

617 SC

FILE 1 - FILE 2

SUNSET

DECISIONS

Committee files

Y = yes

N = no

SUNSET MASTER

HEARING

Notes

			HEARING	Notes
J.	CONCLUDED BARBERS & HAIRDRESSERS with CS	Y SB-544 (C) HB-978	CSSB-544	passed Senate 5/17/80 17-0
J.	✓ COLLECTION AGENCY F.C.	Y SB-576 Sectional Analysis 4/24 - rec 4/27 HB-940	April 24,	passed out
J.	ELECTRICAL EXAMINERS FC (?)	Y SB-566 HB-		Don w/ Bob. work w/ HOWE
C.	✓ A.E. & L.S.	Y CSSB-572 HB-1005	passed 20/0 Senate	passed out 5/8/80
J.	✓ MARINE PILOTS	Y SB-573 Sectional Analysis 4/24 HB-	April 24	passed out
C.	REAL ESTATE	Y SB - on my desk. HB-1004	work shop	
J.	✓ WELDING EXAMINERS	Y CSSB-553 (C) Y HB-994 Sectional Analysis 4/24	SCS HB-994 April 24, 80	passed out
F.	✓ A.P.U.C.	FRANK'S BILL	April 24.	passed out.
	✓ PUBLIC ACCOUNTANCY	NA SB-552 in (S) HB-997		
	✓ NURSING HOME ADM	Y HB 447 in (C) SB		wave to HESS
C.	✓ GUIDES	Y CSSB-574 Sectional analysis 4/24 HB received 4/27	April 24	failed the Senate 4/30/80 10/9/80

SUNSET MASTER

Action

	Barbers Hairdressers	Combined	SB-544 (C)
Senate alone	Collection Agency <i>House St. A.H.</i>	MAX	house will sunset
	Electrical Examiners	<u>Bill #</u>	
	A.E. & L.S.	X	Copy H. 1005
Senate alone	Guides <i>House - Resources</i>		IN legal (Chris)
Senate alone	Marine Pilots <i>Asterback</i>		IN legal (Jon) House will make CS w/ senate Bill.
	Real Estate	X	Copy H 1004
	Welding Examiners		<u>Bill # 553 (S) C</u> HB-994 intro.
	A.P.U.C. /FRANK/		Cable /FRANK/
	Public Accountancy		<u>Bill # 552 in (S) J</u> intro.



Alaska State Legislature
Senate

3:15 PM
1/17/80

JUNEAU, ALASKA

January 17, 1980

MEMORANDUM TO: Commerce Committee
FROM: Secretary of the Senate *AM*
SUBJECT: Sunset Audits

The President has referred the following Sunset Audits to your Committee for review and recommendations:

	Hearing	Workshop
✓ Board of Barber Examiners	X	2/19 (3/06)
✓ Collection Agency Board	3/20	Combine (3/06)
✓ Board of Hairdressing and Beauty Culture Examiners	X	2/19 (3/06)
✓ Board of Electrical Examiners	X	2/08 to Bureau
✓ Board of Registration for Architects, Engineers and Land Surveyors	X	3/06
✓ Guide Licensing and Control Board	2/28	3/06
✓ Board of Marine Pilots	X	3/06
✓ Real Estate Commission	3/04	
✓ Board of Welding Examiners	X	3/06
✓ Alaska Public Utilities Commission	3/11 3/13	
Alaska State Board of Parole Public Accountancy	2/26	

SUBJECT	NUMBER	ABBREVIATED TITLE	SPONSOR	REQUESTER	CURRENT STATUS
	HB 239	SPEC APPROP/ALAA/GAS LINE FEASIBILITY STUDIES; E.D.	MILES		IN (H) RULES
	HCR 1	STUDY ON FOREIGN INVESTMENTS IN AK FISHERIES	RULES	LEG. CNCL.	EXPIRD 1ST SESS (S)
	SB 128	SPEC APPROP/LEGIS COUNCIL/ROYALTY GAS; E.D.	COLLETTA		IN (H) RESOURCES
	SCR 1	TRANSFERRAL OF STATE EMPLOYMENT/URBAN TO RURAL	SUMNER		EXPIRD 1ST SESS (S)
	SCR 6	DIRECTING LEGIS COUNCIL/AUTOMOBILE INSURANCE IN AK	BRADLEY		EXPIRD 1ST SESS (H)
SUBSISTENCE	HB 128	SUPL. APPROP/DEPT OF FISH & GAME; E.D.	ANDERSON		IN (H) RESOURCES
	HB 199	ESTABLISH/DIV OF SUBSISTENCE HUNTING/FISHING	SUBSISTENC		IN (S) RESOURCES
	HB 544	RE/CATEGORIES OF FISHING; ED	PARR		IN (H) RULES
	SB 113	RE/WASTE OF WILD FOOD ANIMALS	SACKETT		CHAPTER 0005 SLA 80
SUNSET LAW	HB 317	REVIFW PROGRAMS/ACTIVITIES UNDER AS 44.66; E.D.	RULES	LB&A	IN (S) HESS
	HB 440	CONTINUE EXISTENCE OF NURSING BD/AM NURSING LAWS; E.D.	COMMERCE		IN (H) FINANCE
	HB 441	TERMINATE BRD CHIRO/JAN 1, 1981/DEPT COM & ECON DEV; E.D.	COMMERCE		IN (H) FINANCE
	HB 442	TERMINATE EXISTENCE OF EXAMINERS IN OPTOMETRY BD; E.D.	COMMERCE		IN (H) FINANCE
	HB 443	TERMINATE EXISTENCE/DISPENSING OPTICIANS BD; E.D.	COMMERCE		IN (H) FINANCE
	HB 444	TERMINATE EXISTENCE OF VETERINARY EXAMINERS BD; E.D.	COMMERCE		IN (H) FINANCE
	HB 445	TERMINATE EXISTENCE OF STATE PHYSICAL THERAPY BD; E.D.	COMMERCE		IN (H) FINANCE
	HB 446	CONT EXISTANCE/BRD PSYCHOLOGIST EXAMINERD; ED	COMMERCE		CONF CMTE APPOINTED
	HB 447	TERMINATE EXISTENCE OF NURSING HOME ADMIN. BD; E.D.	COMMERCE		IN (H) RULES
	HB 448	CONTINUE EXISTENCE OF DENTAL EXAMINERS BD; E.D.	COMMERCE		IN (H) FINANCE
	HB 450	CONT EXIST/ST MED BOARD/AM LAWS REG MED PROFF; E.D.	COMMERCE		IN (H) FINANCE
	HB 465	CONTINUE EXISTENCE OF BOARD OF PHARMACY; E.D.	COMMERCE		IN (H) FINANCE
	HB 481	CONTINUING EXISTENCE OF AK TRANSPORTATION COMMISSION; ED	COMMERCE		IN (H) FINANCE
	HB 484	TERMINATING EXISTENCE OF ALCOHOLIC BEV CONTROL BD; E.D.	COMMERCE		IN (H) FINANCE
	HB 927	DES PRGMS & ACTIVS/REVIEW & TERMINATE PER AS44.66; ED	RULES	LB&A	IN (H) FINANCE
	HD 940	TERMINATE EXISTENCE/COLLECT AGY BRD/COM & ECON DEV; ED	STATE AFF.		IN (S) STATE AFF.
	HR 973	RE/HAIR DESIGN & COSMET/BRD BARBERS & HAIRDRESSERS; ED	COMMERCE-		IN (H) COMMERCE
	HB 984	CONT EXIS/AK BAR ASSOC/AM STATS/LAN & BAR RULES 287; ED	JUDICIARY		IN (H) JUDICIARY
	HB 994	CONTINUE EXISTENCE OF BD WELDING/AM STAT RE:WELDERS; ED	COMMERCE-		IN (H) COMMERCE
	HD 997	RE/REGULATE CPA/CONTINUE EXIST BD PUBLIC ACCOUNT; ED	COMMERCE-		IN (H) COMMERCE
	HB1004	CONTINUE EXISTENCE/REAL ESTATE CMSN/AM POWER & DUTY; ED	COMMERCE		IN (H) COMMERCE
	SB 232	REVIEW PROGRAMS/ACTIVITIES UNDER AS 44.66; E.D.	RULES	LB&A	IN (S) COMMERCE
	SB 236	CONTINUING EXISTENCE OF THE AK TRANSPORTATION CMSN; E.D.	COMMERCE		VETOED BY GOVERNOR
	SB 240	CONTINUING EXISTENCE OF STATE MEDICAL BOARD; E.D.	HESS		2ND CONF CMTE APPTD
	SB 241	CONTINUE EXISTENCE OF BOARD OF NURSING; E.D.	HESS		CHAPTER 0074 SLA 79
	SB 242	TERMINATING EXISTENCE OF BD OF CHIROPRACTIC EXAMINERS	HESS		2ND CONF CMTE APPTD
	SB 243	TERMINATING EXISTENCE OF BD OF EXAMINER IN OPTOMETRY; ED	HESS		2ND CONF CMTE APPTD
	SB 244	CONTINUING EXISTENCE OF BOARD OF PHARMACY; E.D.	HESS		2ND CC APPOINTD (S)
	SB 245	TERMINATING EXISTENCE OF BD OF DISPENSING OPTICIANS; ED	HESS		2ND CONF CMTE APPTD
	SB 246	CONTINUE EXISTENCE OF BOARD OF DENTAL EXAMINERS; E.D.	HESS		2ND CC APPOINTD (S)
	SB 247	TERMINATE EXISTENCE OF BD OF VETERINARY EXAMINERS; E.D.	HESS		2ND CONF CMTE APPTD
	SB 248	TERMINATING EXISTENCE OF STATE PHYSICAL THERAPY BD; E.D.	HESS		2ND CONF CMTE APPTD
	SB 249	CONTINUE EXISTENCE OF NURSING HOME ADMINISTRATOR BD; E.D.	HESS		FAILED (S)
	SB 250	TERMINATING THE ALCOHOLIC BEVERAGE CONTROL BOARD; E.D.	HESS		CONF CMTE APPOINTED
	SB 445	RE/REVIEW BOARDS, COMMISSIONS & AGENCY PRGMS; ED	KELLY		IN (S) FINANCE
	SB 512	CONTINUE EXISTENCE/AK TRANSPORTATION CMSN; ED	RULES		IN (H) COMMERCE
	SB 544	RE/HAIR DESIGN & COSMET/BRD BARBERS & HAIRDRESSERS; ED	COMMERCE		IN (S) COMMERCE
	SB 552	RE/REGULATE CPA/CONTINUE EXIST BD PUBLIC ACCOUNT; ED	COMMERCE		IN (S) JUDICIARY
	SB 553	CONTINUE EXISTENCE OF BD WELDING/AM STAT RE:WELDERS; ED	COMMERCE		IN (S) COMMERCE
SUPERIOR COURT	HD 169	SUPERIOR COURT/REVIEW OF SCHOOL BOARD DECISIONS; E.D.	MOSS	BY REQUEST	IN (H) JUDICIARY

SENATE COMMERCE COMMITTEE MEMBERSHIP

Sunset
Oct 22, 79
Nov. 9

Brad Bradley (Chairman)
H-333-8760
O-278-1581
AA-Basler/^{see}Mathison

Sturgulewski (Vice-Chairman)
H-279-4939
O-278-3668 (Leg. Affairs)
AA-

Tim Kelly
H-333-1179
O-694-3578 →
O-694-3578 (Eagle River Office)
AA-Simonson/Moffet

Diane

Ferguson *Telacommunication*
O-274-7632 Nancy Harvey AA

Stimson
H-272-6094
O-272-0954
AA-Licia Piceno
1315 Hyder Street ANC 99501

*Teacher / West High
off 2³⁰ PM.*

*will call
9/19/ 87*

OK	NOV. 7th	NOV. 7th 8 & 9 DEC 19th
OK	NOV. 7th	11/8-10/19/87
OK	NOV. 7th	Dec 5 1987 Dec 10, 11/87
		11/8-10/19/87
		will call next tomorrow





Official Business

Alaska State Legislature

Senate

Office of the Secretary

April 30, 1979

Pouch V
State Capitol
Juneau, Alaska 99811

MEMORANDUM TO: Commerce Committee

From: Secretary of the Senate *BM*

Subject: Sunset Audits with Discussion of
Legislative Oversight Responsibilities

The President has referred the following for review to the Commerce Committee for public hearings:

- (1) Board of Public Accountancy (AS 08.04.010); 101
 - ✓(2) Board of Barber Examiners (AS 08.12.010); 10
 - ✓(3) Collection Agency Board (AS 08.24.011); 17
 - ✓(4) Board of Hairdressing & Beauty Culture Examiners (AS 08.28.010); 97
 - ✓(5) Board of Electrical Examiners (AS 08.40.010); 27
 - ✓(6) State Board of Registration for Architects, Engineers & Land Surveyors (AS 08.48.011); 6 *> time*
 - (7)+ Guide Licensing and Control Board (AS 08.54.010); 46
 - (8)+ Board of Marine Pilots (AS 08.62.010); 77
 - ✓(9) Real Estate Commission (AS 08.88.011); 105 *> time*
 - (10)+ Board of Welding Examiners (AS 08.99.010). 128
 - (11) + ARVC - 104
- Requirements set out in AS 44.66.050(c).
- ✓(12) AIC - 120

*Sept 7-
oct +*

cc: President

WEB:jp

Elaine

Contact Ms. Garrett in the Division of Occupational Licensing when action is going to be taken on Sunset this year. (1979)
789-2747 (Home)
465-2534 (Work)

Ann Griggs Director Div of Occ. Licensing 465-2534



Official Business

Alaska State Legislature

Senate

Office of the Secretary

April 30, 1979

Pouch V
State Capitol
Juneau, Alaska 99811

MEMORANDUM TO: Commerce Committee

From: Secretary of the Senate *Am*

Subject: Sunset Audits with Discussion of
Legislative Oversight Responsibilities

The President has referred the following for review to the
Commerce Committee for public hearings:

- No — (1) Board of Public Accountancy (AS 08.04.010);
- x(2) 8 Board of Barber Examiners (AS 08.12.010);
- (3) 7 Collection Agency Board (AS 08.24.011);
- x(4) 2 Board of Hairdressing & Beauty Culture
 Examiners (AS 08.28.010);
- x(5) 4 Board of Electrical Examiners (AS 08.40.010);
- x(6) 7 State Board of Registration for Architects, Engineers
 and Land Surveyors (AS 08.48.011);
- 10/9 — (7) Guide Licensing and Control Board (AS 08.54.010);
- 10/9 — (8) Board of Marine Pilots (AS 08.62.010);
- (9) 11 Real Estate Commission (AS 08.88.011);
- 10/9 — (10) Board of Welding Examiners (AS 08.99.010).

