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Sec. 90. Renewals

(a) Applications for renewals of licenses shall be filed on or before December 31 of each calendar year. Except as set forth below, all applications will be automatically renewed on or before February 28 of each calendar year and shall be accompanied by payment of the required license fee.

(b) Pending the outcome of a board hearing or judicial determination as to the legality of issuing a license, a license is not automatically renewable.

(c) A license is not automatically renewable in the case of a conviction of the licensee for a violation of law, regulation or municipal ordinance relating to alcoholic beverages.

(d) A license which has been revoked is not renewable, and any subsequent application shall be treated as an application for new license.

(e) A license is renewable upon application after December 31, and on or before February 28, of each calendar year upon payment of a penalty fee which shall be equal to the annual license fee or \$50, whichever is less.

(f) A license which has not been renewed on or before February 28 of each calendar year is automatically forfeited and may only be reissued upon application filed during the six-month period beginning February 28, upon a showing of good cause for the failure to timely renew and upon payment of the license fee plus a penalty equal to the annual license fee or \$50, whichever is less.

(g) Licenses are automatically forfeited for premises at which business has not been conducted at least 30 days per calendar year for a minimum of eight hours per day. The burden of proof for this requirement rests with the licensee.

Sec. 100. Transfers

(a) Transfers of licenses require the prior written approval of the board upon application of the transferor.

(b) An application for a transfer of a license, or of any interest in a license, shall also contain information from the transferee as required by the board.

**Sec. 110. Licensed Premises**

(a) A license is issued for a specific area which is the licensed premises, and which shall be clearly designated in a line drawing accompanying the application. The principal address of the licensed premises and the business name under which the licensee is doing business at that address shall be indicated on the license.

(b) The licensee shall post the license conspicuously on the licensed premises.

(c) A licensee shall not alter the area of the licensed premises nor change the business name under which he is doing business upon the licensed premises without the prior written approval of the board.

(d) When a licensed premises is directly adjacent to an unlicensed area, the licensee must notify the public by conspicuously placed signs which area is licensed ("wet") and which is unlicensed ("dry"). Areas designated as "wet" or "dry" remain so at all times and for all purposes.

(e) When the licensed premises consists of more than one room in which alcoholic beverages are served for consumption therein, the board shall issue to the licensee a copy of the original license issued by the board to be displayed in each such separate room.

(f) A licensee doing business in separate rooms under separate business names, whether or not at the same general location and at the same principal address, shall be considered to be doing business upon separate premises which must be separately licensed accordingly, except as set out in Article VII, Section 50.

**Sec. 120. Extension and Reduction of Premises**

(a) A licensee may reduce or extend the area of the licensed premises only upon approval of the director.

(b) The director may reduce the area of the licensed premises described in an application for a license where, in the judgment of the director, a reduction in area is in the best interests of the public or where a reduction in area is necessary to insure adequate control over the sale or consumption of alcoholic beverages on the premises.

**Sec. 130. Surrender of Licenses**

(a) Upon loss of the licensed premises, for whatever reason, or upon ceasing to conduct business upon the licensed premises for a period of one week or more, a licensee shall surrender the license to the board, to be reissued upon request when the conduct of business is resumed or the license is transferred or relocated with the approval of the board.

(b) If at any time the licensee ceases personally or through his employees or agents to exercise the authority and responsibility for the conduct of business upon the licensed premises, the licensee shall surrender the license to the board. Unless and until the licensee surrenders the license and so long as business is conducted upon the licensed premises, the licensee is solely responsible and liable therefor, and no other person may acquire or be permitted to acquire a direct or indirect financial interest in the conduct of the business without transfer of the license upon approval of the board.

**Sec. 140. Transfer or Relocation After Loss of Premises**

(a) When a licensee loses the premises to which a license attaches, whether the loss is voluntary or involuntary, the licensee must within 90 days of the loss of the premises:

- (1) apply for a relocation or for a transfer;
- (2) submit to the board a written statement of intent to reestablish operations at the original premises; or
- (3) request an extension of time for filing the application or statement as set out in (1) and (2) above.

(b) Failure of a licensee to comply with (a) above is grounds for the director to begin proceedings for revocation of the license under Article VI of these regulations.

(c) All licensees who wish to relocate under AS 04.10.220 must qualify under the population criteria for their new location to be found acceptable under the statute.

#### Sec. 150. Management Agreements

(a) A management agreement may be entered into between a licensee and another party who is not a salaried employee of the business or does not participate in any way in the proceeds of the business. Customarily these agreements are entered into pending transfer of ownership of a license and licensed premises with the proposed transferee acting as manager and receiving a flat fee for his services. All management agreements must be reviewed and approved by the director prior to the time the manager becomes obligated to perform under the agreement.

(b) The request for approval of the management agreement must establish that financial responsibility and primary responsibility for operation and control of the business remain with the licensee.

(c) Any manager of a licensed premises who is remunerated on the basis of a percentage of the proceeds of the business must be a named licensee on the license.

#### Sec. 160. Death or Dissolution of a Licensee

(a) Upon the death of an individual who was the sole licensee of licensed premises, and upon the dissolution of a corporate licensee, the license shall be immediately surrendered to the board, and no business may thereafter be conducted upon the licensed premises unless and until a new license is issued or the license is reissued or transferred with the approval of the board.

(b) Upon written request made by the legal representative of the estate of a deceased individual licensee, the director may grant permission to the representative to operate the business upon the licensed premises for a reasonable time pending legal disposition of the estate and arrangements for transfer of the license, and upon terms and conditions specified by the director. This request must be made within 90 days of the death of the licensee.

## ARTICLE III

### LICENSES

#### Section

10. Restaurant and Roadhouse Licenses
20. Club License
30. Common Carrier Dispensary Licenses
40. Community Liquor License
50. Beverage Dispensary License
60. Hotel-Motel/Tourism License under Section 260

#### Sec. 10. Restaurant and Roadhouse Licenses

(a) The entire business conducted on the licensed premises of a restaurant or roadhouse must be under the sole operation and control of the licensee.

(b) Prior to the issuance of a restaurant license, the applicant must provide evidence to the board in the form of a menu sufficient to establish that meals are presently available and being furnished to the public on the premises or that they will be available prior to operation under the license. No restaurant license may be issued until such meals are available.

(c) Prior to the issuance of a roadhouse license, the applicant must provide evidence to the board establishing that food is available to be served to the public or that it will be available prior to operation under the license. No roadhouse license may be issued until such food is available.

(d) Holders of a restaurant license may serve beer or wine only to a person who has purchased a meal.

(e) Failure by the holder of a restaurant license to furnish meals to patrons or by the holder of a roadhouse license to have food available to be served to patrons is grounds for the board to suspend or revoke the license.

Sec. 20. Club License

(a) A member of a club which is the holder of a club license is defined as a person who has a paid-up membership in the organization and who has all voting rights and full membership privileges. Persons who previously were spouses of deceased members may be accorded club privileges.

(b) A guest is a person who enters the club premises on the invitation of a member. A guest may be served alcoholic beverages when accompanied personally by said member. A guest shall be required to leave the premises immediately upon the departure of the member who extended the invitation of entry.

(c) All alcoholic beverages served are for consumption on the premises only.

(d) The issuance of a club license is a privilege extended to certain qualified organizations which do not traffic in alcoholic beverages for profit and are operated solely for social, recreational, political, benevolent or athletic purposes, but not for pecuniary gain.

(e) Service of alcoholic beverages to the general public upon a club's premises requires a caterer's permit by a qualified beverage dispensary licensee.

Sec. 30. Common Carrier Dispensary License

(a) Any concessionaire who sells and dispenses alcoholic beverages within Alaska on a common carrier must be licensed under this title.

(b) Any common carrier, whether belonging to an individual or to a business or governmental entity, and whether involved in intrastate, interstate or international travel, may purchase alcoholic beverages within the state only if it is the holder of a common carrier dispensary license.

Sec. 40. Community Liquor Licenses

(a) After receipt of a proper petition, the governing body of a first or second class city which qualifies for a community liquor license under AS 04.10.139 shall place upon a separate ballot at the next municipal election the following questions: "For the issuance of a community liquor license . . . (yes or no)" and "If the above proposal is approved, the city should apply for either: a beverage dispensary license . . . (yes or no) or for a retail (package store) license . . . (yes or no)". If the proposal is approved by a majority of the voters and if all statutory requirements are met, the board may issue such a license.

(b) The voters of an incorporated city which is also a first or second class city may petition for an election designated a local option election, to prohibit the sale of alcoholic beverages by private persons within the city, and at the same time for a vote for the city to acquire a community liquor license. After receipt of such a petition, the governing body of the city shall place upon a separate ballot at the next municipal election the following question: "For prohibition of the sale of alcoholic beverages by private persons and for the city to acquire a community liquor license . . ." (yes or no) If the proposal is approved and if all statutory requirements are met, the board may issue the community liquor license.

(c) Following approval by the board of a community liquor license to a city, the board may not approve any other new license within the city except a license excepted under AS 04.10.430(c), for a minimum period of one year from the date of issuance of the community license and until the voters, in accordance with AS 04.10.430(a) at a subsequent election, vote to cancel the community license or the city council decides to not renew it. Licenses already issued within the city and licenses on premises outside the boundaries of a city are not affected by the issuance of a community liquor license unless the city has also voted under AS 04.10.430(a) to not permit the sale of alcoholic beverages by private licensees.

