit provisions uniformly and should adopt regulations concerning application procedures. Continuing competency requirements should be designated upon which continued licensure would be contingent.

Although 27% of those nurses regulated by the Board are Licensed Practical Nurses, this group is not represented in Board membership. The inclusion of one practical nurse is recommended.

In July of 1976 some candidates were denied examination due to inadequate facilities, i.e., not enough room for all those applying. Adequate facilities and resources should be provided to help prevent a recurrence of this type of situation.

The Board and the administrative agency should have the authority to establish reasonable fees which would cover the costs of examination and licensing. Present fees are not adequate to cover transportation and per diem expenses and the total costs of Division of Occupational Licensing administrative overhead.

The Board of Nursing usually schedules three to four business meetings each year. Additional meetings and public hearings are held when necessary. Budgetary allowances should take into consideration these factors.

Support functions for the Board are largely the responsibility of its executive officer who: (1) performs administrative duties, (2) carries out Board regulations and policy decisions, and (3) assists in conducting examinations, educational programs, preparation of minutes and other Board administrative work. Further support staff is provided by a licensing examiner, who is also responsible for two other boards, and two clerical positions in Anchorage shared by this and two other units. Because of this support staff, little difficulty has been encountered with record keeping or maintenance of forms, files and board documents. Annual reports required by statute have been submitted each year and contain comprehensive information on the activities of the Board and the status of the profession.

The Board of Nursing has experienced the same difficulties as have all other boards and commissions under the jurisdiction of the administrative agency with respect to investigative services. During the past year two investigator positions remained vacant. As a result, one of these positions was abolished by the Legislature. One position in Anchorage was recently filled. Moreover, 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.

It is undeniably in the public interest to enforce laws enacted for the protection of public health and welfare and to take expeditious action upon receipt of potentially serious complaints. The administrative agency will continue to address the need for initial assessment and follow through on complaints with emphasis on magnitude of offense as it relates to public safety.

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

Recent health care legislation pertaining to the Nursing Board statutes included: (1) public membership on the Board, (2) Medical Indemnity provisions, (3) applicability of the Administrative Procedure Act, and (4) general "housekeeping" items.

There are no recent records of statutory amendments proposed by the Board that would be specifically of direct benefit to the public. There are, however, numerous instances of regulatory changes designed to upgrade the profession and the efficiency of the Board. For example, recent regulations promulgated under AS 08.68.410(5) which will authorize independent practice by Advanced Nurse Practitioners are at this writing scheduled for public hearing. It is in the public interest to promulgate and adopt regulations and policies which will provide opportunities for entry into the profession and increased availability of services.

D. To what extent has the Board of Nursing 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?

The bulk of interest and participation concerning Board activities and services has come from this and related professions. The Board is sensitive to all input, however, very little general public interest has been demonstrated. Public concern is expressed by individuals with particular problems directly approaching Board members. Notices of pending meetings and new or changing regulations are published in major newspapers within the state but appear to elicit minimal response from the public at large. It may also be that members of the public are

somewhat reluctant to involve themselves in areas which they see as being technical or scientific in nature. A technical and professional "barrier" acts to deter public knowledgeability and participation.

The Board has not taken any overt action to inform the public or solicit its response outside of the professional sphere. Positive steps, such as public service radio announcements, could be taken to increase public awareness.

Public interests are furthered by the existence of public members on professional boards. The State of California, which provides for a one-third public membership on health care boards and a public majority on other boards, has indicated that its experience with public members has been highly rewarding.<sup>1</sup>

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

One complaint was received by the Office of the Ombudsman. This unsupported charge alleged that the Board had unfairly denied licensure. Other complaints related to drug abuse allegations, practicing without a license, and practicing outside of the licensee's scope of authority. Sixteen complaints of this nature were received by the administrative agency during the last three and one-half year period. In this same

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

period one was referred to litigation and two were closed. At the time of this writing, fifteen cases remain open in agency files. The administrative agency will continue to review and update its complaints and investigative services to all boards and commissions coming under its jurisdiction.