Requirements set out in AS 44.66.050(c).

10/9 — A.T.U.C.
A.T.C.

cc: President

WEB:jp

Key to References

- (Y) - (yellow cover) - State of Alaska Sunset Review, 1979.
Prepared by the Division of Occupational Licensing
- (B) - (blue cover) - Division of Legislative Audit Performance Review
- (W) - (white cover) - Senate Commerce Committee Public Hearing Testimony, October 23, 1979.
1. The Board of Registration for Architects, Engineers and Land Surveyors should be continued. (How many years?)
(Y) - p 1
(B) - p 7, paragraph 2
(W) - p 6; p 11; p 22
 2. Two public members should be included on the board replacing two of the land surveyors providing that two of the three engineers are dual registered as land surveyors. (Keep the same number of members - 9)
(Y) - p 4; (current membership) p 17, last paragraph; p 19, paragraph 5; p 27, paragraph 2
(B) - p 8, paragraph 1; p 9
(W) - p 4; p 7; p 17 (size); p 27
 3. AS 08.48.091 should be amended to read: ". . . determined by the Board except in the case of the Architecture-Qualifying and the Architecture-Professional examines, which are to be held once a year."
(B) - p 11, B
(W) - p 4
 4. Sec. 08.48.111(4) "a crime involving moral turpitude relevant to one of those professions." should be eliminated or more precisely defined.
(B) - p 11, C
(W) - p 4
 5. 12 AAC 36.010. Applications - should be amended to eliminate the requirement of a photograph to be affixed to the application. This does not comply with affirmative action standards. Photographs should be used for identification purposes only.
(B) - p 12, paragraph 1
(W) - p 4
 6. 12 AAC 36.065(a)(2). Eligibility for Professional Land Surveyor Examination. (Y) p 37-38. The regulation requirements for land surveyors must be repealed and lowered. Put in a statutory amendment to lower the figure from 12 years back to 8 years.
 7. AS 08.48.081. Send rosters only to those persons requesting them.
(Y) - p 19
(Elaine Garrett)

BOARD OF HAIRDRESSING AND BEAUTY CULTURE EXAMINERS SUNSET

KEY TO REFERENCES:

- (Y) - (yellow cover) - State of Alaska Sunset Review, 1979, Prepared by the Division of Occupational Licensing.
- (B) - (blue cover) - Division of Legislative Audit Performance Review.
- (W) - (white cover) - Senate Commerce Committee Public Hearing testimony, October 22, 1979.

1. Two public members should be included on the board filling the first two vacancies which occur.
(Y) - p. 11, par. 4; p. 13, par. 2
(W) - p. 33, par. 3; p. 39, par. 1
(B) - p. 10, recommendation #1
2. Statutory amendments should be introduced which would repeal Sec. 08.28.150 - Admission of shop owner without examination. Sec. 08.28.240 - A person holding a valid license as an operator issued before March 16, 1957, is not required to obtain a new license...these are simply obsolete. Sec. 08.28.250 - (grandfather clause to the above) Sec. 08.28.260 - (grandfather clause to the above)
(Y) - p. 11/12, last par. Clauses are on p. 21.
3. The board should explore methods of informing the general public of its existence and functions.
(Y) - p. 11/13
(W) - p. 50, par. 1
4. I suggest a mandatory annual inspection of the schools by the board, and there is a need for more assessment and follow-through on complaints as well as record keeping procedures.
(Y) - p. 13¹⁵
(W) - p. 39, par. 1; p. 50, par. 1
(B) - p. 10, recommendation #2, p. 18. IV.
5. The Board should review and revise its application forms and procedures.
(Y) - p. 15, par. 4.
(W) - p. 40, par. 3.
(B) - p. 13, recommendation #7.
6. Mandatory annual inspection of the shops and schools by the Department of Health and Social Services should be enforced by new regulations. This is a requirement now, but it is not being done. (Section 08.28.280)
(W) - p. 39, par. 1
7. Occupational Licensing should maintain operating statutes on licensing, examinations, and related business workload.
(W) - p. 40, par. 3
(B) - p. 15, recommendation #9.

**NOV 1 1979
Dept of Health
Social Services
copy to
Hester*

*copy to
Hester
11/1/79*

8. AS 08.28.140

(1) proof of out-of-state or foreign license;
Board recommendation.

9. AS 08.28.170 Fees.

- (1) schools
 - registration and initial license fee \$500
 - biennial renewal \$200
- (2) school owner:
 - registration and initial license fee \$ 50[\$40]
 - biennial renewal \$ 40[\$30]
- (3) instructor-operator:
 - registration and initial license fee \$ 50[\$40]
 - biennial renewal \$ 40[\$30]
- (4) owner-operator:
 - registration and initial license fee \$ 40[\$25]
 - biennial renewal \$ 30[\$20]
- (5) owner only, beauty shop:
 - registration and initial license fee \$ 40[\$25]
 - biennial renewal \$ 30[\$20]
- (6) manager-operator:
 - registration and initial license fee \$ 40[\$25]
 - biennial renewal \$ 30[\$20]
- (7) demonstration or consultant:
 - registration and initial license fee \$ 40[\$25]
 - biennial renewal \$ 30[\$20]
- (8) operator:
 - registration and initial license fee \$ 25[\$15]
 - biennial renewal \$ 20[\$10]
- (9) apprentice or student:
 - registration and one-year permit fee \$ 10[\$5]
 - biennial renewal \$ 20[\$3]
- (10) manicurist:
 - registration and initial license fee \$ 20[\$15]
 - biennial renewal \$ 15[\$10]
- (11) examination fee \$ 25[\$15]
- (12) investigation fee \$25
- (13) consultant:
 - seven day permit fee \$ 30
 - one-time renewal of permit fee \$ 10

(operator/operator's
 - give to registration
 - important to the board

Board recommendation.

** What does it take to
combine Barber + Hairdressing*

BOARD OF BARBER EXAMINERS SUNSET

KEY TO REFERENCES:

- (Y) - (yellow cover) - State of Alaska Sunset Review, 1979, Prepared by The Division of Occupational Licensing.
- (B) - (blue cover) - Division of Legislative Audit Performance Review.
- (W) - (white cover) - Senate Commerce Committee Public Hearing testimony, October 22, 1979.

1. The Barber Examiners Board should not be continued.
- (Y) - p. 1, par. 2.
 - (B) - p. 8, par. 4.

If The Board of Barber Examiners is to be continued then the following changes/recommendations are suggested:

- A. The Board should review its examination procedures and develop a valid, consistent examination and grading standard.
 - (Y) - p. 5, par 1; p. 6, par 3; p. 7, par 2; p. 9, par 3; p. 12, par 5; p. 13, par 5.
 - (W) - p. 2, p. 6, p. 8.
 - (B) - p. 10, recommendation #2.
- B. There should be an inclusion of two public members on the board without increasing its overall size. (5)
 - (Y) - p. 11, par. 3; p. 13.
 - (W) - p. 6, par. 1.
 - (B) - p. 11, recommendation #4; p. 12, last par.
- C. The five (5) year Alaska License restriction for Board members should be deleted. (08.12.020)
 - (Y) - p. 9, par. 5; p. 13. par. 4.
 - (B) - p. 12, par. 3 (definition of the statute in question)
- D. Board Membership should be limited to two consecutive terms.
 - (Y) - p. 13, par. 4.
 - (W) - p. 23.
 - (B) - p. 11, last par.; p. 12, par. 5 & last par.
- E. Statutory authority for reciprocity should exist for obtaining a license. Presently, licensure is by examination only.
 - (Y) p. 9, par. 4; p. 13, par. 4.
 - (B) - p. 7, par. 4; p. 9, par. 4; p. 10, par. 1.
- F. Section 08.12.270 should be repealed. (applies to a person engaged in barbering in a community having more than 1,000 persons, etc.)

BOARD OF BARBER EXAMINERS

(Y) - p. 9, par. 4; p. 10, par. 3; p. 13, par. 4.

G. Section 08.12.180 should be repealed. (Licensing of person barbering before 1957 without examination.)

(Y) - p. 13, par. 3. (this is now obsolete. If a person in this category does not have a license by now he never will. Formality.)

H. Change Fees - Board recommendation

Section 08.12.080. [EXAMINATION] FEES. An applicant [FOR EXAMINATION] shall submit with his application a [AN EXAMINATION] fee as follows:

(1) examination for apprentice barber registration [LICENSE]..... \$25

(2) annual apprentice registration fee [EXAMINATION FOR BARBER TEACHER LICENSE].... \$10 [\$75]

(3) annual barber license fee.... \$15

(4) annual barber teacher license fee.... \$50

(5) annual barber school or college license fee.. .. \$150

(6) examination for barber teacher license.... \$75

GENERAL COMMENTS:

The Board of Barber Examiners should establish formal goals, objectives, and quantifiable measures which should be included in the Division of Occupational Licensing's budget document.

THE BOARD DOES NOT HAVE A STATEMENT OF GOALS AND OBJECTIVES TO DATE ACCORDING TO THE O. L. REPORT (Y).
(B) - p. 14, recommendation #7.

The testimony of the Barber Examiners hearing on October 22, 1979 said very little regarding significant changes and recommendations.

KEY OF REFERENCES:

- (Y) = yellow - State of Alaska Sunset Review, 1979
(B) = blue - Division of Legislative Audit Performance Review of Electrical Examiners Board, May 1979.
(Testimony) = Senate Commerce Committee Hearing Minutes, November 7, 1979
(Green) = Board of Electrical Examiners Report, June 1979 to Governor J. S. Hammond

1. Board should not be continued
(B) Audit - page 7, page 9, Recommendation 1; page 8 (Yellow) O.L.

Quote from ~~Elaine~~ Garrett

If the Board of Electrical Examiners should be continued the following changes/additions are suggested:

- A. Board composed of ⁵ 4 members -- ³ 2 lay, 2 professional. Two year terms with one re-appointment. Testimony - p. 59
(Y) - p. 10/13 O.L.
(Y) - p. 32, Board View
(B) - p. 13, Audit
- B. Increase the number of inspectors. *Total for all*
Testimony - p. 60, 6, and 10
(Y) - p. 11, O.L.
(Y) - p. 5, Board has power to inspect
Testimony - Don Liston, Editor of "Building Alaska" magazine
- C. Statutory authority for reciprocity should exist. Testimony - H. D. Wilson, contractor, p. 69, and ombudsman's letter, p. 80
(Y) - p. 35, Board
(B) - p. 12, Audit, Recommendation #5 *endorsement*
(Y) - p. 7, O.L.
- D. Eliminate inspection power from the Department of Labor for Electrical Examiners. Commerce already has this power.
(Y) - p. 27/29, conclusive p. 30, Attorney General
Testimony - Don Liston/"Build Alaska"
SB 232

E. Licensee should not take the certificate of fitness test.
Testimony - p. 60,9 *connect Title 18 to 21 and 27.*
(Y) - p. 39, Board
(Y) - pp. 8, 6
(B) - p. 9 (instead of Sunset, eliminate this duplication)
Audit

F. Adopt the National Electrical Code and the National Electrical Safety Code as a minimum standard for the State of Alaska.
(Y) - p. 36 - Board
Testimony - Tony Reid, Inspector
Administration - Memo Oct. 30, 1979 by Bill McConkey, p. 2

G. Annual report from Board to Legislature/Put authority in 08 Title.
Testimony - Michael Frith
(B) - p. 13, Audit
(Green) - p. 3, section 2, Board

H. It should not be required that electricians involved in the communications industry be licensed.
Have board
cont of this
bring back to a
(B) - pp. 7, 10, Recommendation 2 - Audit
(Y) - p. 7, Audit

I. In regard to fees and licensing a maximum of two-years lapse of license should be allowed before reexamination is statutorily required.
(Y) - p. 34, Board
(Y) - p. 13 - fees - O.L.
(Y) - O.L. and Audit agree on fees. Set by OL and Board. SB 94.