Sec. 50 Duplicate Beverage Dispensary License

(a) No further duplicate beverage dispensary licenses shall be issued following adoption of these regulations except as set forth under (c)(2) below.

(b) A licensee who holds a duplicate beverage dispensary license at the time of adoption of these regulations may submit application to the board for an extension of premises to incorporate the premises presently designated in the duplicate license into the principal licensed premises.

(c) If the premises currently designated under the duplicate license are found by the board to be too remote or disconnected from the principal licensed premises to be incorporated into them as an extension of premises, the licensee shall

(1) apply for a new beverage dispensary license for the premises previously covered by the duplicate license; or

(2) In the event the population criteria prevents a new beverage dispensary license from being granted at the location of the present premises, apply for a revised duplicate beverage dispensary license. This revised license shall contain a notation that the duplicate license is granted to protect the "grandfather rights" of the licensee and that although it may be renewed, it may not be transferred to any other owner, in whole or in part.

(d) Holders of "grandfather rights" duplicate beverage dispensary licenses shall be granted priority in applying for new beverage dispensary licenses as openings in the class occur.

(e) All duplicate beverage dispensary licenses remaining under "grandfather rights" provisions shall be subject to the following:

(1) a duplicate license must be conspicuously displayed in the room for which it is issued;

(2) the fixed counter or service bar in the duplicate premises must be staffed at all times when the duplicate premises are open to the public;

(3) the duplicate premises must be in operation for a minimum of 30 days each year in order for the duplicate license to be renewed;

(4) the license fee shall be in an amount equal to the fee for the license for the principal licensed premises;

(5) the status of a duplicate license is subject to the principal licensed premises; any suspension or revocation of either a principal or a duplicate license affects the principal and all duplicate licenses related to it.

**Sec. 60. "Hotel-Motel/Tourism" License Under Section 260**

(a) No new license may be issued outside the population quota under the exception set out in AS 04.10.260 if the population quota permits the license to be regularly issued.

(b) The board may approve the issuance of a license under Section 260 only when it is clear that the license would encourage tourism and also would be in the best interest of the permanent residents of the locality.

(c) No license issued under Section 260 may be automatically renewed when the board acquires evidence that the issuance of the license is not encouraging tourist trade.

(d) Only one license may be issued under Section 260 to any one tourist facility.

(e) If a tourist facility has more than one license which was originally issued under AS 04.10.260, the number of licenses issued under Section 260 shall be reduced by reissuing one of those licenses whenever an opening occurs within the class of one of the existing licenses, permitting the issuance of a regular license of that class.

(f) With the exception of a license granted to an airport terminal facility, any license issued under Section 260 must always exist with room and eating accommodations for the public, the license cannot be transferred to another licensee without transfer of the total facility, and the licensee must be the operator of the total facility.

(g) No license issued under Section 260 may be transferred to another location.

ARTICLE IV

GENERAL PROVISIONS REGARDING LICENSEES AND LICENSED PREMISES

Section

- 10. Public Health and Public Safety
- 20. Adulteration, Misbranding and False Advertising
- 30. Warehousing and Transporting
- 40. Prohibited Conduct
- 50. Refusal to Admit Minors
- 60. Determining if Patron is a Minor
- 70. Designation of "Restaurant Premises"
- 80. Credit Sales
- 90. Credit Purchases
- 100. Liability of Joint Licensees
- 120. Percentage Leases
- 130. Sale on Federal Property
- 140. Contraband
- 150. Reporting Requirements
- 160. Record Keeping Requirements
- 110. Satisfaction of Business Debts Prior to Transfer
- Sec. 10. Public Health and Public Safety

All licensed premises must meet applicable public health and public safety standards, and no license for a new premises may be issued until appropriate approvals are obtained.

Sec. 20. Adulteration, Misbranding and False Advertising

Adulteration, misbranding and false advertising of alcoholic beverages is prohibited.

Sec. 30. Warehousing and Transporting

(a) A licensee may not stock, warehouse or otherwise store alcoholic beverages in a place other than upon the licensed premises without a permit from the board, and no person may stock, warehouse or otherwise store alcoholic beverages on behalf of a licensee unless the licensee has obtained a permit from the board. [See Article VIII, Sec. 50]

(b) Alcoholic beverages shall not be sold or consumed at an approved storage facility, nor shall they be dispensed from the facility except at the explicit direction of the licensee.

(c) Vehicles used to transport alcoholic beverages must be secured against public access at all times.

**Sec. 40. Prohibited Conduct**

Licensees, their employees and agents, may not engage in the following prohibited conduct on or about the licensed premises:

(a) Serving or permitting the serving of, alcoholic beverages to apparently intoxicated persons, or allowing apparently intoxicated persons to remain upon the licensed premises;

(b) Serving or permitting the service of, alcoholic beverages to minors, or by minors, or allowing minors illegally on the premises to remain upon the licensed premises;

(c) Permitting or refusing to prohibit solicitation for prostitution, possession or use of illegal narcotics, illegal gambling, or lewd conduct or obscene display;

(d) Permitting any employee to encourage a patron to purchase alcoholic beverages for the employee or for any other person;

(e) Permitting or refusing to control disorderly conduct and disturbance of the peace on or about the licensed premises;

(f) Consuming alcoholic beverages while on duty;

(g) Refusing to cooperate with and assist upon request peace officers and investigative agents of the board;

(h) Permitting the removal of alcoholic beverages from the licensed premises when such beverages were sold for consumption on the premises only.

**Sec. 50. Refusal to Admit Minors**

A licensee, at his discretion, may refuse entry to that part of the licensed premises wherein alcoholic beverages are being sold, served or consumed to any or all persons under the age of 19, even though such person is accompanied by a parent, spouse over the age of 19 years, or legal guardian. The licensee may refuse any service to

such persons under the age of 19 years and may require them to leave the portion of the licensed premises wherein alcoholic beverages are sold, served or consumed.

**Sec. 60. Determining if Patron is a Minor**

If a licensee, or the agent or employee of a licensee, asks a patron to verify his or her age and the patron does not show identification sufficient under AS 04.15.065, or if there is some question of the validity or accuracy of the identification shown, then the licensee, or the agent or employee, shall require the patron to sign a statement that he or she is over the age of 19 years. It is the responsibility of the licensee to have blank statement forms available and to retain completed forms for 30 days available for inspection.

**Sec. 70. Designation of "Restaurant Premises"**

(a) A licensee who wishes to have a restaurant designation to permit minors on his premises under AS 04.15.020(d) must apply to the director for such a designation.

(b) The director may grant a restaurant designation for the premises of a licensee who is the holder of a beverage dispensary or a restaurant license when the premises qualify for such a designation under AS 04.15.020(d) and the director finds it is in the best interest of the public to grant such a designation.

(c) The director must be in receipt of a written approval from the local governing body prior to granting a restaurant designation for a licensed premises.

(d) A licensee with a restaurant designation on his premises must reapply annually to keep the status of the designation. The application for the continuance of the restaurant designation shall be submitted to the board each year with the license renewal application.

(e) If the holder of a license for a premises with a restaurant designation is found to be in violation of any of the provisions relating to minors in Title 4 or these regulations, the restaurant designation may be withdrawn.

**Sec. 80. Credit Sales**

(a) With the exception provided in AS 04.15.085(a), a purchaser of alcoholic beverages on a retail basis must pay for the beverage in cash or its equivalent at the time the beverage is received by the purchaser, or may place the charge on a bill which must be paid prior to the time the purchaser leaves the licensed premises.

(b) A wholesale, distillery, brewery, winery, or bottling works licensee may sell alcoholic beverages to other licensees, for resale, other than for cash, but all accounts receivable must be paid within 90 days thereafter.

**Sec. 90. Credit Purchases**

(a) A holder of a retail license may not purchase alcoholic beverages, for resale, on credit except upon credit terms which require the payment in full of all accounts payable within 90 days of purchase.

(b) Consignment of alcoholic beverages by a wholesaler to a retailer is prohibited.

(c) Holders of licenses who sell on a retail basis and holders of permits may return to a wholesaler from whom purchases were made unopened containers of alcoholic beverages for credit or refund.

**Sec. 100. Liability of Joint Licensees**

All persons whose names appear as licensees upon a license are liable for the debts incurred for the operation of the business. No person who is a joint licensee may free himself of these responsibilities by oral or written agreement with any other joint licensee or any other person without a formal transfer.

**Sec. 110. Satisfaction of Business Debts Prior to Transfer**

(a) An application for a transfer must be accompanied by an affidavit from the transferor setting out all debts of the business. Even if there are debts of the business for which the transferor asserts he has no personal liability, they shall be listed in the affidavit.

(b) Prior to approval of the transfer by the director, all debts of the business must be paid or the creditors satisfied with the security arrangement. If all debts of the business are not paid, the transferor has the responsibility of providing the director with a written acknowledgement from each creditor that the creditor is satisfied the claim is adequately secured. For purposes of this section, "all debts of the business" includes any unpaid taxes and includes all debts listed by the transferor in his affidavit and any other unpaid debt of which the director is aware, but does not include obligations for the purchase of real property.

(c) Within three months of receipt by the director of an application for a transfer of a license, all the debts of the business must be paid or the creditors satisfied as required by statute, or the director may deny the application.