A review of reading files maintained by the administrative agency indicates that public and professional inquiries are handled thoroughly and expeditiously through the mechanism of the Board's executive officer and clerical support.

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

With few exceptions as previously noted, the Board makes every effort to present qualified practitioners to the public. The use of standard examinations and educational criteria to assure competency combined with utilization of temporary permit and endorsement procedures encourages entry into the profession and enhances availability of practitioners.

Every effort is made by the Board to insure the quality of in-State institutional education and training. Individual Board members have taken it upon themselves to provide assistance to applicants who require additional theory and practice. Only in the area of temporary permits for applicants for examination who graduated from foreign schools has nonconformance with statutes been indicated which may have restricted entry of some individuals into practice.

Mandatory continuing education requirements are recommended as an additional method of assuring that licensees continue to be qualified after initial licensure.

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

Board staff consists of the support services of an executive officer, a licensing examiner and two shared clerical positions, all of whom are employed by the Division of Occupational Licensing, are hired through the State personnel system, and are subject therefore to affirmative action requirements.

The Board of Nursing issues licenses on the basis of specific education and performance criteria. Affirmative action requirements are not applicable to licensure qualifications.

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

Representation on the Board should specify the inclusion of an L.P.N. Mandatory continuing competency requirements should be delineated, as should possible exemptions, and the Board should then define acceptable educational compliance. Temporary permit provisions should be applied uniformly to all qualified applicants. Authorization should be given to the administrative agency and the Board to establish a reasonable fee structure. AS 08.68.310 should be clarified to read that "graduates of an accredited nursing program are eligible for examination." No statutory language now exists which would clarify the "good samaritan" principle as it relates to nursing. Application materials and procedures should be delineated in Board regulations.

### III. Conclusion

Continuation of the Board of Nursing and State regulation of the nursing profession are determined to be justified in terms of public health, safety and welfare.

### IV. Summary of Recommendations

The Board of Nursing and State regulation should be reestablished for another four-year period. The following recommendations are made:

1. The Board should apply temporary permit provisions uniformly to all qualified applicants. (See discussion on p. 8)
2. Application procedures and necessary materials should be defined by Board regulations. (See discussion on p. 9)
3. Mandatory continuing competency requirements, and exemptions, should be imposed by statute and the Board should promulgate and adopt regulations which define acceptable qualifying education. (See discussion on p. 9)
4. A statutory amendment should be made that would specifically include an L.P.N. in board membership. (See discussion on p. 10)
5. Budgetary allowances need to be considered so that adequate meeting scheduling, testing facilities, and support services may be provided as necessary.
6. Authority should be given to enable the board and the administrative agency to establish reasonable fee structures. (See discussion on p. 10)

## Chapter 68. Nursing.

### Article

1. Board of Nursing (§§ 08.68.010 — 08.68.150)
2. Examination and Licensing (§§ 08.68.160 — 08.68.275)
3. Nursing Education Programs (§§ 08.68.280 — 08.68.330)
4. Unlawful Acts (§§ 08.68.340 — 08.68.390)
5. General Provisions (§§ 08.68.400 — 08.68.410)

### Article 1. Board of Nursing.

#### Section

10. Creation and membership of Board of Nursing
20. Term of office
30. Limitation on term of service
40. [Repealed]
50. Removal from office
60. Qualifications of board members
70. Election of officers
80. Meetings

#### Section

90. Quorum
100. Duties of board
110. [Repealed]
111. Executive officer of board
- 120 — 130. [Repealed]
140. Applicability of Administrative Procedure Act
150. Expenses

**Sec. 08.68.010. Creation and membership of Board of Nursing.** There is created a Board of Nursing, consisting of seven members appointed by the governor. One member shall be currently involved in institutional nursing service, one member in community or public health nursing and two members in basic or continuing nursing education, one nurse at large, and two persons who have no direct financial interest in the health care industry. (§ 3 ch 90 SLA 1957; am § 1 ch 67 SLA 1973; am § 15 ch 102 SLA 1976)

**Effect of amendments.** — The 1973 amendment rewrote the second sentence.

The 1976 amendment substituted "seven members" for "five members" in the first sentence and "one nurse at large, and two persons who have no direct financial interest in the health care industry" for

"and one at large" at the end of the second sentence.