J. Licensees should be notified of renewal dates at least thirty days before the expiration date of their licenses.
Rec'd
Repeal 08.01.050 by O.L. per Elaine Garrett

to
KEY REFERENCES:

- (Y) - ~~yellow~~ ^{cover} State of Alaska Sunset Review, 1979 *Prepared by Div. of O.L.S.*
- (B) - ~~blue~~ ^{cover} Division of Legislative Audit Performance Review
- ~~White of Electrical Examiners Board, May 1979.~~ *Testimony*
- (W) ~~Testimony~~ ^{Public} Senate Commerce Committee Hearing ~~Minutes~~, November 7, 1979
- ~~(Green) Board of Electrical Examiners Report, June 1979 to Governor J. S. Hammond~~

- Board should not be continued
 - (B) Audit - page 7, page 9, Recommendation 1; page 3 (Yellow) O.L.

~~Quote from Elaine Corbett~~

If the Board of Electrical Examiners should be continued the following changes/additions are suggested:

- OK*
- Board composed of 4 members -- 2 lay, 2 professional. Two year terms with one re-appointment. Testimony - p. 59
 - (Y) - p. 10/13 O.L.
 - (Y) - p. 32, Board View
 - (B) - p. 13, Audit*(3 of 2) = 5*
electing public lay members

- w/ letting intent.*
- Increase the number of inspectors. Testimony - p. 60, 6, and 10
 - (Y) - p. 11, O.L. *already*
 - (Y) - p. 5, Board has power to inspect
 Testimony - Don Liston, Editor of "Building Alaska" magazine

- OK*
- Statutory authority for ~~enforcement~~ ^{indorsement} should exist. Testimony - H. D. Wilson, contractor, p. 69, and ombudsman's letter, p. 80
 - (Y) - p. 35, Board
 - (B) - p. 12, Audit, Recommendation #5
 - (Y) - p. 7, O.L.

- NO*
- Eliminate inspection power from the Department of Labor for Electrical Examiners. Commerce already has this power.
 - (Y) - p. 27/28, conclusive p. 30, Attorney General
 Testimony - Don Liston/"Build Alaska" SB 232

To Labor not Commerce
~~to Public Safety only~~

E. Licensee should not take the certificate of fitness test.

ok
Testimony - p. 60,9

(Y) - p. 39, Board

(Y) - pp. 8, 6

(B) - p. 9 (instead of Sunset, eliminate this duplication)
Audit

yes
F. Adopt the National Electrical Code and the National Electrical Safety Code as a minimum standard for the State of Alaska.

(Y) - p. 36 - Board

Testimony - Tony Reid, Inspector

Administration - Memo Oct. 30, 1979 by Bill McConkey, p. 2

G. Annual report from Board to Legislature/Put authority in 08 Title.

no
Testimony - Michael Frith

(B) - p. 13, Audit

(Green) - p. 3, section 2, Board

H. It should not be required that electricians involved in the communications industry be licensed.

have Board look into this. letter
(B) - pp. 7, 10, Recommendation 2 - Audit

(Y) - p. 7, Audit

I. In regard to fees and licensing a maximum of two-years ~~less~~ of license should be allowed before reexamination is statutorily required. *Ref 08.40.135 (b)*

yes
(Y) - p. 34, Board

(Y) - p. 13 - fees - O.L.

(Y) - O.L. and Audit agree on fees. Set by OL and Board. SB 94.

O.L.
no
J. Licensees should be notified of renewal dates at least thirty days before the expiration date of their licenses.

Repeal 08.01.050 by O.L. per Elaine Garrett

Key to References

- (Y) - (yellow cover) - State of Alaska Sunset Review, 1979.
Prepared by the Division of Occupational Licensing
- (B) - (blue cover) - Division of Legislative Audit Performance Review
- (W) - (white cover) - Senate Commerce Committee Public Hearing Testimony, October 23, 1979.
- A. The Board of Welding Examiners should be discontinued.
(Y) - p 1; p 11, paragraph 3
(B) - p 7, paragraph 2; p 8, Recommendation 1
(W) - p 38, paragraph 4; p 39, paragraph 1

If the Board of Welding Examiners is to continue, the following changes are recommended:

1. To insure adequate representation of the regulated occupation and the general public, the sources of nomination for board membership should be accepted from the entire industry rather than only nominations by the Alaska Chapter of the American Welding Society and the Alaska Society of Professional Engineers.
AS 08.99.030 should be amended as such.
(Y) - p 11, paragraph 4; p 13, paragraph 2
(B) - p 10
(W) - p 5 (written testimony by Donald Lockman, Chairman of the Board of Welding Examiners)
2. Reduce the number of board members from 7 to 5 members only. The board currently licenses only 50 persons.
Amend AS 08.99.010
(Y) - p 11, paragraph 4; p 13, paragraph 2
(B) - p 11, paragraph 4
3. Add one public member to the board if total number of board members is reduced to five (add two public members if total number remains at seven)
(Y) - p 13, paragraph 2; p 14, paragraph 3
(B) - p 11, paragraph 2
(W) - p 6 (written testimony by Donald Lockman, Chairman of the Board of Welding Examiners)
4. Limit the term of board members to no more than two consecutive terms which would create a more responsive, active board.
(Y) - p 11, paragraph 4
(B) - p 11, paragraph 3
(W) - p 4 (written testimony by Donald Lockman)
5. Increase application fee from \$25 to \$50 and increase biennial fee from \$10 to \$50
(Y) - p 16, paragraphs 2 and 3

4/29

Jon / Frank / Chris,
Use this format
for all sunset
sectional analyses.

Respect underlining.

I shall do that.

Where there is a
comparision between the
changes in the bill and
the existing statute, you
may not need to give
the reason for the change
if it is an obvious
comparision, but otherwise
always give a reason for the

2

change or changes in
each section. Inevitably this
question is asked.
Do not take a sectional
analysis as the last word
or the best way to express
a point. Often they confuse
the issue in Legislative
Affairs Agency.

Always attach a copy
of the referenced statute
(title, chapter, section) in the
order that they are mentioned
in your own sectional
analysis of a bill.

Don't forget to include
and explain all sections that
are repealed in a bill.

Follow the attached model
as close as possible -- no shortcuts / Fred

CS FOR SENATE BILL 574

MR. PRESIDENT, I MOVE THE ADOPTION OF CS FOR SB 574, WHICH IS IDENTICAL, AT THIS POINT, TO THE HOUSE BILL FOR THE SAME BOARD. WE HAVE WORKED JOINTLY TO TRY TO PREVENT AN UNNECESSARY AND OFTEN TIME-CONSUMING FREE CONFERENCE COMMITTEE.

THIRD READING

I will attempt to cover the changes by section as quickly as possible to current law

(Sec. 08.54.010) • SECTION 1 ESTABLISHES THE GUIDE LICENSING AND CONTROL BOARD SOLELY IN THE DIV. OF FISH AND WILDLIFE PROTECTION OF THE DEPT. OF PUBLIC SAFETY. CURRENTLY, THE BOARD IS ESTABLISHED IN THE DIV. OF OCCUPATIONAL LICENSING OF THE DEPT. OF COMMERCE AND ECONOMIC DEVELOPMENT AND THIS DIVISION PLUS THE DIV. OF FISH AND WILDLIFE PROTECTION OF THE DEPT. OF PUBLIC SAFETY SHARE THE RESPONSIBILITY FOR STAFF SUPPORT. THIS SECTION ALSO ENSURES THAT THREE MEMBERS OF THE BOARD WILL BE ACTIVELY INVOLVED IN GUIDING AND THE REMAINING FOUR WILL HAVE NO INVOLVEMENT IN THE GUIDING BUSINESS. CURRENTLY, THREE MEMBERS ARE JUST REQUIRED TO HAVE A GUIDE LICENSE AND THE OTHER FOUR A GENERAL KNOWLEDGE OF GAME RESOURCES.

(Sec. 08.54.020) • SECTION 2 PROVIDES THAT THE MEMBERS OF THE BOARD MAY NOT BE APPOINTED FOR MORE THAN TWO CONSECUTIVE TERMS. A TERM IS FOR THREE YEARS. CURRENTLY, THERE IS NO LIMIT TO HOW MANY CONSECUTIVE TERMS A MEMBER MAY SERVE *if appointed.*

(Sec. 08.54.030) P. 2, L. 2 ● SECTION 3 REQUIRES THAT THE BOARD MUST ELECT A CHAIRMAN AND A VICE-CHAIRMAN ANNUALLY. THE CHAIRMAN MAY NOT SERVE FOR MORE THAN TWO CONSECUTIVE TERMS. TESTIMONY INDICATED THAT SUCH ROTATION WOULD ASSURE THAT THE BOARD WOULD BE MORE RESPONSIVE TO THE PUBLIC INTEREST. CURRENTLY, THERE IS NO LIMIT TO HOW LONG A CHAIRMAN CAN SERVE.

(Sec. 08.54.070(A)) P. 2, L. 7 ● SECTION 4 REQUIRES GUIDE LICENSE FEES TO BE PAID BIENNIALLY AND GENERALLY INCREASES THEM 25 TO 30 PERCENT.

(Sec. 08.54.182) P. 2, L. 13 ● SECTION 5. PERSONS SEEKING REGISTERED AND MASTER GUIDE LICENSES MUST PASS AN EXAMINATION, AND THAT EXAMINATION SHALL BE HELD TWICE A YEAR AT BOTH JUNEAU AND ANCHORAGE FOR THE CONVENIENCE OF APPLICANTS. CURRENTLY, THE EXAMINATIONS ARE ADMINISTERED ONLY IN ANCHORAGE.

(Sec. 08.54.190(A)) P. 2, L. 18 ● SECTION 6 ELIMINATES A LICENSURE PROVISION FOR AIR TRANSPORTERS AND IT ASSURES THAT ALL GUIDE LICENSES ARE VALID FOR AT LEAST ONE FULL YEAR. UNDER EXISTING LAW, ALL LICENSES EXPIRE ON DECEMBER 31 FOLLOWING ISSUANCE REGARDLESS OF WHEN THEY WERE ISSUED. PERSONNEL IN THE DEPT. OF FISH AND WILDLIFE PROTECTION CONSIDER THE "TRANSPORTER LAWS" CONFUSING AND DIFFICULT TO ENFORCE. IN ADDITION, THE INFORMATION AND REPORTS THAT TRANSPORTERS ARE REQUIRED TO FILE ARE NOT BEING ACCOMPLISHED AND ARE NOT NEEDED TO MANAGE THE GAME RESOURCES OF THE STATE. *Testimony was unanimous that the transporter license should be eliminated.*

(Sec. 08.54.190(B)) P. 2, L. 23 • SECTION 7 REQUIRES THAT AN ASSISTANT GUIDE OR A CLASS-A ASSISTANT GUIDE THAT HAS NOT RENEWED HIS LICENSE FOR FOUR YEARS MAY NOT BE RENEWED UNTIL HE MEETS THE QUALIFICATIONS FOR AN INITIAL LICENSE. CURRENTLY, THE GRACE PERIOD IS FOR ONLY TWO YEARS.

(Sec. 08.54.200(A)) P. 2, L. 28 • SECTION 8. UNDER EXISTING LAW, THE BOARD IS REQUIRED TO HOLD A HEARING TO CONSIDER DISCIPLINARY ACTION IF IT RECEIVED COMPLAINTS FROM THREE OR MORE SEPARATE PARTIES TO WHICH A LICENSEE HAS PROVIDED SERVICES. NO TIME PERIOD WAS INDICATED; IT COULD BE THREE COMPLAINTS IN THIRTY YEARS, ^{which is impractical.} SECTION 8 PROVIDES A TIME PERIOD OF FIVE YEARS WITHIN WHICH THESE COMPLAINTS MUST BE RECEIVED BEFORE THE BOARD IS REQUIRED TO HOLD A DISCIPLINARY HEARING. THIS SECTION ALSO PROVIDES THAT THE BOARD IS NO LONGER OBLIGATED TO HOLD A DISCIPLINARY HEARING WHEN A LICENSEE IS MERELY CHARGED WITH A VIOLATION OF FEDERAL OR STATE SPORT FISH, GAME OR GUIDE STATUTES OR REGULATIONS. HOWEVER, UPON A CONVICTION, THE BOARD IS STILL REQUIRED TO HOLD A DISCIPLINARY HEARING.

(Sec. 08.54.200(c)) P. 3, L.9 • SECTION 9 PROVIDES THE BOARD THE OPTION OF REVOKING, SUSPENDING, OR DENYING RENEWAL OF A LICENSE IF THE BOARD FINDS THAT THE LICENSEE DOES NOT MEET CERTAIN REQUIREMENTS. UNDER EXISTING LAW, THE BOARD WAS REQUIRED TO REVOKE THE LICENSE UPON SUCH A FINDING. THIS SECTION ALSO PROVIDES THAT SPECIFIED DISCIPLINARY

ACTION MUST BE TAKEN BY THE BOARD ONLY WHEN A LICENSEE HAS BEEN CONVICTED OF TWO VIOLATIONS OF FEDERAL OR STATE SPORT FISH, GAME OR GUIDE STATUTES OR REGULATIONS WITHIN THE PAST FIVE YEARS. UNDER CURRENT LAW, TWO VIOLATIONS TRIGGER MANDATORY DISCIPLINARY ACTION REGARDLESS OF THE TIME PERIOD.