#### Sec. 120. Percentage Lease

A licensee who wishes to enter into a percentage lease, or its equivalent, must obtain the written approval of the board. An approved percentage lease shall not be deemed to constitute a direct or indirect financial interest of a lessor in the conduct of business upon a licensed premises.

#### Sec. 130 Sale on Federal Property

Any premises located upon federal property at or in which alcoholic beverages are served to the general public must be licensed under Title 4.

#### Sec. 140. Contraband

(a) Alcoholic beverages, whether in the possession of a licensee or another person, purchased within the state other than from a licensee, alcoholic beverages possessed by unlicensed persons other than for private consumption or for transport by a licensed common carrier, alcoholic beverages stored other than on licensed premises or approved storage facilities, alcoholic beverages brought into the state for sale other than to licensees, and alcoholic beverages possessed for sale or sold in violation of local option are contraband and subject to confiscation and sale by the board.

(b) Alcoholic beverages seized by the board as contraband shall be sold at public sale and the proceeds deposited in the general fund.

Sec. 150. Reporting Requirements

(a) Any corporation holding any license under Title 4 shall report to the board within ten days.

(1) any transfer of stock which results in a change of the controlling interest;

(2) any change of its corporate officers or its board of directors.

(b) Any corporation holding any license under Title 4 shall report to the board within ten days of the transfer, any transfer of its corporate stock involving ten percent or more of said stock, unless the corporation is required to file periodic reports with the Securities Exchange Commission, or its stock is listed on a stock exchange, or the stock is held by any bank, trust company, financial institution or title company in a fiduciary capacity.

(c) All holders of a retail license who request a refund of a portion of their license fee based on their gross sales, shall provide to the board with their request for the refund an affidavit stating the gross receipts from the sale of alcoholic beverages in the year for which the refund is requested.

Sec. 160. Record Keeping Requirements

(a) All licensees shall retain records sufficient to indicate satisfaction of the statutory requirement that the license has been actively exercised for 30 days during the preceding calendar year.

(b) All licensees shall keep on the premises a copy of the description and the drawing of the licensed premises approved by the board for their current license.

(c) Any licensee who permits a person other than a named licensee to operate the business shall keep on the premises a copy of a document, such as a management agreement or a record of employment, setting out the business relationship between the licensee and the person actually operating the business.

(d) All licensees who sell alcoholic beverages on a retail basis shall retain for ninety days copies of completed age verification forms.

(e) Any licensee who sells alcoholic beverages on a retail basis and who fills and delivers or ships orders for alcoholic beverages based on written or telephone orders shall retain for six months copies of the order forms, the records verifying the age of the purchaser, and the shipping documents, unless the order is shipped to an area where local option is in effect in which case the licensee shall retain the records for one year.

(f) All holders of a wholesale license shall retain for three years a record of all sales made in the conduct of their business.

(g) All holders of a retail license who request a refund of a portion of their license fee based on their gross sales, shall retain for three years a record of the sales of all alcoholic beverages made under their license in the year for which the refund is requested.

ARTICLE V

ENFORCEMENT

Section

- 10. Powers of ABC Investigative Personnel
- 20. Complaints
- 30. Inspection
- 40. Notices of Violation
- 50. Cease and Desist Orders
- 60. Suspension and Revocation of License
- 70. Effect of Revocation
- 80. Civil Penalties

Sec. 10. Powers of ABC Investigative Personnel

ABC investigative personnel have the power and authority to:

- (1) Execute search warrants of licensed premises or premises suspected of being in violation of Title 4 or these regulations;
- (2) Exercise power of arrest for violations of Title 4 or these regulations observed on licensed premises;
- (3) Serve subpoenas issued by a hearing officer in an ABC administrative proceeding;
- (4) Conduct inspections and investigations of licensees and licensed premises;
- (5) Issue Notices of Violation to licensees.

Sec. 20. Complaints

Any person who has cause to complain concerning the conduct of a licensed business or the compliance by licensees with the statutes, regulations and municipal ordinances relating to alcoholic beverages may do so to the board in writing or in person at any of the board's offices.

Sec. 30. Inspection

(a) Licensees shall be deemed to consent to the entry upon the licensed premises and inspection thereof by investigative agents of the board, at all reasonable times and in a reasonable manner, acting in their official capacity for the purpose of enforcing the statutes and regulations relating to alcoholic beverages.

(b) Licensees shall do all things reasonably necessary and appropriate to cooperate with investigative agents and employees of the board, acting in their official capacity, engaged in the enforcement of the statutes and regulations relating to alcoholic beverages, including without limitation permitting entry upon and inspection of the licensed premises and providing access, upon request at reasonable times, to the financial and other business records of the licensee relating to the conduct of business upon the licensed premises.

(c) Investigative agents of the board may make regular routine inspections of all licensed premises and will prepare a written Inspection Report of each such inspection, copies of which shall be delivered to the licensee and placed in the board's files.

(d) The director shall coordinate with local law enforcement agencies and state police to assist in keeping them knowledgeable of the requirements of Title 4 and to assure that civil and criminal sanctions, as appropriate, are taken against licensees and members of the public who violate the provisions of Title 4.

#### Sec. 40. Notices of Violation

(a) Investigative agents of the board may issue a Notice of Violation to a licensee whenever a violation of the statutes, regulations or municipal ordinances relating to alcoholic beverages is observed on or about a licensed premises or there is probable cause to believe that such a violation has occurred. Copies of the Notice of Violation shall be delivered to the licensee and filed with the board.

(b) Upon receipt of a Notice of Violation, a licensee shall have the right to appear within 10 days before the director and be heard regarding the Notice of Violation.

(c) Upon receipt of a Notice of Violation, the director shall take whatever action is deemed appropriate under the circumstances in accordance with the statutes and regulations relating to alcoholic beverages.

#### Sec. 50. Cease and Desist Orders

(a) The director may issue a Compliance Order to a licensee requiring that the licensee, or employees and agents of the licensee, cease and desist engaging in prohibited conduct or otherwise violating statutes and regulations relating to alcoholic beverages, or that the

licensee cease and desist engaging in such other conduct or allowing such conduct upon the licensed premises as the board reasonably deems contrary to the public interest.

(b) A licensee who is the recipient of a Compliance Order issued by the director as provided above must file with the director, within the time specified in the order, a compliance report stating what measures have been and are being taken, or are proposed to be taken, to correct or control the conditions outlined in the order.

(c) Upon receipt of the report required above, or after the time period specified for it has elapsed, the director may issue a Final Order, which shall be served personally or sent by certified mail to the licensee.

(d) Within 15 days after receipt of a Final Order, a licensee may request a hearing before the director to review the Cease and Desist Order. Failure to request a hearing within 15 days after the receipt of a Final Order constitutes a waiver of the licensee's right of review of the Final Order under this section.

(e) The director shall hold an informal hearing within 20 days after receipt of a request, and may rescind, modify or affirm the order thereupon.

#### Sec. 60. Suspension and Revocation of Licenses

(a) In accordance with the administrative adjudication procedures of Article VI of these regulations, the board may suspend or revoke a license on the following grounds:

(1) violation by a licensee, or an employee or agent of a licensee, of any statute, regulation or municipal ordinance relating to alcoholic beverages;

(2) Failure of a licensee to comply with a Cease and Desist Order issued by the board;

(3) Tax delinquency arising out of conduct of a licensed business;

(4) For cause, when such action is reasonably deemed by the board to be in the public interest.

(b) Without a formal adjudication proceeding, but upon notice and opportunity to be heard afforded the licensee, the board may suspend or revoke a license upon the conviction of the licensee, or employee or agent of the licensee, for a violation of a statute, regulation or municipal ordinance relating to alcoholic beverages, as provided in AS 04.15.100(b).

(c) The licensee is responsible for the acts of his agents and employees that constitute violations of (a) above when such acts are performed by the agent or employee in an official capacity. Even though the agent or employee may be liable criminally for the violation, the licensee additionally may suffer the consequences of the violation under the provisions of AS 04.15.100(b).

#### Sec. 70. Effect of Revocation

A person whose license is revoked by the board may not apply for a license of any type until at least one year after the effective date of the revocation.

#### Sec. 90. Civil Penalties

Without admitting wrongdoing, a licensee may be permitted to pay a civil penalty in an amount specified by the board in lieu of filing a Notice of Defense in response to an Accusation filed in accordance with the administrative adjudication procedures of Article VI of these regulations seeking the suspension or revocation of a license. If this option is provided a licensee, and he elects it, upon payment of the civil penalty specified, the accusation shall be dismissed and no further proceedings shall be had thereunder.

ARTICLE VI  
ADJUDICATION PROCEDURE

Section

- 10. Administrative Remedy
- 20. Administrative Appeal
- 30. Formal Protest
- 40. Accusation
- 50. Intervention and Consolidation
- 60. Judicial Review

Sec. 10. Administrative Remedy

(a) A formal administrative hearing to determine whether an application should be granted or denied, or to determine whether a license should be suspended or revoked, and all proceedings relating thereto, shall be governed by the Administrative Procedure Act (AS 44.62.330, et seq.) The summary proceeding set out in Article V, Section 60(b) is outside this requirement.

(b) A formal administrative hearing is an administrative remedy which must be exhausted before an aggrieved applicant or an interested party may obtain judicial review of board action.

Sec. 20. Administrative Appeal

A person whose application for a new license, or the renewal, transfer or relocation of an existing license is denied by the director may invoke a formal administrative hearing by filing a Notice of Defense within 15 days of receipt of a Statement of Issues.