**Am. Jur. and C.J.S. references.** — 41 Am. Jur., Physicians and Surgeons, §§ 14, 23 to 69.

70 C.J.S. Physicians and Surgeons, §§ 1, 8, 10, 69.

**Sec. 08.68.020. Term of office.** Members serve staggered terms of five years and until their successors are appointed. The terms of the public members on the board shall be set so that they do not expire at the same time. Vacancies on the board shall be filled for the unexpired term. (§ 3 ch 90 SLA 1957; am § 16 ch 102 SLA 1976)

**Effect of amendment.** — The 1976 amendment rewrote this section.

**Sec. 08.68.030. Limitation on term of service.** A board member may not serve more than two consecutive terms. Time served in filling an unexpired vacancy of two years or less is not considered a term. (§ 3 ch 90 SLA 1957)

**Sec. 08.68.040. Source of appointments.**

Repealed by § 46 ch 102 SLA 1976.

Editor's note. — The repealed section derived from § 3, ch. 90, SLA 1957.

**Sec. 08.68.050. Removal from office.** The governor may remove any board member for neglect of duty required by law, or for unprofessional or dishonorable conduct after a fair and impartial hearing. (§ 3 ch 90 SLA 1957)

**Sec. 08.68.060. Qualifications of board members.** The five members of the board who are nurses shall be licensed professional nurses in the state, and shall have been actively engaged in nursing for not less than four years before appointment, two years of which were within the five years preceding appointment. (§ 4 ch 90 SLA 1957; am § 17 ch 102 SLA 1976)

Effect of amendment. — The 1976 amendment rewrote this section.

**Sec. 08.68.070. Election of officers.** The board shall annually elect a chairman and secretary-treasurer from among its members. (§ 5 ch 90 SLA 1957)

**Sec. 08.68.080. Meetings.** The board shall meet at least once a year. (§ 5 ch 90 SLA 1957)

**Sec. 08.68.090. Quorum.** A majority of the board constitutes a quorum. (§ 5 ch 90 SLA 1957)

**Sec. 08.68.100. Duties of board.** The board shall

(1) adopt rules and regulations necessary to make this chapter effective and when necessary, additions to or changes in rules and regulations of the board by a quorum vote by mail, those additions to or changes in the rules and regulations which are made by mail and the vote on them to be entered in the minutes of the board at its next meeting;

(2) make available, upon request, copies of this chapter and the regulations adopted for administering it;

(3) approve curricula and standards for educational programs preparing persons for licensing and provide for surveys of these programs in the state at the times it considers necessary;

(4) accredits educational programs which meet the requirements of this chapter and the standards of the board, and deny or withdraw accreditation from educational programs for failure to meet board standards;

(5) examine, license, and renew the licenses of qualified applicants, and conduct hearings upon charges and administer oaths to persons giving testimony at hearings;

(6) keep a record of its proceedings, and submit annual reports to the governor and the legislature. (§ 6(1) (2) (3) ch 90 SLA 1957)

**Sec. 08.68.110. Appointment of executive officer.**

Repealed by § 3 ch 59 SLA 1966.

**Sec. 08.68.111. Executive officer of board.** (a) The Department of Commerce and Economic Development, in consultation with the Board of Nursing, shall employ a licensed, registered nurse, who is not a member of the board, to serve as executive officer of the board.

(b) The executive officer shall be a nurse having a bachelor's degree or higher, currently licensed in the state and with not less than five years of active nursing experience, of which not less than two years within the preceding five years has been in an administrative or a teaching capacity in an accredited institution acceptable to the board. If a licensed professional nurse holding a bachelor's degree is not available to fill the position of executive officer, the board may waive the requirement for a bachelor's degree and appoint a licensed professional nurse possessing other qualifications in education and administrative experience which the board considers acceptable. However, the appointee shall complete the requirements for the award of a bachelor's degree in four years after appointment to the position of executive officer. Annually, the appointee shall offer the board evidence of satisfactory progress toward award of a bachelor's degree. If after the annual review the board believes that the appointee has not made satisfactory progress toward award of a bachelor's degree, the department may dismiss the appointee, notwithstanding the provisions of AS 39.25.170.