(Sec. 08.54.210(A)(1)) • SECTION 10 REMOVES REFERENCE TO A TRANSPORTER P. 3, L. 20 BECAUSE TRANSPORTERS WILL NO LONGER BE LICENSED UNDER THIS ACT. (SEE SECTION 6 AND SEC. 08.54.142 AND 144)

(Sec. 08.54.210(A)(2)) • SECTION 11 REMOVES REFERENCE TO A TRANSPORTER. P. 3, L. 26

(Sec. 08.54.210(A)(4)) • SECTION 12 REMOVES REFERENCE TO A TRANSPORTER. P. 4, L. 5

(Sec. 44.41.020) • SECTION 13 PROVIDES THAT A NEW DUTY OF THE DEPT. OF PUBLIC SAFETY SHALL BE THE SOLE RESPONSIBILITY FOR ADMINISTRATIVE STAFF SUPPORT OF THE GUIDE LICENSING AND CONTROL BOARD (SEE SECTION 1), P. 4, L. 11

(Sec. 08.03.010(c)) • SECTION 14 PROVIDES FOR JUNE 30, 1984, AS THE TERMINATION DATE FOR THE GUIDE LICENSING AND CONTROL BOARD. P. 4, L. 15

P. 4, L. 16 • SECTION 15. THIS SECTION REPEALS PROVISIONS WHICH ARE INCONSISTENT WITH THIS ACT.

AS 08.01.010(20) REMOVES THE GUIDE LICENSING AND CONTROL BOARD FROM THE LIST OF BOARDS TO WHICH CHAPTER 01 APPLIES, SINCE THIS BOARD

WILL NO LONGER BE ADMINISTERED BY THE
DEPT. OF COMMERCE AND ECONOMIC DEVELOPMENT,

AS 08.03.010(B)(7) REPEALS THE SUNSET PROVISION
FOR THIS BOARD;

AS 08.54.100(5) ELIMINATES THE BOARD'S
DISCRETION TO ESTABLISH QUALIFICTIONS FOR
LICENSING MASTER GUIDES IN ADDITION TO THOSE
ESTABLISHED BY STATUTE (IF THE BOARD WAS PERMITTED
TO ESTABLISH QUALIFICATIONS IN ADDITION TO THOSE
IN THE STATUTES, IT WAS THOUGHT THERE COULD
POSSIBLY BE SOME CHANCE OF DISCRIMINATION);

AS 08.54.110(12) ELIMINATES THE BOARD'S DISCRETION
TO ESTABLISH QUALIFICATIONS FOR LICENSING
REGISTERED GUIDES IN ADDITION TO THOSE
ESTABLISHED BY STATUTE (THE SAME REASON AS FOR
MASTER GUIDES ALSO APPLIES HERE);

TRANSPORTER REPEALS
BEGINS HERE

(Next 5 SECTIONS)

AS 08.54.142 REPEALS THE SECTION DEALING WITH
LICENSURE OF TRANSPORTERS;

AS 08.54.144 REPEALS THE RESTRICTIONS ON
TRANSPORTATION OF HUNTERS BY TRANSPORTERS;

AS 08.54.146 REPEALS THE SECTION REQUIRING
PREPARATION AND FILING OF TRANSPORTER REPORTS;

AS 08.54.170(c) ELIMINATES THE LICENSE FEE
FOR A TRANSPORTER;

AS 08.54.240(5) REMOVES THE DEFINITION OF
"TRANSPORTING" AND "ACTIVITY OF TRANSPORTING";

TRANSPORTER REPEALS

END HERE.

AS 16.05.340(E) ELIMINATES FEES CHARGED TO
MASTER GUIDES AND REGISTERED GUIDES FOR THE
TAKING OF SPECIFIED GAME ANIMALS. (*Head Joy*).

P. 4, L. 19

- SECTION 16 PROVIDES FOR THIS ACT TO TAKE EFFECT
JUNE 30, 1980, THE DATE ON WHICH THE BOARD IS
SCHEDULED TO TERMINATE.

SUNSET

info



Official Business

Alaska State Legislature
Senate
Committee on
Community & Regional Affairs

Pouch V
State Capitol
Juneau, Alaska 99811

March 8, 1980

TO: Senator Arliss Sturgulewski
Representative Hugh Malone

FROM: Margo W. Waring & Paul Quesnel

RE: Sunset Free Conference Committee

Our previous memorandum on this subject (Feb. 29, 1980) conveyed to you the options and recommendations of Gerald Wilkerson, Legislative Audit. In this memorandum, we would like to present a fuller discussion of the issue of revision of the sunset process.

To establish a context for decisions about sunset revisions, a restatement of the policy approach of the sunset legislation may be appropriate. The significant difference between sunset and previously existing audit and review laws (as embodied in AS 24.20, Legislative Budget and Audit and AS 37.07 Executive Budget Act) is the provision for automatic termination of programs and agencies: unless positive joint legislative action is taken. The philosophic assumption informing this approach is that needless government regulation over the private lives of individuals exists that creates a costly and needless burden. Hence, only positive action would save these agencies from automatic extinction. This bias of "guilty til proved innocent" is the key distinction between traditional audit and review mechanisms and the mechanism available in the sunset process.

Alaska's experience with sunset has not been atypical: few agencies have been allowed to terminate. A great deal of time, energy, and money has gone into reviewing boards and determining both their effectiveness and the adequacy of their enabling legislation. However, apparently, few legislators have felt a deep commitment to sunset, and several standing committees have found their time overwhelmed by the demands of the sunset process.

It is within this context that our instructions were given: to review the sunset process with a goal of a revision which would focus on those agencies/boards which require review, free regular committees from the burden of so tight a schedule, yet maintain the sunset process.

While the instructions are clear, the criteria used for judging any particular option are stringent: any number of alternatives would achieve the first two criteria; very few will meet the added criterion of

maintaining a process in which agencies/boards are automatically terminated unless positive action is taken by the legislature.

Discussion of Alternatives

1. The first alternative is the one suggested by Mr. Wilkerson (memorandum of February 29, 1980) in which legislators annually target agencies for sunset. While this option preserves the appearance of the existing sunset process, it should be noted that the power to annually target agencies/boards for sunset already exists under AS 24.20.271 relating to legislative audit. Passage of legislation which would enact this option would essentially duplicate existing authorities. Nothing more would be achieved than would be achieved by the simple repeal of sunset. Additionally, since bills would need to be signed by the Governor, possible veto could endanger this approach.

2. As mentioned in the memorandum of February 29, 1980, stretching out the existing schedule would meet the three criteria we were given, with the exception of focussing on agencies "in need" of sunset review. Even so, this option merits further discussion, as its implementation could be within the function of the Free Conference Committee itself. Legislative Legal Services informs us that the original intention behind placing the health boards in one group for sunset review was to achieve certain efficiencies in approach and to provide for coordination in review, so that consolidations, cross references and other inter-disciplinary approaches could be undertaken by the legislature. However, the Free Conference could elect to extend the life of the health boards by varying lengths. For example, while the Psychology Board might be extended for one year, the Board of Nursing could be extended for six or eight years, effectively staggering reviews over a longer time period. Such action would achieve all three objectives: more frequent attention on those boards "in need" of review, less work for the standing committees, and retention of the sunset process.

3. If greater attention is paid to the concept of "less work" than to the other criteria, other options suggest themselves.

a) The sunset legislation allows for joint hearings on the agencies/boards. If joint hearings were held, less total legislative time would be spent; it would be easier for board members to participate, and the whole process would be less expensive. These benefits would be increased if boards were extended for greater periods of time, as suggested in 2 above.

b) Most states, in their sunset legislation, review only licensing/regulatory boards. If the Sunset Act were amended to eliminate the program agencies, then the work load would be reduced. In support of this concept, it should be remembered that program agencies can and are routinely reviewed and audited, that the executive budget process performs similar performance reviews and that the perceived burden of government regulation on the lives of citizens comes substantially from the public interest efforts of licensing and regulatory boards. Hence, if program agencies were to be removed from the sunset list, all three criteria would be observed, without great loss, as program agencies can and are routinely reviewed under traditional mechanisms.

Either or both of the options mentioned in 3(a) and (b) can be supported by the following argument. During the first cycle of sunset reviews, a great deal has been learned regarding the conduct of the process. In 1983, when the boards would again be sunsetted, review criteria will be easier to establish, the organization and scheduling of hearings should be easier, and, perhaps most significantly, there should be less to review as most of the boards will have undergone considerable revision of their practice acts.

4. There is a fourth alternative which would also meet the criteria given to us. This option does not necessarily involve changes in the sunset process or in the scheduling of boards for review. Instead, the legislature itself could establish an alternative process for the sunset reviews. A standing Sunset Committee (perhaps a Joint Committee) would be established. Staff would be hired for this committee. In favor of this option are several efficiencies of effort. Although the same time and money would be spent as now, those efforts and funds could be more efficiently used. Staff would develop an expertise in the sunset process, hearings could be held over the interim, deadlines would be more easily met, and the public could be educated regarding the public interest goals of the boards, thus encouraging greater public participation in the sunset hearings. The theoretical loss involved in this option would be the expertise of existing standing committees.

This option could be combined with those detailed in 3(a) and (b) above.

After this memorandum was written, we received a copy of the "House Commerce Committee Interim Report, Sunset in Alaska, 1979-1980." On page 32 of that document a recommendation is made to establish a permanent committee on sunset. A copy of that page is attached to this memorandum.

Summary

There are several options which meet the criteria assigned to us for use in selecting optional revisions of the sunset process. Several of the options can be combined. Of importance in the consideration of these options is whether or not you wish to pursue an aggressive sunset review program. If so, the process selected should be well established and supported. On the other hand, you may consider that the primary value of sunset has already been achieved by the first sunset cycle: revisions to practice acts have been made, board performance has been improved, management adjustments have occurred, and some boards may have been terminated. In other words, we see this juncture as a further determination of the public interest and how that may be served.

Enclosure

RECOMMENDED CRITERIA FOR SELECTING PROGRAMS
SUBJECT TO SUNSET REVIEW

1. Duplication of program's objectives.
2. Duplication of efforts.
3. Degree of public exposure.
4. Dollars spent.
5. Dollar impact on consumer and/or private industry.
6. Availability/success of complaint function.
7. Results of assessment of alternative methods to achieve program's objectives.
8. Question of who should provide the service - State government, local government, or private sector.
9. Age of program.
10. Number of positions in program.
11. Existence of recent legislative review.
12. Indication of program deficiencies through internal or external audits.
13. Source of funding.
14. Recent change in legislation affecting the responsibilities of the program.

Administration Of Justice

Human Rights Commission - Office Of The Governor

The Commission enforces Alaska's Human Rights Law by investigating citizen complaints and by issuing remedial orders after public hearing where cases are not settled voluntarily. The Commission also initiates investigations of alleged discriminatory practices on its own motion. Seven unsalaried Commissioners, appointed by the Governor and approved by the Legislature, administer the agency. Offices are

maintained in Anchorage, Barrow, Juneau and Fairbanks. Funding for FY'79 was \$883,300 (20 positions), \$838,200 for FY'78, and \$748,700 for FY'77. Funding is 100% General Fund.

Police Standards Council - Office Of The Governor

The Council establishes the minimum employment, educational and training standards for all Alaska police officers. Responsibilities include establishing the minimum curriculum requirements for preparatory, in-service, and advanced courses of police training. The Council consists of nine members appointed by the Governor, representing State and municipal police administrators, municipal executives and the private sector. Funding for FY'79 was \$98,400 (2 positions), \$96,500 for FY'78 and \$89,700 for FY'77. Funding is 100% General Fund.

Criminal Justice Planning Agency - Office Of The Governor

Agency provides supportive services to all Alaskan criminal justice agencies for inter-agency coordination, planning, research and evaluation. Specifically, Agency provides staff functions for maintenance of Governor's Commission on the Administration of Justice. Statewide planning and action requirements are mandated by the Federal Omnibus Crime Control and Safe Streets Act of 1968, as amended, for State receipt of LEAA funds. Agency administers the LEAA block grant program with funds awarded to the State by the Federal government. Funding for FY'79 was \$2,824,500 (20 positions), \$3,454,000 for FY'78, and \$3,132,800 for FY'77. Approximately 86% of Agency's funding is Federal money.

Violent Crimes Compensation Board - Department Of Public Safety

The three member Board determines and issues pecuniary awards to victims or family members of the victim of a criminal act, without which the recipient's total well-being and economic independence would not be maintained. In so doing the Board holds hearings, issues orders and decisions; has full subpoena powers; promulgates, rescinds and amends regulations; develops standards for determination of compensation. Funding for FY'79 was \$339,300 (2 positions), \$323,600 for FY'78, and \$186,100 for FY'77. Funding source is the General Fund.

Public Protection

Office Of Consumer Protection - Department Of Law

As a section in the Civil Division of the Department of Law, Consumer Protection investigates and prosecutes violations of the State's Consumer Protection Statutes. Services offered by its offices in Anchorage, Fairbanks, Juneau and Ketchikan include consumer complaint mediation, consumer fraud alerts, consumer and business education, referrals, monitoring of advertising, investigation of possible deceptive practices, civil and criminal litigation to eliminate unfair and deceptive practices, and to recover restitution for injured consumers as well as penalties and costs for the State. Funding for FY'79 was \$434,400 (12 positions), \$381,800 for FY'78, and \$342,700 for FY'77. Funding is 100% General Fund.