Sec. 30. Formal Protest

(a) Any interested person who is a resident of Alaska may formally protest an application for a new license or the renewal, transfer, or relocation of an existing license, and initiate a formal administrative hearing by filing a Statement of Issues before the director takes final action upon the application. If the application protested against is for premises within an incorporated city or unified municipality, the individual's protest must be filed within five days from the expiration of the protest period granted to the local governing body; if the premises are outside an incorporated or unified municipality, the individual's protest must be filed within 15 days of the last date of publication of notice by the applicant.

(b) A municipality may formally protest an application for a new license, or the renewal or transfer of an existing license and initiate a formal administrative hearing by filing a Statement of Issues within 30 days of receipt of the director's Notice of Intent to approve the application.

**Sec. 40. Accusation**

Any interested person who is a resident of Alaska may initiate a formal hearing to determine whether an existing license should be suspended or revoked by filing an Accusation.

**Sec. 50. Intervention and Consolidation**

Any interested person may intervene in a formal administrative hearing upon written notice, and formal administrative proceedings may be consolidated as appropriate.

**Sec. 60. Judicial Review**

Any party aggrieved by a formal administrative adjudication may obtain judicial review by appeal to the superior court.

ARTICLE VII

SPECIAL PROVISIONS

Section

10. Applicant Assistance in Determining Population Criteria
20. Applying the Population Criteria
30. Processing Applications for Licenses in a Previously Filled Class
40. Local Control
50. Community Prohibitions on Alcoholic Beverages
60. Third Party Purchases
70. Written Orders for Alcoholic Beverages
80. Security Interests
90. Destraints for Payment of Taxes
100. Hours on Election Day
110. Possession by Minors
120. Alcoholic Substances
130. Zoning Restrictions
140. Bottle Clubs

Sec. 10. Applicant Assistance in Determining Population Criteria

In preparing an application for a license in an area outside an incorporated city or unincorporated municipality, an applicant shall assist in the determination of the population criteria by submitting the following information with their application for a new license or for transfer or relocation of an existing license:

(1) certification of population total of the applicable area provided by an official governing body if such is available;

(2) a United States Geodetic Survey map showing the population circle under consideration within the applicable area required by statute or regulation, with the proposed premises as center of the circle and the radius required extending therefrom;

(3) a narrative of how the estimated population was determined within the applicable circle;

(4) a graphic designation on a map of the location of each presently existing license of a like class within the applicable circle that was counted by the applicant;

(5) if a petition is required, a graphic designation on a map showing a population circle for the applicable area and showing the general area where petition signatures were obtained.

Sec. 20. Applying the Population Criteria

(a) Unless otherwise notified by the incorporated city or unified municipality, the director shall use the annual population figures published by the Department of Community and Regional Affairs in establishing a population figure for purposes of approval of licenses, which figure shall be made a matter of official record. Once a population figure for an area is established, it remains in effect until officially revised by the director. In the event of a change in population in an area, the new population figure would not go into effect for purposes of calculating quotas for the approval of licenses until a formal communication is received by the director from the local governing body verifying the new figure.

(b) The board shall maintain an official record of the total of licensed premises of each class within an established village, incorporated city, or unified municipality. The board shall make available upon request its determination whether the statutory population criteria would allow the approval of a license within a class.

(c) In determining whether the population criteria would allow the approval of a license, the board shall count all licenses in the class in the appropriate area, regardless of whether any license was issued under an exception to the population criteria under Title 4 or these regulations.

(d) In determining the population criteria for an area outside an incorporated city, only persons residing within the circle established by statutory designation of a radius and who also reside outside an incorporated city are counted.

(e) Signatures for petitions regarding licensed premises located outside an incorporated city may be obtained from persons residing within the circle established by statutory designation of a radius whether or not such persons reside within or outside of an incorporated city.

(f) For purposes of determining how many signatures are required for a petition, all persons residing within the radius and qualified to sign the petition shall be counted.

(g) Except as set out in Section 30 below, applications for new licenses which are mutually exclusive because of the statutory population criteria shall be considered by the director (1) if received more than 30 days apart, in order of priority determined by the date that a sufficient application is received; (2) if received within 30 days of each other, each application shall be considered on its own merits, and if more applications are tentatively approved than can be granted, then an impartial drawing shall be held to select the application or applications which shall be granted a license; if a tentatively approved application is formally protested, the drawing will be delayed until resolution of the protest.

**Sec. 30. Processing Applications For Licenses in a Previously Filled Class**

When any class of license has been issued such that the population criteria set out in AS 04.10.210 has been met or exceeded, and the population in the area is then increased or a previously granted license is terminated so that an additional license or licenses in the previously filled class may be granted, the board shall publish a notice to the public of the fact that applications for a new license in the previously filled class will be accepted for a specific limited time, and that the applications will be processed and considered by the board, not on a first-come/first-serve basis, but as a group, and the board shall process and consider in the manner set out in the public notice all applications properly and timely submitted.

**Sec. 40. Local Control**

(a) Under Title 4 there are four statutory schemes for granting local control over the distribution of alcoholic beverages within a community. These four schemes are:

(1) Local option elections by incorporated cities under AS 04.10.430(a), with special provisions for some incorporated cities under 430(d);

(2) Local protest and election by established villages and their immediate environs under AS 04.10.300(b);

(3) Approval of a community liquor license to a qualified first or second class city under AS 04.10.139 and 430(c);

(4) passage by a city of local ordinances under AS 04.15.0.3.

A city which elects a local option status under (1) may also utilize (4) to make the sale of alcoholic beverages a misdemeanor. A city which qualifies under both (1) and (3) may utilize both these schemes.

(b) A license for a premises within a city, or within an established village or two miles of the boundaries of the village, when in a local election the city or village voted against the issuance of licenses or sale of alcoholic beverages, remains in effect only until midnight of December 31 of the year for which the license is issued.

(c) A license for a premises outside of but within five miles of the boundaries of a city which has voted against the sale of alcoholic beverages continues in effect, and may be considered for renewal by the board; however, the board may not issue a new beverage dispensary or retail license within this five-mile area.

Sec. 50. Community Prohibitions on Alcoholic Beverages

(a) The import, sale, possession for sale or trafficking in alcoholic beverages is prohibited:

(1) within the boundaries of an established village or within the area two miles from the boundary of such village when a majority of the voters have voted against the issuance of liquor licenses in this area under the provisions of AS 04.10.300(b);

(2) within the boundaries of an incorporated city when a majority of the voters have voted against the sale of alcoholic beverages in this area under the provisions of AS 04.10.430(a);

(3) within the boundaries of an incorporated city which qualifies as a "dry" community under the provisions of AS 04.10.430(d).

(b) Section (a) above does not apply to licensees within the area affected by a local election during the period following the election and prior to the expiration of their valid license, to employees of a city which has a community liquor license when in the scope of their employment relating to the license, nor to premises specifically excepted under AS 04.10.430(c).

(c) The board shall maintain an official record available to all licensees and the public of the established villages and incorporated cities within which the barter, sale, possession for sale, or trafficking in alcoholic beverages is prohibited as provided in (a) above.

**Sec. 60. Third Party Purchases for Consideration**

(a) It is prohibited for any person for consideration charged for the act of making the purchase rather than for the cost of the product, to purchase or solicit the sale of alcoholic beverages on behalf of a consumer.

(b) It is prohibited for any person other than a licensee or a licensed common carrier to transport or to store during transport of alcoholic beverages for consideration.

**Sec. 70. Written Orders for Alcoholic Beverages**

(a) To comply with statutory requirements, a retail licensee may sell alcoholic beverages in response to a written order only as follows. The order must be in writing from a legally qualified purchaser. The order must be accompanied by the equivalent of cash from the person making the written order. The order must be (1) filled, boxed, addressed and shipped by the licensee to the purchaser and must be shipped by licensed common carrier to the purchaser; or (2) immediately delivered on the licensed premises to an individual specifically authorized by name by the purchaser in the written order to receive the purchase and to deliver it to the purchaser.

(b) In a mail order sale made in response to a written order as in (a) above, title to the alcoholic beverages passes to the purchaser at the time the alcoholic beverages are packed and identified to the purchaser, and these actions are sufficient to constitute a sale on the premises under AS 45.05.126 and Title 4.

(c) No telephone orders may be filled or mailed from any premises unless paid for on the licensed premises prior to delivery.

**Sec. 80. Security Interests**

(a) Licensees and secured parties must file with the board all instruments creating, or purporting to create, security interests in licenses.

(b) Insofar as security interests may be created in liquor licenses, such interests are subject to the requirement that the board approve the transfer of any license or interest therein upon application by the transferor, who may be the licensee or the secured party, and the transferee, who may be the secured party or a third party, respectively.

(c) Any secured party who deprives a licensee of a license shall immediately surrender the license to the board.

(d) Any licensee who loses his license to a secured creditor must close the licensed premises.

(e) Any secured party who shall force the involuntary transfer of an existing license shall bear the responsibility for the satisfaction of creditors as provided by statute.

(f) A secured party who legally deprives a licensee of a license pursuant to a security interest does not acquire any right, title or interest in the license or the conduct of business upon the licensed premises, except the right to apply to the board for approval of transfer of the license.

(g) Upon approval granted by the director, a secured party legally in possession of a license may make application for the transfer of ownership without the approval or signature of the licensee.