(c) The executive officer shall:

(1) perform the administrative duties as required by the statutes and the department,

(2) carry out regulations and policy decisions, consistent with law, made by the Board of Nursing, and

(3) assist the board in the conducting of examinations, educational programs, preparation of minutes and other board administrative work.

(d) Repealed by § 1 ch 129 SLA 1974. (§ 1 ch 47 SLA 1967; am § 1 ch 81 SLA 1969; am § 2 ch 67 SLA 1973; am § 1 ch 129 SLA 1974; am § 49 ch 218 SLA 1976)

**Effect of amendment.** — The 1973 amendment added the second, third, fourth and fifth sentences of subsection (b).

The 1974 amendment repealed subsection (d).

The 1976 amendment substituted "Department of Commerce and Economic Development" for "Department of Commerce" in subsection (a).

**Sec. 08.68.120. Bond.**

Repealed by § 3 ch 59 SLA 1966.

**Sec. 08.68.130. Disposition of fees.**

Repealed by § 3 ch 59 SLA 1966.

**Sec. 08.68.140. Applicability of Administrative Procedure Act.** The board shall comply with the Administrative Procedure Act (AS 44.62).

**Sec. 08.68.150. Expenses.** Members of the board are entitled to the per diem and travel expenses allowed by law. (§ 7 ch 90 SLA 1957)

**Article 2. Examination and Licensing.**

**Section**

- 160. License required
- 165. Malpractice insurance
- 170. Qualifications of professional nurse applicants
- 180. Qualifications of practical nurse applicants
- 190. License by examination
- 200. License by endorsement
- 210. Temporary permits
- 220. Fees

**Section**

- 230. Use of title and abbreviation
- 240. Nurses licensed or holding temporary permits under previous law
- 250. [Repealed]
- 251. Lapsed licenses
- 260. Inactive nurses
- 270. Grounds for denial, suspension or revocation
- 275. Limits or conditions on license; discipline

**Sec. 08.68.160. License required.** A person practicing or offering to practice professional or practical nursing in the state shall submit evidence that he is qualified to practice, and shall be licensed under this chapter. (§ 1 ch 90 SLA 1957)

**Sec. 08.68.165. Malpractice insurance.** If medical malpractice insurance for nurses becomes unavailable on the voluntary market and the director of insurance finds, after public hearing, that the unavailability is impairing the delivery of nursing services to the public, the director of insurance may require all persons licensed under this chapter to carry medical malpractice insurance and to purchase their insurance from the Medical Indemnity Corporation of Alaska established under AS 21.88. If a finding of unavailability of insurance

on the voluntary market and impairment of services has been made under this section, purchase of medical malpractice insurance from the Medical Indemnity Corporation of Alaska is a condition of licensure under this chapter. The provisions of this section are satisfied if the licensee's employer maintains insurance for him from the Medical Indemnity Corporation of Alaska. (§ 18 ch 102 SLA 1976)

**Sec. 08.68.170. Qualifications of professional nurse applicants.** An applicant for a license to practice professional nursing shall submit to the board on forms and in the manner prescribed by the board, written evidence, verified by oath, that the applicant has completed an approved four year high school course of study or the equivalent as determined by the appropriate educational agency, and has successfully completed (1) a professional nursing education program accredited by the board; or (2) a professional nursing education program outside the state which, in the opinion of the board, meets the minimum requirements of the board for an accredited program of study in this state at the time the applicant graduated; or (3) a professional nursing education program accredited by the National League for Nursing at the time the applicant graduated. (§ 8 ch 90 SLA 1957; am § 2 ch 129 SLA 1974; am § 1 ch 105 SLA 1976)