Industrial Safety - Mechanical Inspection - Department of Labor

Through its staff of professional inspectors, this Section protects the public from physical and financial injuries from the unregulated use, operation and installation of inferior, hazardous boiler and pressure vessels, electrical installations, unsafe elevators, and substandard unsanitary plumbing construction. These responsibilities are met by its licensing and inspection functions. Funding for FY'79 was \$478,800 (13 positions), \$393,100 for FY'78, and \$426,200 for FY'77. Approximately 47% of funding is estimated to be program receipts with the remainder General Fund money.

Worker Protection - Fisherman's Fund - Department of Labor

The Fund provides benefits to licensed fishers who are injured or become ill while engaged in commercial fishing activities on shore in Alaska or in the territorial waters of the State. Benefits include all medical and transportation expenses up to \$2,500 for each injury. The Fund is administered under the supervision of the Commissioner of Labor with the assistance of the Fisherman's Fund Advisory and Appeals Council (5 members) serving in an advisory and appellate capacity. Funding for FY'79 was \$346,300 (2 positions), \$283,600 for FY'78, and \$279,900 for FY'77. Fund is supported by 60% of the money derived by the State from each crewmember fishing license issued under AS 16.05.480 and an equal amount of money derived by State from each commercial fisherman issued a permit under AS 16.43.

Weights and Measures - Department of Commerce and Economic Development

This section inspects all commercial weighing and measuring devices and public utility meters; inspects packages or amounts of commodities offered for sale; enforces standards for mobile homes as homes arrive in the State; investigates alleged violations; issues and enforces regulation to carry out the Weights and Measures Act (AS 45.75). Funding for FY'79 was \$636,600 (16 positions), \$592,800 for FY'78, and \$870,000 (28 positions) for FY'77. FY'77 is not comparable since some functions moved to the Department of Public Safety in FY'78. Funding is 100% General Fund.

Alaska Division of Emergency Services - Department of Military Affairs

Previously known as the Alaska Disaster Office, this program develops and maintains the capability, both private and public, to protect life and property and to assist in the recovery from natural disaster or nuclear attack. In an emergency or threat of disaster, the Division provides warning and responds to aid local authorities. Division administers State and Federal funds authorized for disaster relief and recovery programs. Funding for FY'79 was \$855,500 (21 positions), \$836,000 for FY'78, and \$2,211,700 for FY'77. Federal money provides approximately 50% of funding.

Agricultural Inspections - Department of Natural Resources

The purpose of this section is to ensure through inspection that food products purchased from commercial outlets are of wholesome quality and truthfully labeled, to minimize animal-to-man transmissible diseases and to provide marketing expertise to improve local production. Division is headquartered in Palmer with branch offices in Juneau, Fairbanks and Kodiak. Funding for FY'79 was \$992,600 (20 positions), \$770,200 for FY'78, and \$659,600 for FY'77. Federal funding provides for approximately 35% of total funding; remainder is General Fund.

Vehicle Weight Enforcement - Department of Public Safety

This section operates weigh stations, enforces highway size, weight and load limitations, inspects commercial vehicles and issues special oversize and overweight permits. The purpose of these activities is to prevent damage to the State highway system for overloaded vehicles and to protect the motoring public from dangers of unsafe commercial vehicles. Funding for FY'79 was \$895,700 (25 positions), \$487,100 for FY'78 and \$444,400 for FY'77 (in FY'79, the Oversize, Overweight Special Permit Program was transferred to DOPS from DOTPF). Program receipts are estimated to provide 47% of funding for FY'79; remainder is General Fund.

General Government

Policy Development and Planning - Office of the Governor

The Division assists executive and legislative branches in identifying and translating goals and objectives into policies to guide State agencies in designing programs and services that meet Alaska's needs. Funding for FY'79 was \$812,500 (18 positions), \$731,200 for FY'78 and \$1,231,800 for FY'77. Federal funding is approximately 31% of total funding; remainder is General Fund.

Growth Policy Council - Office of the Governor

This is a group of 11 citizens appointed by the Governor that involves the public in issues and recommends policy alternatives relating to growth and development in Alaska. The Council serves as the "Board of Directors" of the Alaska Public Forum which is a systematic process of citizen participation through which the public can make known its feelings on these issues to the AGPC, the executive and legislative branches, and to private groups and citizens. Funding for FY'79 was \$326,500 (3 positions), \$319,300 for FY'78 and \$501,600 in FY'77. Funding is all General Fund.

Public Offices Commission - Office of the Governor

The Commission administers the campaign expenditure disclosure laws; promulgates and administers the regulations for lobbying and lobbyists and the conflict of interest law. In the areas of campaign disclosure and regulation of lobbying, the Commission receives complaints, conducts investigations, and recommends prosecution or other action to the Attorney General when it believes a violation has occurred. In the conflict of interest area the Commission reviews the conflict of interest statements and refers violations to the Attorney General. Funding for FY'79 was \$316,500 (8 positions), \$303,600 for FY'78, and \$249,900 for FY'77. Funding is all General Fund.

Risk Management - Department of Administration

This section is responsible for combining the insurable exposures of all State agencies under a single program to obtain the most advantageous cost and most effective coverage. In addition to the placement of adequate insurance coverage at fair market cost with reliable underwriters, the section educates State agencies in proper loss control techniques to reduce losses and subsequently premiums. Funding for FY'79 was \$173,600 (4 positions), \$157,000 for

FY'78, and \$5,705,500 for FY'77. The large decrease in funding after FY'77 is due to not funding possible liabilities. Thus if the State incurs a large liability, the program would probably need a special appropriation. Funding is General Fund.

Blue Book - Department of Education

The Alaskan Blue Book is the official directory of the State of Alaska. It is compiled, published and distributed biennially, and in the past, is updated in the interim. However, there was no FY'78 interim update. The book is distributed free of charge to all State, municipal and Federal agencies in the State and to all Alaskan schools, libraries, and members of the Legislature. Copies are sold to the general public for \$5. Funding for FY'79 was \$36,000 (1 position) and \$27,000 for FY'77 (3,000 books were printed in FY'77). Funding is General Fund.

Attachment: A

Attachment A

ADMINISTRATION OF JUSTICE
BUDGET CATEGORY

Office of the Governor

Public Defender

Human Rights Commission

Police Standards Council

Criminal Justice Planning

Department of Law

Prosecution

Department of Health and Social Services

Adult Confinement

Juvenile Confinement

Institutional Care

Foster Care

Major Medical and Guard Hire

McLaughlin Youth Center

Probation and Parole

Administration and Support

Department of Labor

Worker Protection

Wage and Hour Administration

Administration of Workmen's Compensation

Department of Public Safety

Crime Identification and Apprehension

Community Relations

Detachments and CIB

Narcotics Unit

Alaska State Troopers, Director's Office

Office of the Commissioner

Department of Public Safety (cont'd)

Administration and Support

Records and Identification
Laboratory Services
Central Communications
Housing Program
Research and Planning
Training

Violent Crimes Compensation

Judicial Services - Alaska State Troopers

PUBLIC PROTECTION
BUDGET CATEGORY

Department of Administration

State Records

Department of Law

Office of Consumer Protection

Department of Labor

Occupational Safety

General Administration

Compliance Inspection

Health Inspection

Training and Consultation

Planning and Standards

Occupational Safety - Research Grants

Industrial Safety - Mechanical Inspection

Worker Protection - Second Injury Fund

Worker Protection - Fisherman's Fund

Department of Commerce and Economic Development

Consumer Protection

Weights and Measures

Banking, Securities and Corporations

Corporations

Financial Institutions

Insurance

Market Surveillance

License Surveillance

Financial Surveillance

Department of Military Affairs

Search and Rescue

Civil Air Patrol

Alaska Division of Emergency Services

Civil Defense Planning
Radiological Program
City Participation
Flood Control
Disaster Relief Act

Alaska National Guard

Office of Adjutant General
State Armories
Federal Armories
Army Training Support
Air Training Support
Organized Militia Benefits
Hitchhike - Alaska Military Academy

Department of Natural Resources

Agricultural Inspection

Plant Industry

Animal Industry

Seafood Industry

Department of Public Safety

Fire Safety

Driver Vehicle Services

Driver Services
Vehicle Services
Field Operations
Administration
Municipal Tax Unit

Traffic Safety Planning Agency

Vehicle Weight Enforcement

GENERAL GOVERNMENT
BUDGET CATEGORY

Office of the Governor

Executive Office
Special Projects Coordinator
Contingency Fund
Policy Development and Planning
Growth Policy Council
Budget and Management
Executive Mansion
Telecommunications
Lieutenant Governor
Elections
Volunteer Action
Public Offices Commission

Department of Administration

Executive Administration
Office of Commissioner
Administrative Services
Internal Audit
Equal Employment Opportunity
Personnel
Accounting
Pre-Audit
Accounting Services
Payroll Accounting
Administration and Support

Department of Administration (cont'd)

General Services

Purchasing

Property Management

Central Mail and Switchboard

Archives

Leasing and Facilities

MEMORANDUM

DIVISION OF OCCUPATIONAL LICENSING

TO: The Honorable Fred Brown, Chairman DATE: February 7, 1979
 House Commerce Committee
 Alaska House of Representatives FILE NO:

TELEPHONE NO:

FROM: *Don Hostak*
 Don Hostak, Director SUBJECT:
 Division of Occupational
 Licensing

Travel Monies Budgeted for FY79 Board Travel:

<u>Board</u>	<u>Allowed Monies</u>	<u>Used</u>	<u>Left</u>
Real Estate	\$11,783.76	\$7,739.63	\$4,044.13
A,E, & LS	9,095.30	4,982.22	4,113.08
Barbers	2,091.04	1,276.15	814.89
Chiropractors	2,369.36	1,958.80	410.56
Collection Agency	5,411.44	1,909.40	3,502.04
Dental	7,766.04	7,056.00	710.04
Dispensing Optician	1,517.72	1,197.58	320.14
Electrical	5,172.20	1,723.40	3,448.80
Guide Licensing	9,365.12	3,651.07	5,714.05
Hairdressing	4,102.76	1,852.21	2,250.55
Marine Pilots	3,131.64	1,367.66	1,763.98
Medical	6,291.20	4,266.00	2,025.20
Nursing	11,449.10	5,312.39	6,136.71
Nursing Home Admin.	3,074.78	1,773.61	1,301.17
Optometry	1,585.70	-0-	1,585.70
Pharmacy	4,990.12	2,581.05	2,409.07
Physical Therapy	1,588.88	435.16	1,153.72
Psychology	3,484.38	2,445.07	1,039.31
Public Accountancy	6,332.20	5,806.25	525.95
Veterinary	1,409.64	824.82	584.82
Welding	4,621.60	2,435.14	2,186.46
	<u>\$106,633.98</u>	<u>\$60,593.61</u>	<u>\$46,040.37</u>

Travel Monies Budgeted for FY79 Out-Of-State Board Travel:

\$ 10,731.80 \$ 5,024.64 \$ 5,707.16

DIVISION OF OCCUPATIONAL LICENSING

TO: [The Honorable Fred Brown, Chairman
House Commerce Committee
Alaska House of Representatives

DATE: February 7, 1979

FILE NO.

TELEPHONE NO.