(h) A secured party who legally deprives a licensee of a license and the licensed premises may be given approval for the interim conduct of business upon the licensed premises for a reasonable time, upon terms and conditions approved by the board, pending transfer of the license.

(i) Unless a license itself is mentioned as a security interest, foreclosure by a secured party of the licensed premises does not affect the licensee's interest in his license.

(j) A secured party should not be named on a licensed merely to protect a security interest. However, any secured party who is involved in the operation, management or profits of a business must be named on the license as a licensee.

**Sec. 90. Destraint for the Payment of Taxes**

State and federal taxing authorities with the power of destraint of licenses for the payment of taxes shall exercise that authority in accordance with the provisions of these regulations governing security interests.

**Sec. 100. Hours on Election Day**

(a) In unorganized areas of the state and in those organized areas which have not by ordinance overruled the provisions of AS 04.15.020(c), all premises licensed under this title shall close at 5:00 A. M. on the day designated as an election day under the statute and shall remain closed until 8:00 P. M. that night. After all polls have closed at 8:00 P. M., licensed premises may open. Hotels, motels, restaurants and roadhouses may be open on election day for business purposes other than selling alcoholic beverages and which are not in violation with the statute.

(b) In unorganized areas of the state, the provisions of (a) above shall apply to all state and local elections, whether a candidate is running for public office or otherwise.

**Sec. 110. Possession by Minors**

Any person under the age of 19 years is prohibited from possessing any alcoholic beverages, except as provided under AS 04.15.080(b).

**Sec. 120. Alcoholic Substances**

Every alcoholic substance, whether dehydrated, powdered, or otherwise, is subject to the provisions of Title 4 and the rules and regulations pertaining thereto.

**Sec. 130. Zoning Restrictions**

(a) Each local government entity shall inform the board of any zoning regulations or ordinances which prohibit the sale or consumption of intoxicating liquors within their jurisdiction.

(b) When a municipality denies a license due to zoning regulations or ordinances, the applicant's recourse is to request the entity to reconsider its refusal to grant a zoning exception or other relief from the restriction, prior to the matter coming before the director for a final decision.

Sec. 150. Bottle Clubs

No person may maintain, operate or lease any room for the purpose of providing therein, for a consideration, a place for the consuming of alcoholic beverages by members of the public or of a club, corporation or association unless the person is a licensee or permit holder under Title 4 or these regulations. As used herein, consideration includes cover charge, the sale of food, ice, mixers or other liquid or non-liquid accessories used with alcoholic beverage drinks, or the furnishing of glassware or other containers for use in the consumption of alcoholic beverage drinks.

## ARTICLE VIII

### PERMITS

#### Section

- 10. General Requirements
- 20. Caterer's Permit
- 30. Special Events Permit
- 40. Conditional Contractor's Permit
- 50. Warehousing Permit
- 60. Special Use Permit

#### Sec. 10. General Requirements

(a) Applications for permits must meet the requirements of Article II, Section 10.

(b) The grounds for denial of an application set out in Article II, Section 80, also apply to permits.

(c) All permits must be applied for by submitting to the board the proper application forms, together with the application fee and permit fee. The application form must include a description of the proposed premises, a drawing designating which areas are to be "wet" or "dry" and which areas are for storage, service, and consumption, specific hours of intended operation, a copy of the approval from the proper authority, and such other information as is required by the board.

(d) Once a permit is issued, it only applies to the premises designated in the application and accompanying drawing and is only effective for the time period specifically designated. No permit is transferrable.

(e) The holder of a permit is required to comply with all laws, rules and regulations pertaining to the sale or dispensing of alcoholic beverages.

#### Sec. 20. Caterer's Permit

(a) Upon appropriate application, the director may issue a caterer's permit to a beverage dispensary licensee authorizing the sale and possession for sale of alcoholic beverages for consumption on the premises only at conventions, picnics, social gatherings, sporting events and similar affairs subject to the terms and conditions specified by the board.

(b) The applicant must obtain written approval for the permit from the appropriate police authority, with the request for such approval submitted at least one week in advance of the date of the proposed event. A copy of the approval must accompany the application to the board.

(c) A caterer, or an employee or agent of the caterer, must be present on the catered premises at all times alcoholic beverages are being served or consumed.

(d) Any violation by the licensee/permit holder of any provision of law or regulation pertaining to beverage dispensary licenses may be grounds for suspension or revocation of the licensee/permit holder's beverage dispensary license.

(e) The fee for a caterer's permit shall be \$25 per event and \$10 for each day following the initial day.

(f) No caterer's permit fee is required for a beverage dispensary licensee who caters a fund-raising function open to the general public for a non-profit charitable organization.

#### Sec. 30. Special Events Permit

(a) Upon appropriate application, the director may issue a special events permit to any person authorizing the holder thereof to sell or dispense or to possess for sale or dispensing beer and wine for consumption on designated premises for a special event which is open to the public, subject to the terms and conditions specified by the board.

(b) No special events permit is required for a function held in a private home.

(c) The applicant for a special events permit must obtain written approval for a permit from the appropriate police authority at least 10 days in advance of the date of the proposed event. A copy of the approval must accompany the application to the board.

(d) A maximum of three special events permits may be granted to any person in any one calendar year.

(e) The fee for a special events permit shall be \$25 per event and \$10 for each day following the initial day.

#### Sec. 40. Conditional Contractor's Permit

(a) Upon appropriate application, the director may issue conditional contractor's permit which gives to the holder thereof the right to sell beer and wine upon specified premises located within the boundaries of a military reservation, or in a large construction site in a remote area specifically designated by the director.

(b) The permit shall specify that alcoholic beverages may be served for cash either in a beverage dispensary facility for consumption on the licensed premises only or on a retail package store basis for consumption off the licensed premises only.

(c) If sales are for consumption off the licensed premises, consumption is limited to the area within the boundaries of the military reservation or the designated remote area. In this case, the holder of the permit must post in a conspicuous place on the premises a notice to the public of the specific area within which consumption may take place.

(d) A holder of this permit may sell alcoholic beverages only to an employee of the contractor.

(e) It shall be grounds for suspension of this permit or for refusal to grant the permit upon reapplication, if the board finds evidence that alcoholic beverages sold by a holder of this permit are being consumed outside the boundaries or the designated area, are being sold to non-employees.

(f) An applicant for this permit must obtain written approval from the commanding officer of said military reservation or the prime contractor of the remotely situated project. A copy of the approval must accompany the application to the board. Permission must be obtained yearly and submitted upon reapplication for the permit. Lack of permission is grounds for suspension or for denial of the permit. The permit may also be suspended upon the discretion of the director.

(g) In no event shall a conditional contractor's permit be transferable, nor shall it be valid after the completion of the permit holder's contract or closing of said military reservation.

(h) The conditional contractor's permit fee shall be \$300.00 per year.

#### Sec. 50. Warehousing Permit

(a) Upon appropriate application, the director may issue a warehousing permit authorizing the holder thereof to stock, warehouse or otherwise store alcoholic beverages in a place other than the original licensed premises. A separate permit is required

for each separate storage facility. The application for the permit must set out the location of the storage facility and the security provisions for protecting goods stored within from becoming accessible to any person other than the licensee/permit holder and his employees and agents.

(b) The warehousing permit shall be displayed in a conspicuous place at the storage facility.

(c) If any product other than alcoholic beverages is stored in one facility, the premises containing the alcoholic beverages must be secured from any area where the other storage takes place;

(d) A warehousing permit is only available to a licensee with a current active license under Title 4;

(e) The warehousing permit fee shall be \$50.00 per year.

**Sec. 60. Special Use Permit**

Upon appropriate application, the director may issue a special use permit as deemed necessary and appropriate under the circumstances.

ARTICLE IX  
MISCELLANEOUS PROVISIONS

Sec. 10. Forms

The director has the authority to prescribe all forms for use by the board.

Sec. 20. Fees

The director has the authority to set fees for administrative procedures.

Sec. 30. Definitions

(a) "board" means the Alcoholic Beverage Control Board or their designated representative.

(b) "director" means the executive director of the Alcoholic Beverage Control Board.

(c) "licensed premises" means the premises covered by the current license as approved by the board and as designated in the license file of the board.

NOTICE OF THE PROPOSED CHANGES  
IN THE REGULATIONS OF THE ALCOHOLIC BEVERAGE CONTROL BOARD

NOTICE IS HEREBY GIVEN that the Alcoholic Beverage Control Board, under authority vested by AS 04.05.020 and 04.05.030(e), proposes to adopt a comprehensive set of regulations in Title 15 of the Alaska Administrative Code to implement and clarify Title 4 of the Alaska Statutes titled "Alcoholic Beverages"; and to repeal in its entirety the present set of regulations designated as 15 AAC 20.010 through 15 AAC 20.270.

NOTICE IS ALSO GIVEN that any interested person may present oral or written statements or arguments relevant to the proposed action. Written comments may be made by mailing them to the Alcoholic Beverage Control Board at 201 East Ninth Avenue, Anchorage, Alaska 99501. Written comments should be received at the Board's Anchorage office by MAY 31, 1979.