Effect of amendments. — The 1974 amendment substituted "in another state or territory" for "outside the state" in item (2).	The 1976 amendment substituted "outside the state" for "in another state or territory" in item (2).
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**Sec. 08.68.180. Qualifications of practical nurse applicants.** (a) An applicant for a license to practice practical nursing shall submit to the board on forms prescribed by the board written evidence, verified by oath, that the applicant has completed the tenth grade or its equivalent as determined by the appropriate educational agency, is not less than 18 years of age, and has successfully completed (1) a practical nursing education program accredited by the board; or (2) a practical nursing education program outside the state which, in the opinion of the board, meets the minimum requirements of the board for an accredited program of study in this state.

(b) A qualified student of the Mt. Edgecombe School of Practical Nursing who was graduated before January 1, 1959, and had eighth

grade pretraining is eligible for a license. (§ 9 ch 90 SLA 1957; am § 3 ch 129 SLA 1974; am § 2 ch 105 SLA 1976)

**Effect of amendments.** — The 1974 amendment substituted "in another state or territory" for "outside the state" in item (2) of subsection (a). The 1976 amendment substituted "outside the state" for "in another state or territory" in item (2) of subsection (a).

**Sec. 08.68.190. License by examination.** The applicant shall pass a written examination in the subjects which the board prescribes. The board shall issue a license to an applicant who passes the examination to practice professional nursing or practical nursing provided the other qualifications outlined in §§ 170 and 180 of this chapter are also met. The board shall conduct examinations annually and as often as it considers necessary. (§ 10 ch 90 SLA 1957)

**Sec. 08.68.200. License by endorsement.** The board may issue a license by endorsement to practice professional nursing or to practice practical nursing, whichever is appropriate, to an applicant who is licensed as either a professional nurse or a practical nurse under the laws of another state or territory, if in the opinion of the board the applicant meets the qualifications required for licensing in the state, and meets the requirements of either § 170 or § 180 of this chapter, whichever is applicable. (§ 11 ch 90 SLA 1957; am § 1 ch 37 SLA 1970; am § 4 ch 129 SLA 1974)

**Effect of amendment.** — The 1974 amendment substituted "state or territory" for "state, territory, or foreign country" near the middle of the section.

**Sec. 08.68.210. Temporary permits.** (a) The board may issue a temporary permit, nonrenewable and valid for a period not exceeding four months, to an applicant for a license by endorsement if he

(1) submits proof satisfactory to the board that he is currently licensed in another state or territory,

(2) meets the requirements of either § 170 or § 180 of this chapter, whichever is applicable, and

(3) pays the required fee.

(b) The board may issue a nonrenewable permit to an applicant for license by examination if he meets the qualifications of § 170 or § 180 of this chapter, whichever is applicable, and pays the required fee. The permit will be valid for a period not extending beyond the time when the results are published of the first examination the applicant is eligible to take after the permit is issued. (§ 11 ch 90 SLA 1957; am § 2 ch 37 SLA 1970; am § 5 ch 129 SLA 1974)

**Effect of amendment.** — The 1974 amendment substituted "state or territory" for "state, territory, or foreign country" in paragraph (1) of subsection (a).

**Sec. 08.68.220. Fees.** The following fees shall be imposed under this chapter when applicable:

- (1) for professional or registered nursing
    - (A) application fee . . . . . \$20
    - (B) license by examination fee . . . . . 20
    - (C) license by endorsement fee . . . . . 20
    - (D) biennial license renewal fee . . . . . 15
  - (2) for practical or vocational nursing
    - (A) application fee . . . . . \$15
    - (B) license by examination fee . . . . . 15
    - (C) license by endorsement fee . . . . . 15
    - (D) biennial license renewal fee . . . . . 15
- (§ 13 ch 90 SLA 1957; am § 1 ch 80 SLA 1960; am § 5 ch 94 SLA 1968; am § 2 ch 81 SLA 1969; am §§ 3, 4 ch 37 SLA 1970)

**Sec. 08.68.230. Use of title and abbreviation.** (a) A person licensed to practice professional nursing in the state may use the title "licensed professional nurse," "registered nurse," and the abbreviation "R.N."