FROM: *Don Hostak*
Don Hostak, Director
Division of Occupational
Licensing

SUBJECT:

Allowable Travel FY79 for Board Meetings:

<u>Board</u>	<u>Allowed Travel</u>	<u>Used</u>	<u>Left</u>
Real Estate	6 meetings	3	3
A, E, & LS	6 meetings	3	3
Barbers	2 meetings	1	1
Chiropractors	2 meetings	1	1
Collection Agency	4 meetings	2	2
Dental	5 meetings	4	1
Dispensing Optician	2 meetings	2	0
Electrical	5 meetings	2	3
Guide Licensing	3 meetings	2	1
Hairdressing	4 meetings	2	2
Marine Pilots	2 meetings	1	1
Medical	4 meetings	2	2
Nursing	4 meetings	3	1
Nursing Home Admin.	3 meetings	2	1
Optometry	1 meeting	0	1
Pharmacy	3 meetings	2	1
Physical Therapy	2 meetings	2	0
Psychology	4 meetings	2	2
Public Accountancy	4 meetings	3	1
Veterinary	2 meetings	2	0
Welding	4 meetings	3	1

72

Allowable Out of State Travel for FY79:

Real Estate	2 trips	2	0
A, E, & LS	2 trips	0	2
Barber	0	0	0
Chiropractors	1 trip	0	1

<u>Board</u>	<u>Allowed Travel</u>	<u>Used</u>	<u>Left</u>
Collection Agency	0	0	0
Dental	1 trip	1	0
Dispensing Optician	0	0	0
Electrical	1 trip	0	1
Guide Licensing	0	0	0
Hairdressing	0	0	0
Marine Pilots	0	0	0
Medical	1 trip	0	1
Nursing	2 trips	0	2
Nursing Home Admin.	1 trip	1	0
Optometry	0	0	0
Pharmacy	1 trip	1	0
Physical Therapy	0	0	0
Psychology	1 trip	1	0
Public Accountancy	1 trip	1	0
Veterinary	0	0	0
Welding	<u>0</u>	0	0
	14		

Board Requested Travel for FY80:

- Real Estate:
 - 6 Board Meetings
 - 2 out-of-state trips - 2 people
 - 4 in-state inspection trips
 - 1 regulation hearing

- A,E, & LS:
 - 6 Board Meetings
 - 6 out-of-state trips

- Barbers:
 - 2 Board Meetings

- Chiropractors:
 - 2 Board Meetings
 - 1 out-of-state trip

- Collection Agency:
 - 3 Board Meetings
 - 1 out-of-state trip

- Dental:
 - 5 Board Meetings
 - 2 out-of-state trips
 - 2 in-state inspection trips
 - 1 regulation hearing

- Dispensing Optician:
 - 2 Board Meetings

Electrical:	4 Board Meetings 1 out-of-state trip 5 in-state inspections
Guide Licensing:	3 Board Meetings 2 disciplinary hearings 1 regulation hearing
Hairdressing:	4 Board Meetings 1 out-of-state trip - 2 people
Marine Pilots:	2 Board Meetings 6 in-state inspections 1 regulation hearing
Medical:	4 Board Meetings 1 out-of-state trip 2 regulation hearings
Nursing:	5 Board Meetings 6 out-of-state trips 10 in-state inspections
Nursing Home Admin.:	2 Board Meetings 1 out-of-state trip
Optometry:	2 Board Meetings
Pharmacy:	2 Board Meetings 1 out-of-state trip 5 in-state inspections 1 regulation hearing
Physical Therapy:	3 Board Meetings 1 out-of-state trip
Psychology:	5 Board Meetings 2 out-of-state trips 2 in-state trips to Juneau
Public Accountancy:	4 Board Meetings 2 out-of-state trips
Veterinary:	2 Board Meetings 1 out-of-state trip
Welding:	5 Board Meetings 1 out-of-state trip \$2,000 for in-state travel
	73 Board Meetings
	31 Out-of-State trips
	34 In-State trips + \$2,000
	7 Regulation Hearings
	2 Disciplinary Hearings

STATE
of ALASKA

MEMORANDUM

TO: [All Occupational Licensing Boards DATE: November 2, 1977

THRU: Sharon Andrew, Director FILE NO. *AK*
 Division of Occupational TELEPHONE NO.
 Licensing

FROM: Avrum M. Gross SUBJECT: Boards' Role in Investi-
 Attorney General gation and Adjudication

By: *BMB*
 Bruce M. Botelho
 Assistant Attorney General

Because of the limited resources of the Department of Law, it is impossible that attorneys attend all meetings of the State's 23 occupational licensing boards. In our absence this memorandum is designed to lend the boards some guidance in fulfilling their responsibilities with respect to complaints against practitioners.

INTRODUCTION

Generally speaking, state governments have assumed responsibility for licensure of occupations and professions in order to assure the public that practitioners are both competent and scrupulous. In Alaska, policing of the occupations has been divided between the Division of Occupational Licensing and the occupational licensing boards.

The Division of Occupational Licensing assumes day-to-day responsibility for processing of applications, fees and inquiries regarding the various professions. Furthermore, the division, through its enforcement section, investigates complaints against persons in violation of the occupational licensing statutes (found in Title 8 of the Alaska Statutes). Finally, the division, through the Commissioner of the Department of Commerce and Economic Development, has authority to seek enforcement of the licensing statutes either through cease and desist orders or court injunctions pursuant to AS 08.01.087.

The occupational licensing boards generally are responsible for reviewing the applications of all persons wishing to enter a profession in Alaska, to adopt regulations regarding the

standards of practice within the professions, and to hear cases presented to the boards by the Division of Occupational Licensing.

The Department of Law serves as counsel for both the Division of Occupational Licensing and for the licensing boards. The department specifically provides advice to the division and to the boards regarding their statutory authority and functions, helps draft and review proposed legislation and regulations and represents the division and boards in administrative proceedings and in court.

COMPLAINTS

Complaints about violations of the occupational licensing statutes usually come to a board's attention in two ways: (1) the division brings a complaint to the board for preliminary review; or (2) a member of the board has been contacted by some third party or has independently observed a violation of the law.

The immediate issue arises: how involved should the board become with the complaint? It is our position that the boards should refrain from becoming actively involved in investigations. Instead, investigations should be conducted by division staff. Thus, complaints received by an individual board member should be referred to the division. This does not preclude the division from approaching a board to inform it of the number and nature of outstanding complaints or investigations or from seeking guidance from a board as to whether particular conduct could constitute a violation of the licensing statute.

The reason for this limitation of board investigatory functions is the risk of undue bias that could violate a respondent's right to a fair and impartial hearing. The most recent U.S. Supreme Court decision in this regard is Withrow v. Larkin, 421 U.S. 35, 43 L.Ed.2d 712, 95 Sup. Ct. 1456 (1976), in which the Court was asked to uphold a decision of a three-judge U.S. District Court that enjoined a state medical board from temporarily suspending a license because the board had itself investigated the complaint and then separately held a revocation hearing based on the complaint. The Supreme Court reversed the District Court decision, holding that the processes utilized by the board did not in themselves contain an unacceptable risk of bias. However, the Court went to some length to emphasize two points:

1. That the board in question had utilized certain procedural safeguards (e.g., the doctor and his attorney were permitted to be present throughout the investigative proceeding), thus eliminating certain due process questions;
2. That there are risks of bias in administrative proceedings of this nature.

The Court concluded: "the mere exposure to evidence presented in non-adversary investigative procedures is insufficient in itself to impune the fairness of the board members at a later adversary hearing."

The Alaska Supreme Court has reached a similar result in interpreting Alaska's constitutional due process provisions. In In Re Cornelius, 527 P.2d 76 (Alaska 1974), the Alaska Supreme Court was asked to review a recommendation of the Board of Governors calling for the discipline of a member of the bar. The Alaska court summarily held that the combination of the investigative and judicial functions within an agency did not violate due process. It is noteworthy, however, that the trial committee of the board and the Board of Governors, which made the recommendation, are two separate entities within the State Bar Association. Different persons within the agency performed the separate investigative and judicial functions.

Thus, I believe that boards may become involved in investigations to the extent I have outlined above without fear of later court reversal. On the other hand, to allow a greater role except on a case-by-case basis (reviewed by a staff attorney) increases the risk of adverse court reaction to the board conduct in question.

AS 08.01.087 AUTHORITY

Once the division has investigated a complaint (whether it involves a practitioner in violation of the licensing statute or a person who is required to be licensed but is not), and it determines that a violation appears to have occurred or is about to occur, the division, on behalf of the Commissioner of the Department of Commerce and Economic Development, may seek (1) a cease and desist order stopping the person from committing a violation of the Act; (2) an injunction in superior court; (3) examination of license records; or (4) subpoena power to conduct further investigations.

In order to do any of these, however, the division must first contact the board involved by telephone or telegraph. The proposed action may take place if a majority of the board do not object within 10 days. As a practical matter the division will poll the board at the time of notification to determine whether a majority object to the proposed action.

The statute does not grant authority to the boards to issue cease and desist orders or injunctions. Nor can they direct the division to seek such relief. At most, they can recommend that the division review a complaint for possible action.

LICENSE DENIALS, SUSPENSIONS, AND REVOCATIONS

Statement of Issues

When a board, after reviewing an application for licensure, has determined that licensure should be denied, then the board issues a "Statement of Issues."

The statement of issues will generally be issued by the board without the assistance of the Department of Law. However, the board should set forth clearly and completely in the statement of issues all the reasons that the license is being denied. The board must set forth clearly and completely in its minutes and records the bases for its action. The Department of Law presents the state's case at hearing before the board.

Accusation

An accusation begins the process of determining whether a license that is currently valid should be suspended or revoked. In all cases, the accusation is filed by the division -- not by the board. The Department of Law drafts the accusation and presents the case to the board at hearing on behalf of the division.

The Hearing

Once either a statement of issues or an accusation has been filed, the person complained against (called "the Respondent") has 15 days to file a notice of defense and request a hearing. If the Respondent does not make such a filing, then at the board's next meeting the division will put on its evidence and the board will issue an order based on the evidence.

Normally, however, the Respondent requests a hearing. In that case, the hearing must be presided over by a hearing officer, either sitting alone or with the board members. The hearing officer is normally responsible for setting the time and place of hearing as well as the setting of any prehearing conferences. The board must make a determination, either before or after a notice of defense is filed, whether it wishes to delegate the hearing function to a hearing officer alone or whether it wishes to hear the case with the hearing officer. Some of the considerations in making such a decision are: the time involved (some cases have lasted several weeks), the location of the hearing and the complexity of the case. If a board chooses to hear the case, a majority of the board must hear it -- that means, hear all the evidence and testimony. A board member who believes he/she cannot render an impartial decision should disqualify himself/herself.

Paramount to all administrative proceedings is that the Respondent be accorded "due process." What lawyers usually refer to when they speak of "due process" is the right to a fair and impartial hearing. Though by no means exhaustive, the following are the most important elements of due process. Each board member who sits in a hearing has an obligation to protect these rights:

1. There must be adequate and timely notice of hearing and of every material step in the proceeding.
2. The purpose of the hearing and the issues involved must be stated clearly and simply in the notice and, where it is possible, the notice should contain a statement of the statute, rule or regulation involved and also the factual basis of the hearing or the charge involved.
3. The hearing must be before an impartial adjudicator.
4. There must be a full opportunity to be heard.
5. All parties must have the right to be represented by counsel or other representatives of their own choosing.
6. All parties have the right to bring witnesses to the hearing.
7. All parties are entitled to hear the whole testimony and the evidence produced against them and to know the claims or charges made against them; to confront and be

confronted by all parties and witnesses on the other side. There are exceptions of necessity, as discussed herein later.

8. All parties have the right to offer evidence and witnesses in their behalf and to rebut or explain testimony or evidence against them.

9. All parties have the right to cross-examine other parties and witnesses and to offer argument or explanation in support of their positions or contentions.

10. All parties have the right to have the power of subpoena exercised in their behalf, to bring in persons and records, according to the statutes, rules or regulations and court decisions governing subpoenas.

11. There must be substantial evidence, adequate to support pertinent and necessary findings of fact.

12. There must be a written decision setting forth findings of fact, conclusions of law or opinion, giving the reasons for the decision.

13. The conclusions or opinion in the decision must be governed by and based upon all the evidence adduced at the hearing. There must also be substantial evidence to support them.

14. The decision must be promptly served on all parties and their representatives.

15. If there is a right of administrative appeal from the decision, the notice of that right should be given with the decision.

16. Judicial review of the decision of the hearing officer or of a higher administrative tribunal must be afforded.

If a proposed decision is reached by a hearing officer sitting alone, then the board may:

- (1) allow the proposed decision to become final;
- (2) order reconsideration within 30 days, allowing

All Occupational Licensing Boards
Thru: Sharon Andrew

November 2, 1977
- 7 -

for additional evidence and argument;

(3) adopt the proposed decision, but reduce the proposed penalty; or

(4) decline to adopt the proposed decision and decide the case on the record (with or without taking additional evidence.

GENERAL REMARKS

Despite its limited resources, the Department of Law is committed to delivering quality service to each of its boards. The boards can assist the department towards this end in the following ways:

1. By limiting their opinion requests to issues vital to the exercise of their current functions. The requests should be through the Director of the Division of Occupational Licensing. It is important to note that each opinion request takes time away from the board attorney to prosecute revocation proceedings.

2. By refraining from contacting department attorneys for advice on particular cases or investigations outside of board members. When necessary, such contact should be initiated through the board chairperson.

I have attached copies of the instructions regarding occupational licensing matters which are contained in the Department of Law Manual in order to acquaint board members with our procedures.

BFB:md

cc: Rob Johnson, ACO Anchorage
Ivan Lawner, ACO Anchorage
Doug Hertz, ACO Fairbanks

INSTRUCTIONS FOR ADMINISTRATIVE PROCEEDINGS

All administrative adjudications under the Administrative Procedure Act, AS 44.62.010 et seq., (APA) are initiated through an accusation or a statement of issues. The APA does not apply to all administrative proceedings; AS 44.62.330 sets forth some of the agencies to which the APA applies. That section, as well as the specific agency statutes and regulations should be consulted to determine if the APA applies to a particular proceeding.

Accusation

An accusation begins the process of determining whether a right, authority, license or privilege should be revoked, suspended, limited, or conditioned. AS 44.62.60. A form of notice of defense must be served with the accusation. AS 44.62.380. If the respondent files a notice of defense within 15 days after service, he/she is entitled to a hearing on the merits. The accusation may be amended or supplemented at any time before the matter is submitted for decision pursuant to AS 44.62.400, and may be further amended after submission pursuant to AS 44.62.490.

The accompanying form of accusation follows the format of a complaint. Paragraph one sets forth briefly the nature of the proceeding, specifying the statutes relied on, the respondent and the relief sought. Paragraphs two and three set forth the operative facts. Paragraph four sets forth the statute violated. Paragraph five sets forth the consequences of the violation. In more complicated and lengthier accusations, refer to the form complaint and

instructions in these forms.