The ABC Board will hold public hearings over the Legislative Tele-Conferencing Network on TUESDAY, MAY 22, 1979. All interested persons are invited to attend at the following locations:

Ketchikan Information Office 415 Main Street, Room 301 (11 a.m.-8 p.m. Pacific Time)	Juneau: Capitol Building, Room 123 (11 a.m.-8 p.m. Pacific Time)
Anchorage Information Office 1024 W. Sixth Avenue (9 a.m.-6 p.m. Alaska Time)	Fairbanks Information Office Building F, Room 250 101 College Road (9 a.m.-6 p.m. Alaska Time)
Nome Information Office Governor's Conference Room State Office Building (2nd Floor) (8 a.m.-5 p.m. Bering Time)	

Public comment from all communities will be heard at all locations.

Oral comment may be presented to the ABC Board during the hearing at the above locations according to the following schedule:

Ketchikan: 11:00 a.m. - 12:30 p.m. Pacific Time  
Juneau: 12:45 p.m. - 2:15 p.m. Pacific Time

Lunch Break: 2:15 p.m. - 3:15 p.m. Pacific Time  
(one hour) 12:15 p.m. - 1:15 p.m. Alaska Time  
11:15 a.m. - 12:15 p.m. Bering Time

Anchorage: 1:15 p.m. - 3:00 p.m. Alaska Time  
Fairbanks: 3:15 p.m. - 4:45 p.m. Alaska Time  
Nome: 5:00 p.m. - 6:00 p.m. Bering Time

Persons wishing to present oral comment should notify in advance the moderator of their local teleconference center and advise of the length of time they expect to take. Requests for permission to comment should be directed to the following offices:

Ketchikan Information Office  
415 Main Street, Room 301  
Ketchikan, Alaska 99901  
Phone: 225-9675

Legislative Affairs Agency  
Teleconference Network  
Pouch Y  
Juneau, Alaska 99811  
Phone: 465-4980

Anchorage Information Office  
1024 W. Sixth Avenue  
Anchorage, Alaska 99501  
Phone: 278-3668

Fairbanks Information Office  
Building F, Room 250  
101 College Road  
Fairbanks, Alaska 99701  
Phone: 452-4449

Nome Information Office  
Box 25  
Nome, Alaska 99762  
Phone: 443-2770

Persons who do not notify the moderator in advance may, if time allows and with the permission of the moderator, be permitted to comment after all scheduled persons from their locality have finished.

PLEASE TAKE NOTE: Oral comment for an individual is limited to 10 minutes; a person speaking on behalf of an organization may have up to 15 minutes. Unscheduled persons may speak within the time limit set by the moderator.

Copies of the draft of the proposed regulations may be obtained by writing to the ABC Board, 201 East Ninth Avenue, Anchorage, Alaska 99501. Copies are also available for review at all Department of Revenue field offices at the following locations:

103 State Office Building  
415 Main Street  
Ketchikan, Alaska 99901

240 South Franklin Street  
Juneau, Alaska 99801

675 Seventh Avenue  
Fairbanks, Alaska 99701

United Airlines Building  
2033 Sixth Avenue, Suite 770  
Seattle, Washington 98121

Copies have also been mailed to municipal managers/clerks of all incorporated cities.

The proposed set of regulations contains nine articles, titled as follows: Administration, Licensing, Licenses, General Provisions Regarding Licensees and Licensed Premises, Enforcement, Adjudication Procedure, Special Provisions, Permits, and Miscellaneous.

New topics not previously covered by regulation and changes in regulation are as follows:

Authority delegated to director increased (p. 2)

Any interested person may invoke a formal administrative hearing regarding approval or denial of a license (p. 6)

License must be surrendered when conduct of business ceases or licensee ceases to exercise authority (p. 10)

Licensee has 90 days to notify board of plans whenever premises are lost (p. 10)

Management agreements clarified (p. 11)

Applicants for restaurant license must submit a menu (p. 12)

Clarifies procedures for obtaining a community liquor license (p. 14)

Phase-out of duplicate beverage dispensary licenses (p. 15)

New licenses under AS 04.10.260 may be granted only when population quota in class is full (p. 16)

Storage and warehousing security required (p. 17)

Prohibits employees from drinking while on duty (p. 18)

Provides for designation of "restaurant premises" under AS 04.15.020(d) (p. 20)

Clarifies transfer proceedings regarding debts of business (p. 20)

Clarifies role of percentage leases (p. 21)

Clarifies contraband (p. 21)

Establishes reporting and record keeping requirements for licensees (pp. 22-23)

Provides for notices of violation and for cease and desist orders to be issued against licensees who violate Title 4 (p. 25).

Clarifies procedures for civil enforcement under the Administrative Procedure Act for suspensions and revocations of licenses (pp. 26-29)

Clarifies procedure for applying the population criteria to granting of licenses and signing of petitions (p. 31)

Establishes procedure for granting licenses when a class previously filled becomes open (p. 32) .

Prohibits purchase of alcoholic beverages for someone else for a fee (p. 34)

Prohibits anyone but licensees and licensed common carriers from transporting alcoholic beverages (p. 34)

Sets out requirements for telephone and mail order sales (p. 34)

Clarifies duties and responsibilities of secured creditors (pp. 34-35)

Sets hours for business on election days in unorganized areas of state (p. 36)

Exempts caterers of non-profit charitable organizations' fund-raisers from the permit fee (p. 39)

Revises special events permit to provide that any person may apply (p. 39)

Establishes a warehousing permit (p. 40)

Establishes a special use permit (p. 41)

Present regulations retained in general substance within the proposed regulations are as follows:

15 AAC 20.010 - Art. V §60, .030 - Art. V §60(a)(3), .040 - Art. VII §150,  
.060 - Art. V §10, .080 - Art. IV §40(d),  
.090 - Art. IV §130, .100 - Art. VII §120,  
.110(b) - Art. IV §50, .120 - Art. VII §80,  
.130 - Art. IV §150, .140 - Art. IV §150,  
.150 - Art. III §10, .170 - Art. III §20,  
.180(a) - Art. II §110, .190 - Art. II §§110 & 120,  
.200 - Art. IV §40(h), .210 - Art. II §130,  
.220 - Art. VIII §20, .230 - Art. VIII §30,  
.240 - Art. VIII §40, .260 - Art. III §50,  
.270 - Art. IV §160(g)

Present regulations not retained in the proposed regulations are as follows:

15 AAC 20.020, .050, .070, .110, .160, .180(b) and .250.

The ABC Board, upon its own motion at any time after the completion of the hearings and June 15, 1979, may adopt any or all of the proposed regulations substantially as described above without further notice or may decide to take no action on them.

DATED: May 1, 1979.



Patrick L. Sharrock  
Patrick L. Sharrock  
Executive Director  
Alcoholic Beverage Control Board

BOARD OF  
CHIROPRACT.  
EXAM.

A PERFORMANCE REVIEW  
OF THE  
BOARD OF CHIROPRACTIC EXAMINE

October 16, 1978

A PERFORMANCE REVIEW  
OF THE  
BOARD OF CHIROPRACTIC EXAMINERS

October 16, 1978

Commissioner, Department of  
Commerce and Economic Development  
Deputy Commissioner, Department of  
Commerce and Economic Development

H. Phillip Hubbard  
Bertram Waggon

Members of the Board  
of Chiropractic Examiners

President  
Vice-President  
Secretary  
Member  
Member

Keith B. Godfrey, D.C.  
Lee Burger, D.C.  
Adrian Barber, D.C.  
Linnea Burmeister  
Locke Jacobs

# STATE OF ALASKA

AUDIT DIVISION  
POUCH W—ALASKA OFFICE BUILDING

## THE LEGISLATURE

FINANCE DIVISION  
POUCH WF—STATE CAPITOL

BUDGET AND AUDIT COMMITTEE

JUNEAU, ALASKA 99811

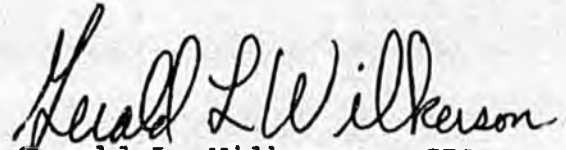
October 16, 1978

Members of the  
Legislative Budget and Audit Committee:

In accordance with the intent of Title 24 and 44 of the  
Alaska Statutes, the attached report is submitted for your  
review.

A PERFORMANCE REVIEW  
OF THE  
BOARD OF CHIROPRACTIC EXAMINERS

October 16, 1978



Gerald L. Wilkerson, CPA  
Legislative Auditor  
Division of Legislative Audit

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## PURPOSE AND SCOPE OF THE REVIEW

### Purpose

In accordance with the intent of Alaska Statutes 24.20.271(1) and 44.66.050 (sunset legislation), a review of the Board of Chiropractic Examiners was conducted to review Board activities and accomplishments to determine if the Board has been operating in an effective, efficient and economical manner.

As required by legislative intent, this report shall be considered during the legislative oversight function in determining whether the Board of Chiropractic Examiners should be reestablished. The law currently specifies that this Board will terminate on June 30, 1979 but will continue until June 30, 1980 for the purpose of concluding its affairs.

### Scope

The major areas reviewed were the Board's operations and its licensing, examination, administration, complaint and affirmative action functions. Our review consisted of analyzing and evaluating the following:

- (1) Applicable statutes and Board regulations;
- (2) Interviews with Board members;
- (3) Questionnaires to Board members and licensed members of the profession and analysis of responses;
- (4) Discussions with the Division of Occupational Licensing (OL) employees;
- (5) Tests of records and documents of the Board and the Division of Occupational Licensing, Department of Commerce and Economic Development;
- (6) Complaints filed with OL, Ombudsman's Office, Consumer Affairs Agency, Equal Employment Opportunity Office and the Office of the Governor;
- (7) Discussions with the Federation of Chiropractic Licensing Boards, National Board of Chiropractic Examiners and the Council on Chiropractic Education;
- (8) Review of other states' licensing requirements; and

- (9) Discussions and meetings with various licensed chiropractors.