(b) A person licensed to practice practical nursing in the state may use the title "licensed practical nurse," or "licensed vocational nurse," and the abbreviation "L.P.N." or "L.V.N." (§ 14 ch 90 SLA 1957)

**Sec. 08.68.240. Nurses licensed or holding temporary permits under previous law.** A person holding a license to practice professional or practical nursing in the state under prior law is considered licensed as a professional or practical nurse. (§ 15 ch 90 SLA 1957)

**Sec. 08.68.250. Renewal of license.**  
Repealed by § 3 ch 81 SLA 1969.

**Editor's note.** — The repealed section derived from § 16, ch. 90, SLA 1957; § 2, ch. 80, SLA 1960; § 7, ch. 94, SLA 1968.

**Sec. 08.68.251. Lapsed licenses.** A lapsed license may be reinstated if it has not remained lapsed for more than five years. If the license is lapsed for more than five years and the board has reason to believe that the person applying for reinstatement of his license no longer has sufficient knowledge to carry out the duties of a licensed nurse, the board may require the applicant to take and pass the examination given under § 190 of this chapter or complete a refresher course approved by the board. (§ 3 ch 81 SLA 1969; am § 6 ch 129 SLA 1974)

**Revisor's note (1969).** — In ch 81 SLA 1969 this section was numbered AS 08.68.250.  
**Effect of amendment.** — The 1974

amendment added "or complete a refresher course approved by the board" to the end of the second sentence.

**Sec. 08.68.260. Inactive nurses.** A licensed nurse may apply to be placed on inactive status. An inactive nurse may engage in the practice of nursing by submitting an application for renewal and the current biennial renewal fee to the board and receiving a renewal certificate. If the board has reason to believe that the applicant for a renewal certificate no longer has sufficient knowledge to carry out the duties of a licensed nurse, the board may require the applicant to take and pass the examination given under § 190 of this chapter or complete a refresher course approved by the board. (§ 16 ch 90 SLA 1957; am § 2 ch 80 SLA 1960; am § 4 ch 81 SLA 1969; am § 7 ch 129 SLA 1974)

**Effect of amendment.** — The 1974 amendment added "or complete a refresher course approved by the board" to the end of the third sentence.

**Sec. 08.68.270. Grounds for denial, suspension or revocation.** The board, after compliance with the Administrative Procedure Act (AS 44.62), may deny, suspend or revoke the license of a person who

(1) has obtained or attempted to obtain a license to practice nursing by fraud or deceit;

(2) has been convicted of a felony;

(3) has been convicted of a crime involving moral turpitude;

(4) is habitually intoxicated or is addicted to the use of narcotics;

(5) has impersonated a professional or practical nurse;

(6) is guilty, in the opinion of the board, of negligence which has resulted in serious injury to a patient;

(7) is mentally ill or mentally incompetent;

(8) is guilty of unprofessional conduct;

(9) has wilfully or repeatedly violated any of the provisions of this chapter;

(10) is considered by the board to be professionally incompetent. (§ 20 ch 90 SLA 1957; am § 8 ch 129 SLA 1974)

**Effect of amendment.** — The 1974 amendment added paragraph (10). C.J.S. references. — 53 C.J.S. Licenses § 44; 70 C.J.S. Physicians and Surgeons § 16.

Cited in *Leege v. Martin*, Sup. Ct. Op. No. 131 (File No. 256), 379 P.2d 447 (1963).

**Sec. 08.68.275. Limits or conditions on license; discipline.** (a) In addition to action under § 270 of this chapter, upon a finding that by reason of demonstrated problems of competence, experience, education, or health the authority to practice nursing should be limited or conditioned or the practitioner disciplined, the board may reprimand, censure, place on probation, restrict practice by specialty, procedure or facility, require additional education or training, or revoke or suspend a license.

(b) The Administrative Procedure Act (AS 44.62) applies to any action taken by the board under this section. (§ 18 ch 102 SLA 1976)