Statement of Issues

A statement of issues is used when an agency has denied a right, authority, license or privilege in the first instance or has refused to renew such right, authority, license or privilege. The statement of issues should take the same form as an accusation. A form notice of defense must be served with the statement of issues. AS 44.62.380. AS 44.62.370 implies that either the State or another party (possibly the respondent) may prepare a statement of issues. The Department of Law takes the position that, since it is the agency that denied the right, authority, license or privilege, it should prepare the statement.

The statement of issues will generally be issued by the agency without the assistance of the Department of Law. However, the client agency should be advised to set forth clearly and completely in the statement of issues all the reasons that the license, right, authority or privilege is being denied. The client agency should be further advised that it must set forth clearly and completely in its minutes and records the bases for its action.

The Department of Law will generally become involved if the agency action is contested. The attorney should first thoroughly review the statement of issues and the agency minutes and records to determine if an amended statement of issues should be prepared. Although the APA is not clear, the Department of Law takes the position that a statement of issues may be amended in the same manner as an

accusation pursuant to AS 44.62.400 and 490.

Once an administrative proceeding has been initiated by an accusation or statement of issues, the State attorney representing an agency should be particularly circumspect regarding his/her contacts with agency personnel who could hear the matter on appeal. Although the Alaska Supreme Court has ruled that counsel for an agency may advise the ultimate judges regarding procedural matters related to the case, the line of demarcation between compliance with due process and its violation is unclear.

The administrative hearing is presided over by a hearing officer, either sitting alone or with agency representatives. AS 44.62.450. The hearing officer is normally responsible for setting the time and place of hearing as well as the setting of any prehearing conferences.

AS 44.62.460 outlines the rules of evidence, which are generally much less strict than those applicable to court proceedings. However, since both parties are normally represented by attorneys and the hearing officer is also an attorney, the parties by stipulation may choose to use the civil rules.

Contempt Proceedings (Order to Show Cause)

If a party refuses to be sworn or examined or disrupts the administrative proceeding, the agency can seek a contempt order pursuant to AS 44.62.590. The papers should include a petition to the court, a certification by the agency (usually the hearing officer) of the facts necessitating court action and a form of order.

The law is uncertain regarding the procedure to be followed when a respondent challenges agency action.

AS 44.62.560(e) provides that the superior court may enjoin agency action in excess of constitutional or statutory authority at any stage of an agency proceeding. Appellate Rule 45 provides for appeals to superior court from district court and from administrative agencies.

District Court Civil Rule 31 provides for petition for review of any order or decision of a "magistrate court" or an administrative agency. The Department of Law takes the position that the rules supersede the statute. See, State v. Keep, 397 P.2d 973 (Alaska 1965).

Because such proceedings are often wasteful and result in undue delay of the administrative proceeding, attorneys should avail themselves of the doctrine of administrative primary jurisdiction. See, G & A Contractors, Inc. v. Alaska Greenhouses, Inc., 517 P.2d 1379 (Alaska 1974); and Alaska Public Utilities Commission v. Greater Anchorage Area Borough, 534 P.2d 549 (Alaska 1975). See also, Abbott Laboratories v. Gardener, 387 U.S. 136 (1967).

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

[Insert name and address of applicant]

Re: Notice of Denial of the Application
of [insert name of applicant] for
[identify license applied for]

You are hereby notified that on [insert date] the
[insert name of agency] considered your application for
[identify license applied for]. For the reasons set forth
in the enclosed Statement of Issues, your application for
[identify license applied for] was denied.

Notice of Defense and Request for Hearing.

The enclosed Statement of Issues was prepared
pursuant to AS 44.62.370 and sets forth the findings of
[insert name of agency]. This letter constitutes notice as
required by AS 44.62.380 that you may request a hearing on
the findings set forth in the Statement of Issues and the
denial of your application for [identify license applied
for].

Unless a written request for a hearing signed by
you or on your behalf is delivered or mailed to [insert name
of agency] within 15 days after receipt of the enclosed
Statement of Issues, the denial of your application for
[identify license applied for] is final and not reviewable
by any court of law. The request for a hearing may be made
by delivering or mailing the enclosed Notice of Defense form
to [insert name of agency] in the enclosed envelope, postage
prepaid. Mailing of the Notice of Defense signed by you or
on your behalf and returned to [insert name of agency]
within 15 days in the enclosed addressed envelope, postage
prepaid, acknowledges receipt of the enclosed Statement of
Issues and constitutes a notice of defense pursuant to AS
44.62.390.

Sincerely,

Sharon Andrew, Director
Division of Occupational
Licensing
Department of Commerce and
Economic Development

[Insert name of agency; e.g.,

STATE OF ALASKA

BOARD OF DENTAL EXAMINERS]

In the Matter of

)
)
)
)
)

No. _____

NOTICE OF DEFENSE

The respondent named below, pursuant to AS 44.62.390, hereby gives notice of defense in this proceeding.

A hearing on the matters set forth in the Statement of Issues is hereby requested.

DATED: _____

RESPONDENT

ADDRESS: _____

NOTE: This Notice of Defense must be signed by or on behalf of respondent, must set forth respondent's mailing address and must be filed with the [insert name of agency] within 15 days of receipt.

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

[Insert name and address of respondent]

Re: [Insert caption on accusation]

You are hereby notified that the enclosed Accusation has been filed with [insert name of agency]. [Insert name of agency] will conduct a hearing to decide the issues presented in the Accusation.

Notice of Defense and Request for Hearing.

The enclosed Accusation was prepared pursuant to AS 44.62.360 and sets forth the issues that will be decided by [insert name of agency]. This letter constitutes notice as required by AS 44.62.380 that you may request a hearing on the issues set forth in the Accusation.

Unless a written request for a hearing signed by you or on your behalf is delivered or mailed to [insert name of agency] within 15 days after receipt of the enclosed Accusation, [insert name of agency] pursuant to AS 44.62.530 will decide in your absence the issues presented in the Accusation. The request for a hearing may be made by delivering or mailing the enclosed Notice of Defense to [insert name of agency] in the enclosed envelope, postage prepaid. Mailing of the Notice of Defense signed by you or on your behalf and returned to [insert name of agency] within 15 days in the enclosed addressed envelope, postage prepaid, acknowledges receipt of the enclosed Accusation and constitutes a notice of defense pursuant to AS 44.62.390.

Sincerely,

Sharon Andrew, Director
Division of Occupational
Licensing
Department of Commerce and
Economic Development

1. To revoke respondent's license to practice dentistry in the State of Alaska.

2. To make such other findings and disposition of this proceeding as are just.

DATED: _____

Sharon Andrew, Director
Division of Occupational
Licensing
Department of Commerce and
Economic Development

[Insert name of board, e.g.:

STATE OF ALASKA

BOARD OF DENTAL EXAMINERS]

In the Matter of

)
)
)
)
)

No. _____

DECISION

The Alaska Board of Dental Examiners, after hearing evidence in this proceeding submitted by petitioner and by respondent at a hearing held on [insert date(s)], enters the following decision:

FINDINGS OF FACT

1. Respondent was licensed to practice dentistry in the State of Alaska on or about [insert date].
2. Respondent was convicted of the crime of embezzlement on or about [insert date].
3. [Here insert the reason why the findings support the agency action taken--i.e., revocation, rather than suspension or reprimand].

DETERMINATION OF ISSUES

4. The crime of embezzlement is a crime involving moral turpitude for purposes of AS 08.36.310(2).

PENALTY

5. Respondent's license to practice dentistry in the State of Alaska is hereby revoked.

DATED: _____

STATE OF ALASKA THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

March 17, 1980

SUBJECT: Legislative oversight procedures

TO: Max DuBois, A.A.
House State Affairs Committee

FROM: David T. Walker *DTW*
Co-Revisor of Statutes

The purpose of this memorandum is to identify procedural changes which would operate to modify the role of the standing committees in the sunset process. I would also like to take the opportunity to identify several areas within the existing statutory framework which would benefit from clarifying amendments.

I. Alternatives for Discussion

(1) Restrict oversight procedures to Title 8 boards and commissions;

NO (2) Create a permanent committee of the legislature charged with oversight responsibilities; this could function in the same manner as the Administrative Regulations Review Committee (this is the approach recommended by the House Commerce Committee in its interim report, Sunset in Alaska 1979-80 page 32);

(3) Eliminate the automatic termination features of the statutes and allow the Legislative Budget and Audit Committee to "target" all boards and commissions using the same procedures which now apply only to agency programs under AS 44.66.020 - 030. Oversight would then be restricted to those areas selected for review by the legislature.

II. Clarifying and Perfecting Amendments

(1) AS 44.66.010(a) uses the word "expire" when it should use "are terminated";

Mr. Max DuBois
Page 2
March 17, 1980

(2) The statute should address what the legislature wishes to happen when it does not comply with the AS 44.66.050(d) procedures or deadlines;

(3) Does the legislature intend for the boards, etc. identified in AS 44.66.010 to be effected by the one year wind-down period in the same way as the Title 8 boards? If so, I would recommend that the second sentence of AS 08.-03.020(a) be added to AS 44.66.010(b). Should the word "otherwise" be deleted from that sentence?

(4) If the legislature intends that the standing committees meet and conduct the oversight process during the interim, I would recommend that it express that in the oversight statutes.

DWT:ljb

A.

Are you satisfied w the support your Board gets from OL & dept of law.

B. Are you satisfied w the amt. of \$ your Board gets to do its business:

1. # meetings
2. ability to travel to different parts of state for public accessibility
3. Ability to participate in Natl workshops & conventions
4. for advertising meetings to solicit public input
 - a. papers
 - b. radio/TV PSA's
 - c. notification to associations & public organizations which might have interest
 - d.

C. Are you satisfied with the way your Board gets to spend its money?

- a. does it decide how/where/# days given x amt of \$ per fiscal year
- b. does OL decide when/where meetings held
- c. may your Board travel out of state on state funds
 1. would you like it to have that flexibility?
 - 2.

d. do you think your Board should have the option of deciding priorities of travel/meetings
In other words, if your Board thought it very important to send a member to a Natl meeting & wanted to spend \$ to do rather than

1 OL to determine
but determine

hold one of its scheduled meetings (it's that important) do you think the board should be able to make that decision?

D. Are you satisfied with the way complaints are handled by or - the investigator?

1. does your board know of all complaints filed against members regulated by the board?

a. does the board know before or after the investigator knows?

b. does your board know what disposition has been made of complaints?

c. does your board make disposition or does the investigator?

* d. how are complaints handled?

e. ~~what~~ do you ~~like~~ think the board should know of all complaints filed with it?

f. should the board be the body to make disposition? (ie: to consumer protection, to peer review committee, to investigator for further information)

12. ~~g.~~ should the board be involved in fee disputes? Or leave that to peer review &/or consumer protection.

a. should fee disputes be recorded in a member's file (in case this is a reputational assurance which might prompt the board to issue a reprimand)

3. Does your board have a standardized method (statutory or regulatory) by which actions against a

a. Under what circumstances is a ~~plaintiff~~:

- 1) ~~reprimanded~~ license reprimanded
- 2) license suspended
- 3) ~~limited~~ license limited
- 4) revoked (license)

b. Has the Dept. of Law given your board assistance in:

- 1) establishing guidelines for the above
- 2) enforcing the above

c. How often since you became a board member has an action been taken against a license?

4. do you think it would be helpful for a contact # in your board to be in the phone book (idea: 1 secretary for all 22 boards could take complaint calls, ~~direct~~ send complaint forms to callers, alert board member, etc.) (not an OL or Dept #)

- E Are you satisfied with the way the dept. of law gives assistance to your board?
1. does a representative of the dept attend your meetings? Would you like a rep. to attend:
 - a. as a matter of course
 - b. on request
 - c. when they want something
 - d. never
 2. does the dept answer your written or phone requests promptly?
 3. does the dept. give you the information you need in a way that you understand?
 4. do you feel (as a Board) that the dept law represents you well in hearings or court?
 - a. are you allowed to attend hearings or court proceedings?
 - b. are you allowed to read transcripts of hearings or court proceedings before rendering decisions?
 5. does the dept of law ever bargain away your board's decision for a lesser penalty
 - a. does your board have the ability to prevent this type of fact bargaining
 - b. does the dept's attorney advise you about his/her intention to bargain away your decision or are you informed after it has been accomplished that that's what happened?

Sec. 08.03.010. Termination, continuation and reestablishment of regulatory boards. (a) Boards listed in this subsection have a termination date of June 30, 1979:

- (1) Board of Chiropractic Examiners (AS 08.20.010);
- (2) Board of Dental Examiners (AS 08.36.010);
- (3) State Medical Board (AS 08.64.010);
- (4) Board of Nursing (AS 08.68.010);
- (5) Board of Dispensing Opticians (AS 08.71.010);
- (6) Board of Examiners in Optometry (AS 08.72.010);
- (7) Board of Pharmacy (AS 08.80.010);
- (8) Board of Veterinary Examiners (AS 08.98.010);
- (9) Board of Psychologist and Psychological Associate Examiners (AS 08.86.010);
- (10) Board of Nursing Home Administrators (AS 08.70.010);
- (11) Physical Therapy Board (AS 08.84.010).