Scope Constraints

This review was conducted with the following restrictions:

- (1) The Board has not established and reported financial and program plans as required by AS 37.07.050;
- (2) The Board has not developed and reported performance information regarding its effectiveness and accomplishments as required by AS 37.07.090;
- (3) The Division of Occupational Licensing has not adequately collected, recorded or maintained the necessary files and statistics regarding the Board to effectively and efficiently carry out their administrative responsibilities; and
- (4) Board meeting minutes were not adequately prepared to be relied upon as being representations of Board actions.

## ORGANIZATION AND FUNCTION

Created in 1939, the Alaska Board of Chiropractic Examiners is a regulatory board comprised of five members - three chiropractors and two public individuals - appointed by the Governor.

The underlying reasons for this Board are fourfold. First, the Board is responsible for reviewing the applications of individuals desiring to enter the chiropractic profession in Alaska. Secondly, the Board has the responsibility of administering an examination to test the applicant's ability. Third, the Board is responsible for the adoption of regulations regarding the standards of professional practice in Alaska and fourth, to investigate and act upon complaints filed against members of the regulated profession.

The Board of Chiropractic Examiners determines and controls the quality of chiropractic care in Alaska by:

1. Determining and implementing statutory and regulatory definitions of chiropractic care;
2. examining applicants and issuing licenses to qualified candidates for licensure; and
3. having the authority - within statutory boundaries - to hold hearings for the consideration of revoking or suspending the license of a person violating the chiropractic statutes or regulations.

To assist the Board, it has the staff support of OL in the Department of Commerce and Economic Development which is comprised of two sections. The licensing section, which processes applications, maintains license files, gathers and collects statistics and answers inquiries, provides administrative help to the Board. The other section provides investigative services to the Board in the event of consumer or other professional complaints.

To practice chiropractic in Alaska, the applicant must first receive licensure from the Board. Licensure may be made by one, or more, of three means.

One method of licensure is by temporary permit. The Board may, in its determination, issue a permit to an apparently qualified applicant to practice chiropractic only until the next examination at which time the permit is terminated and the applicant sits for the Board exam.

The second category of licensure is the Associate License. This license is issued when all licensing requirements, inclusive of passing the State examination, have been met with the exception of completing two years liberal arts or science studies. This license is valid for three years during which time the associate license holder must satisfy the two years undergraduate studies requirement. Associate license holders must be a contracted employee of a fully licensed chiropractor during this period.

The third license issued by the Board is full licensure. This is issued to the applicant who has successfully passed the State examination and has met all licensing and educational requirements.

Applicants for Alaskan licensure must first pass a nationally administered examination. After the required national test has been completed, the applicant takes a State written and clinical examination. The State written examination tests the applicant in areas tested previously at the national level and the clinical examination tests the applicant in the areas of X-ray identification and interpretation, and places the examinee in a case situation where testing of adjustive techniques are made.

All applicants, except those issued temporary permits, must first pass the State examination prior to practicing chiropractic in Alaska.

## REPORT CONCLUSIONS

### Policy Issues

This review contains policy issues raised as a result of our evaluation of Board practices. The final policy decisions affecting these practices are not within the scope of this review but requires legislative consideration. In debating these decisions, the legislative oversight committees should take into consideration the findings and alternatives presented in this report so that the potential impact of policy changes can be evaluated.

### Report Conclusions

Based upon our review, we recommend the Board of Chiropractic Examiners be reestablished, as the practice of chiropractic in Alaska affects the public's health, safety and welfare and should be subject to control and regulation. It is a matter of public interest - and concern - that the chiropractic profession receive the confidence of the public through a fair and representative regulating authority - the Board of Chiropractic Examiners. We believe that when regulation of professions is necessary to protect consumers, as is chiropractic, government involvement should be minimized. However, evidence of abuses by regulatory boards should be considered in determining whether government supervision is desirable.

Changes need to be made in the Board of Chiropractic Examiners operations to make the Board more effective in the protection of the public.

Current Board licensure policies and actions are restricting the entry of qualified Doctors of Chiropractic in Alaska, which is detrimental to the public's best interest. For example, the Board requires applicants for Alaskan licensure to first pass a nationally administered written examination. The applicant is then tested at the State level with another written and a clinical examination. The State written examination, which is subjective, tests the applicant on areas previously examined at the national level (see Recommendation No. 1).

The Board has no reciprocity or endorsement agreements with other states. Qualified Doctors of Chiropractic from outside Alaska with years of experience may avoid Alaska because of the Board's nonrecognition of licenses from other jurisdictions (see Recommendation No. 3). Using calendar year 1977 figures, the State of Alaska has a chiropractor: resident ratio of 1:10,436 compared to a national average of 1:7,138 (see Appendix D). Current Board licensing policies may be a contributing factor to this disparity between Alaska and national averages.

Actions of the Board (in some cases lack of action) and actions of some individual Board members do not truly represent the public's best interest. For example, there are no formal grading procedures which the Board should follow when reviewing an examination. This results in an apparent flexible grading policy which provides for dissension amongst the professional Board members (see Recommendation No. 4). The Board also permits the two divergent theories of chiropractic application to affect its responsibilities in governing the profession in Alaska (see Recommendation No. 6).

The Board has given almost no guidance concerning license violations. The public, as well as the chiropractic profession, would be better protected from unscrupulous activities if regulations concerning license violations were better defined by the Board.

The Board needs to evaluate present statutes and regulations for relevancy, legality and protection of the public. For instance, associate licensee contract requirements appear to permit unnecessary control over associates through possibly unenforceable contract provisions (see Recommendation No. 2). Chiropractic license violation statutes restrict advertising which is unconstitutional as established by the United States Supreme Court (see Recommendation No. 9). There are no statutes requiring continuing education for chiropractors. Post-graduate educational requirements help prevent professional obsolescence and would provide an effective control over the quality of chiropractic in the State (see Recommendation No. 7).

In conclusion, the Board of Chiropractic Examiners should analyze and evaluate the purpose of the Board from the point of view that regulation should not unreasonably restrict the entrance of all qualified persons into the profession. The Board should take the necessary actions needed to perform and fulfill their responsibilities to the public.

## FINDINGS AND RECOMMENDATIONS

The following Findings and Recommendations are addressed to the Board of Chiropractic Examiners and should be read in conjunction with "A Performance Review of the Division of Occupational Licensing, Department of Commerce and Economic Development, October 30, 1978" issued under separate cover.

### Recommendation No. 1

The Board of Chiropractic Examiners should eliminate Part I (written) of the State examination.

The Alaska State Board of Chiropractic Examiners has recognized the National Board examination by adopting through proposed regulation "persons applying for a chiropractic license by examination in the State of Alaska, graduating after January 1, 1978, are required to submit a Diplomate Certificate from the National Board of Chiropractic Examiners". The Diplomate Certificate is certification that the applicant has taken Parts I and II of the National Board and indicates the areas tested and examination results. The following areas of chiropractic are tested at the National level: anatomy, physiology, chemistry, bacteriology, hygiene, diagnosis, gynecology, x-ray, geriatrics, principles of chiropractic, jurisprudence and ethics, pathology and physiotherapy and the examination questions are objective in nature.

In addition to the requirement that the applicant provide the Board with the Diplomate Certificate, the State Board administers a State examination which basically consists of three parts. Part I, is a written examination consisting mostly of subjective type questions. Part II, involves X-ray identification and interpretation and Part III, consists of practical application of chiropractic technique. While Parts II and III of the State examination involve physical application of the applicants knowledge through oral testing and actual adjustive techniques in case situations, the merits of the written examination (Part I) are questionable.

The State written examination, Part I, tests the applicant on topics previously examined at the National Board level, such areas as anatomy, physiology, physiotherapy, chiropractic, diagnosis and x-ray. Also, in a 1971 opinion, the Attorney General has stated that "the Board of Chiropractic Examiners has the authority to require an applicant to demonstrate competence only in those subjects not covered by the National Board".

Therefore, considering the redundancy of the State written examination over the National Board, the Attorney General's opinion on the topic and the State requirement of the applicant to take the National Board, we recommend the discontinuance of the State written examination.

Recommendation No. 2

The Board of Chiropractic Examiners should take an active role in complying with the Administrative Regulations governing associate licensees' employment contracts.

Under 12 AAC 16.210(2) of the Alaska Administrative Code (AAC), the associate must "execute a contract with a supervising chiropractor which provides for a definite salary and not fee splitting..." and 12 AAC 16.210(3)(b) states "The board will deny the practice of an associate if in the opinion of the board the contract permits unfair advantage to be taken of the associate".

Several Doctors of Chiropractic were licensed under the associate provisions and accordingly executed employment contracts with various established, fully licensed chiropractors.

From documentation available, these employment contracts have certain provisions which clearly do not serve the public's best interest and are unfair to the associate chiropractor.