(b) Boards listed in this subsection have a termination date of June 30, 1980:

- ① Board of Public Accountancy (AS 08.04.010);
- ② Board of Barber Examiners (AS 08.12.010);
- ③ Collection Agency Board (AS 08.24.011);
- ④ Board of Hairdressing and Beauty Culture Examiners (AS 08.28.010);
- ⑤ Board of Electrical Examiners (AS 08.40.010);
- ⑥ State Board of Registration for Architects, Engineers and Land Surveyors (AS 08.48.011);
- ⑦ Guide Licensing and Control Board (AS 08.54.010);
- ⑧ Board of Marine Pilots (AS 08.62.010);
- ⑨ Real Estate Commission (AS 08.88.011);
- ⑩ Board of Welding Examiners (AS 08.99.010);
- ⑪ Board of Governors of the Alaska Bar Association (AS 08.08.040).

(c) Upon termination, each board listed in (a) and (b) of this section shall continue in existence until June 30 of the next succeeding year for the purpose of concluding its affairs. During this period, termination does not reduce or otherwise limit the powers or authority of each board. One year after the date of termination, a board not continued shall cease all activities.

(d) The termination, dissolution, continuation or reestablishment of a regulatory board shall be governed by the legislative oversight procedures of AS 44.66.050.

(e) A board scheduled for termination under this chapter may be continued or reestablished by the legislature for a period not to exceed four years. (§ 2 ch 149 SLA 1977)

Title 8
Business and Professions

Title 7
Boroughs

12 ATC

- Article
- 1. Board of Public Acc
 - 2. Certified Public Acc
 - 3. Public Accountants
 - 4. Regulation of Accou
 - 5. Unlawful Acts and
 - 6. Miscellaneous Provi
 - 7. General Provisions

Arti

- Section
- 10. Creation of board
 - 20. Appointment and board
 - 30. Removal and members
 - 40. Term of office

Sec. 08.04.010.
accountancy to b
Accountancy. (§ 2

Am. Jur., ALK and C
10 Am. Jur., Certified
§§ 1 to 8.

Failure of accountan
as affecting validity o
contract, 4 ALR 1087; 3
1226; 118 ALR 651.

Licensing and reg
accountants, 27 ALR 15
ALR 1095.

Sec. 08.04.020.
consists of seven
shall be a resident
shall be certified
members in accord
shall be public acco
appointed who does
the laws of this s
appointed who is
(§ 2(2) ch 187 SLA

Effect of amendme
amendment substituted
for "five members" in
deleted "a citizen of the
preceding "a resident
sentence, deleted "At

Introduced: 3/1/79
Referred: Commerce and
Finance

BY THE RULES COMMITTEE BY
REQUEST OF THE LEGISLATIVE
BUDGET AND AUDIT COMMITTEE

1 IN THE SENATE

2 SENATE BILL NO. 232

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act designating programs and activities for review
7 and termination under AS 44.66; and providing for an
8 effective date."

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

10 * Section 1. AS 14.56.250 - 14.56.290 (relating to the responsibility and
11 authority of the Department of Education, division of state libraries, to
12 publish the Alaska Blue Book) are repealed.

13 * Sec. 2. The following laws relating to mechanical inspection functions
14 of the Department of Labor are repealed:

15 (1) AS 18.60.220 - 18.60.395 (boiler and pressure vessel
16 inspection);

17 (2) AS 18.60.600(a)(2), 18.60.600(b), and 18.60.610 - 18.60.-
18 650 (electrical wiring inspection);

19 (3) AS 18.60.715(b), 18.60.720(b), 18.60.725, 18.60.730 and
20 18.60.740(4) (plumbing code inspection);

21 (4) AS 18.60.800(b)(2) and 18.60.820 (elevator safety inspec-
22 tion).

23 * Sec. 3. AS 18.65.130 - 18.65.290 and AS 44.62.330(a)(34) (Police
24 Standards Council) are repealed.

25 * Sec. 4. AS 18.80 and AS 39.50.200(9)(N) (State Commission on Human
26 Rights) are repealed.

27 * Sec. 5. AS 23.35 (Fisherman's Fund) is repealed.

28 * Sec. 6. AS 28.05.011(8) (authority of the Department of Public Safety
29 to operate motor vehicle weighing stations and to enforce size, weight and

1 load limitations) is repealed.

2 * Sec. 7. AS 44.19.870 - 44.19.881 (division of policy development and
3 planning) are repealed.

4 * Sec. 8. AS 45.50.491 - 45.50.521 (consumer protection - Department of
5 Law) are repealed.

6 * Sec. 9. AS 45.50.531(b) is amended to read:

7 (b) A person entitled to bring an action under this section may,
8 [AFTER INVESTIGATION BY AND APPROVAL OF THE ATTORNEY GENERAL,] if the
9 unlawful act or practice has caused similar injury to numerous other
10 persons similarly situated and if he adequately represents the similarly
11 situated persons, bring an action on behalf of himself and other
12 similarly injured and situated persons to recover actual damages. [A
13 PERSON PLANNING TO BRING AN ACTION UNDER THIS SUBSECTION SHALL FIRST
14 SUBMIT TO THE ATTORNEY GENERAL A COPY OF HIS PROPOSED COMPLAINT, AND HE
15 MAY NOT FILE THE COMPLAINT IN COURT WITHOUT THE ATTORNEY GENERAL'S
16 APPROVAL.] In an action brought under this subsection, the court may in
17 its discretion order, in addition to damages, injunctive or other equit-
18 able relief.

19 * Sec. 10. The responsibility of the Department of Law under AS 45.45
20 (regulation of motor vehicle repairs) is terminated.

21 * Sec. 11. AS 47.10.150, 47.10.160, and 47.10.180 - 47.10.220 (programs
22 of the Department of Health and Social Services relating to the confinement
23 of juveniles) are repealed.

24 * Sec. 12. The Alaska Growth Policy Council, established within the
25 division of policy development and planning, Office of the Governor, by
26 Administrative Order No. 26, under the authority of AS 44.19.880(c), is
27 terminated.

28 * Sec. 13. A claim for an injury compensable under AS 23.35, repealed by
29 this Act, may be paid by the commissioner of labor if claim for compensation

1 is made within one year of the effective date of this Act. A claim shall be
2 paid in accordance with the provisions of AS 23.35 and the provisions read at
3 the time of repeal. On July 1, 1981 the balance in the fishermen's fund
4 (AS 23.35.060, repealed and AS 37.05.155(a)(6)) lapses into the general fund.

5 * Sec. 14. This Act takes effect July 1, 1980.

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OCCUPATIONAL LICENSING

IN ALASKA:

A

Manual For Members of
State Licensing Boards
And The Division of Occupational Licensing

Prepared by the
Office of the Attorney General
Alaska Department of Law

1979

Acknowledgements

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In addition, the following sources were of assistance in preparing this manual:

Alaska Department of Law, Drafting Manual for Administrative Regulations

California Office of Administrative Hearings,

Guidelines for Formal Contested Administrative Proceedings: A Handbook for Members of State Licensing Boards

Montana Legislative Council, Professional and Occupational Licensing Boards

[The views expressed in this manual do not necessarily reflect those of any of these organizations.]

TABLE OF CONTENTS

Occupational Licensing in Alaska
Acknowledgments
Table of Contents

INTRODUCTION

1. Reasons for Licensing
2. Development of Licensing
3. Characteristics of Licensing Boards
4. Occupational Licensing in Alaska

RULE MAKING AUTHORITY: THE PROMULGATION OF REGULATIONS

1.1 Rulemaking Authority
1.1.1 Rulemaking: Introduction
1.1.2 Basis of Authority.
1.1.3 Limits of Authority
1.1.4 Procedures Required

1.2 DEFINITION OF REGULATIONS
1.2.1 General Definition
1.2.2 Mandatory and Discretionary Regulations
1.2.3 Rules of Organization and Practice
1.2.4 Amendments of Prior Rule
1.2.5 Exclusion from Definition
1.2.6 Relation to Statute

1.3 DRAFTING REQUIREMENTS
1.3.1 Requirements for Form and Style
1.3.2 Specific Suggestions
1.3.3 Adoption by Reference
1.3.3 Adoption by Reference (continuation)

1.4 NOTICE
1.4.1 General Requirement
1.4.2 Contents of Notice
1.4.3 Notice of Hearing
1.4.3 Notice of Hearing (continuation).

1.5 CONDUCT OF HEARING.
1.5.1 Conducting the Hearing
1.5.2 The Presiding Officer
1.5.3 Standards of Conduct.
1.5.4 Examination of Witnesses.
1.5.5 Evidence.
1.5.6 Record of Hearing

1.6	EMERGENCY RULES	
1.6.1	Provision for Adoption.	
1.6.2	Effective Dates	
DISCIPLINARY PROCEEDINGS		
2.1	THE DISCIPLINARY PROCESS	
2.1.1	Use of Administrative Hearings	
2.1.2	Nature of Proceeding	
2.1.3	Role of the Board	
2.1.4	Participants	
2.1.5	Jurisdiction of the Board	
2.	INFORMAL DISPOSITION OF COMPLAINTS	
2.2.1	Advantages of Informal Disposition	
2.2.2	Disposition by Correspondence	
2.2.3	Conference or Informal Hearing	
2.2.4	The Board's Role in Informal Hearings	
2.2.5	Consent Order	
2.3	THE RIGHTS OF PARTIES	
2.3.1	Right to Appear	
2.3.2	Right to Present Evidence and to Cross-Examine	
2.3.3	Right to Counsel	
2.3.4	Right to Copy of Testimony	
2.3.5	Right to Judicial Review	
2.4	INITIATING A DISCIPLINARY PROCEEDING	
2.4.1	Initiating the Process	
2.4.2	Need for Formal Adjudication	
2.4.3	Right to Hearing	
2.4.4	When a Hearing is not Required	
2.4.5	Ex Parte Communications	
2.5	DESIGNATION OF HEARING OFFICERS	
2.5.1	Use of Hearing Officers	
2.5.2	Duties of the Hearing Officer	
2.6	PRELIMINARY ACTIONS	
2.6.1	Pre-Hearing Conferences	
2.6.2	Stipulation	
2.7	MOTIONS	
2.7.1	Use of Motions	
2.7.2	Form of Motions	
2.7.3	Answers to Motions	
2.7.4	Argument on Motions	
2.7.5	Disposition of Motions	
2.8	SUBPOENAS	
2.8.1	Types of Subpoenas	
2.8.2	Subpoena Authority	

2.8.3 Procedure for Issuing Subpoena

2.8.4 Response to Subpoena

2.8.5 Enforcement

2.9 CONDUCTING THE HEARING

2.9.1 The Presiding Officer

2.9.2 Standards of Conduct

2.9.3 Conduct of Board Members and Officers

2.9.4 Admission of Public

2.9.5 Record of Proceeding

2.10 ORDER OF PROCEEDINGS

2.10.1 Convening the Hearing

2.10.2 Oaths and Affirmations

2.10.3 Order of Proceedings

2.11 EVIDENCE

2.11.1 Purpose of Evidence

2.11.2 Forms of Evidence

2.11.3 Admissibility

2.11.4 Rules of Privilege

2.11.5 Exclusion of Evidence

2.11.6 Exhibits

2.11.7 Official Notice

2.11.8 Evidentiary Terms

2.12 THE BOARD'S DECISION

2.12.1 Making the Decision

2.12.2 Multiple Charges

2.12.3 Procedures for Decision

2.12.4 Determining Sanctions

2.13 RECONSIDERATION OF DECISION

2.13.1 Procedures

2.13.2 Basis for Reconsideration

2.13.3 Enforcement of Decision

2.14 JUDICIAL REVIEW

2.14.1 Seeking Judicial Review

2.14.2 Effect of Review

2.14.3 Scope of Review

2.14.4 Procedures for Review

2.15 DISQUALIFICATION

2.15.1 Disqualification of Hearing Officer or Board Member

2.15.2 Action on Disqualification

- 2.16 THE CASE RECORD
- 2.16.1 Need for Record
- 2.16.2 The Case Record
- 2.16.2 The Case Record (continuation)

FUNCTIONS OF THE DIVISION OF OCCUPATIONAL LICENSING

- 3.1 ROLE OF THE DIVISION IN THE PROMULGATION OF REGULATIONS
 - 3.1.1 Drafting Regulations
 - 3.1.2 Hearing Notification
 - 3.1.3 Post-Hearing Procedures
- 3.2 ROLE OF THE DIVISION IN THE DISCIPLINARY PROCESS
 - 3.2.1 Initial Complaint Procedures
 - 3.2.2 Initiation of Formal Proceedings
 - 3.2.3 Appointment of Hearing Officers
 - 3.2.4 Delegation of Hearing Authority
 - 3.2.5 Issuance of Subpoenas
 - 3.2.6 Filing of Proposed Decision
 - 3.2.7 Preparation of the Record
- 3.3. EMERGENCY POWERS
 - 3.3.1 Cease and Desist Authority
 - 3.3.2 Procedural Requirements
 - 3.3.4 Investigative Powers

FUNCTIONS OF THE DEPARTMENT OF LAW

- 4.1 FUNCTIONS OF THE DEPARTMENT OF LAW
 - 4.1.1 General Duties
 - 4.1.2 Legal Advice
 - 4.1.3 Promulgation of Regulations
 - 4.1.4 Drafting of Legislation
 - 4.1.5 Representation of the Division
 - 4.1.6 Representation of the Board
 - 4.1.7 Audits of Board Procedures

APPENDICES