The contracts we examined included the following terms:

- (1) The contract prohibits the associate from establishing a practice in a wide radius of the employing chiropractor (25-30 miles) within two years after the associate ceases employment under the contract;
- (2) the contract provides for substantial payments to the previously employing chiropractor if a practice is established within two years in the restricted area; and
- (3) the contract establishes a compensation schedule based upon monthly cash receipts.

In the opinion of the Legislative Affairs Agency, Division of Legal Services, certain legal problems exist with these type contracts and that courts may decline to enforce such an agreement. The payments required for establishing a practice within a specific area and during a specified period are oppressive and punitive and "courts routinely refuse to enforce contracts calling for punitive damages".

The opinion further states that compensation schedules based upon a percentage of monthly gross receipts appears to be fee-splitting and the monthly salary of an associate under such an agreement is not definite but ascertainable only after monthly cash receipts are known. This is in violation of 12 AAC 16.210(2).

We recommend the Board of Chiropractic Examiners exercise its responsibilities under 12 AAC 16.210(3)(b) and review the associate contracts in light of the facts stated above and promulgate regulations setting out what may or may not be in the contracts of associates.

Recommendation No. 3

The encouragement of additional chiropractic services in Alaska should be made through more flexible licensing policies by introducing legislation to repeal certain statutes.

Data compiled from the United States Department of Commerce for 1977 and the Directory published by the Federation of Chiropractic Licensing Boards reveal a shortage of chiropractors in Alaska exists. These figures show a chiropractor: resident ratio of 1:10,436 while the national average is 1:7,138 (see Appendix D).

Licensing policies of the Board should be to get the much needed health services to the public and at the same time maintain the high standards and quality of the profession.

To meet the need of chiropractic services in Alaska - and yet maintain these standards of quality - the Board should implement changes in its licensing policies to permit the full licensure of experienced, licensed Doctors of Chiropractic (D.C.), from other licensing jurisdictions. It is recommended this type of licensure be made, regardless of whether the currently licensed and experienced D.C. has met the preprofessional academic requirements as experience far outweighs the completion of liberal arts or science studies. The full licensure should also be made on the basis of individual ability and experience, not on the consideration of does the other licensing jurisdiction afford the same to Alaska.

Seventy percent (70%) of the respondents to our questionnaire felt that chiropractors should be licensed on a reciprocity basis (see Appendix B). In addition, 67% and 54% believed the issuance of temporary permits and associate licenses, respectively, were in the public's best interest (see Appendix B).

Most of the states shown on Appendix D have more flexible licensing policies than Alaska and accordingly have a better chiropractor to resident ratio than does Alaska. Most of these states permit the National Board examinations to be used in lieu of a state written and have a more liberal "reciprocal" licensing arrangement than Alaska.

To encourage additional chiropractic services in Alaska, we recommend the introduction of legislation to repeal the portions of AS 08.20.140 that prevents reciprocity type licensure.

Recommendation No. 4

The Board of Chiropractic Examiners should establish examination guidelines, examination grading procedures and examination controls.

Presently, there are no formal examination procedures to control the examination process. The Board should adopt written procedures as to how the examination is to be administered and outlining the grading process.

From information available and discussions with various D.C.'s, we were informed that without grading procedures and adherence to specific examination answers, the Board was able to exercise considerable flexibility in the grading of exams. In one case the Board, after considerable delay and non-agreement amongst themselves in the grading, failed an examinee by 1%. It is also alleged that some members of the Board, for personal and interprofessional political reasons could not objectively grade the examination. As a result, the examinee, a licensed chiropractor from another jurisdiction, left Alaska to practice in another state.

Also, allegations were made regarding distribution of the State written examination prior to the testing date to at least one applicant for licensure by examination. These allegations were forwarded to the Department of Law for their review.

Recommendation No. 5

The Board of Chiropractic Examiners should adhere to the Administrative Procedures Act when license violations and suspension are being considered.

Title 44 Chapter 62 of the Alaska Statutes, known as the Administrative Procedures Act, applies to most agencies, boards and commissions of the State. In particular, AS 44.62.330-630 ("Administrative Adjudication") applies to the Board of Chiropractic Examiners. This section of the Act provides the guidelines which the Board must follow in the

process of considering the "revoking, suspending, limiting or conditioning" of a license.

From documentation available it is alleged that the Board President took it upon himself to temporarily suspend an associate license. Also, the Board terminated a temporary permit of an applicant who was waiting to take the State examination. Temporary permits are valid only until the next examination subsequent to the issuance of the permit. However, it appears that due to the loss of an examination application by the Board on two separate occasions, the permit holder was not allowed to take the examination. As a result of this the temporary permit was terminated. Since, from all appearances, the Board was responsible for the loss of the application that nullified the applicants right to examination, the temporary permit should have remained valid until the next examination.

Also, in each of these examples, Board meeting minutes do not show a formal decision which justified these actions.

Recommendation No. 6

The Board of Chiropractic Examiners should restructure the membership of the Board.

The basic purpose of the Board is the regulation of chiropractic to serve the public's best interest in the licensing of chiropractors.

The science of chiropractic is composed of two schools of thought, the "mixers" and "straights". The current Board is composed of a majority of one "school of thought" which results in inadequate representation of both chiropractic theories on the Board.

Therefore, we recommend the introduction of legislation to repeal the current statutory Board make-up. Accordingly, we recommend a Board of seven individuals; four chiropractors and three lay members. A majority of the professional members should not be graduated from the same chiropractic college and Southeastern, Interior and South Central Alaska representation - at a minimum - should be on the Board.

In addition, Board meeting minutes do not indicate a re-election of Board officers as required by AS 08.20.040.

Recommendation No. 7

Legislation should be introduced requiring continuing education for Chiropractors as a provision for license renewal.

The underlying purpose of continuing education is to permit professional education on a post-graduate level and allow for the maintenance and upgrading of professional competency.

According to the most recent figures provided by the Federation of Chiropractic Licensing Board's, thirty-nine states require some form of continuing education for license renewal. In December of 1977 the Alaska Chiropractic Society notified the Board of Chiropractic Examiners of its unanimous endorsement of a requirement of continuing education for license renewal. Of more significance, 94% of the respondents to the questionnaire were in favor of such a requirement and 78% knew of workshops or seminars that may qualify as continuing education that were in the respondents locality (see Appendix B).

From information available, it appears the Board expressed interest in a continuing education requirement in early 1977. We recommend that this worthwhile interest be regenerated towards implementing a sound post-graduate education requirement tied to the biennial license renewal. Accordingly, regulations should be promulgated for the administration of such a program by the Board.

Recommendation No. 8

The Board of Chiropractic Examiners should adopt a Code of Ethics binding upon the members of the profession in Alaska.

12 AAC 16.010(b) states that the board will adhere to the Code of Ethics of either the American Chiropractic Association or the International Chiropractic Association as a basis for determining what comprises the duties and obligations of the chiropractor to the public. This appears not to be a binding Code of Ethics for practitioners in Alaska, but rather an either/or situation should a violation of professional responsibility occur.

In the opinion of the Legislative Affairs Agency, Division of Legal Services, it is arguable that both codes represent not a binding Code of Ethics for practitioners in Alaska but rather general norms against which individual conduct will be measured. In such a situation, an accusation against a chiropractor will succeed only if it is based on conduct not meeting the rules in either Code of Ethics.

Therefore, we recommend the Board of Chiropractic Examiners develop and adopt a binding single Code of Ethics surrounding the definition of Chiropractic in AS 08.20.220.

Recommendation No. 9

We recommend the Board of Chiropractic Examiners review its regulations on advertising and eliminate, by legislation, unconstitutional prohibitions.

The United States Supreme Court ruling on John Bates and Van O'Steen V. State Bar of Arizona established that many advertising restrictions of professionals were unconstitutional.

The Alaska Administrative Code (12 AAC 16.240) provides definitions of unprofessional conduct, most of which center around the advertising by a chiropractor.

In an Attorney General's opinion addressed to the Commissioner of the Department of Commerce and Economic Development on March 15, 1978, it was stated:

"In order to avoid future litigation...it is suggested that the commissioner request the various licensing boards to undertake, in conjunction with this department, a review of all price advertising restrictions pertaining to both products and services for the purpose of recommending appropriate legislative or regulatory amendments as soon as possible."

Recommendation No. 10

The Board of Chiropractic Examiners should establish formal goals, objectives and quantifiable measures which should be included in the OL's budget document.

Objectives describe what an agency or Board is seeking to accomplish during a specific year. Well formulated objectives are capable of measurement and should include numerical targets so that actual accomplishments can be compared with stated targets. Without goals and objectives, the Board's performance cannot be adequately evaluated and analyzed.

OL establishes its own budget goals and objectives. The budget documents do not include any goals or measures for individual boards. Without the Board's goals and measures being identified or measured, both the Governor's Office and the Legislature cannot evaluate the Board's performance (see the OL Performance Audit Report).

## ANALYSIS OF PUBLIC NEED

### Limited Analysis

The following analyses indicate both positive and negative attainments as Board activities relate to the public need factors defined by "Sunset" law. These analyses are not intended to be comprehensive but address those areas covered in the scope of our review.

- I. The extent to which the board, commission or program has operated in the public interest.
  1. The Board of Chiropractic Examiners has not developed regulations or formal procedures for the grading of examinations (see Recommendation No. 4).
  2. The Board did not comply with the Administrative Procedures Act when suspending an associate's license (see Recommendation No. 5).
  3. The per capita ratio of chiropractors to population in Alaska is 1:10,436 versus a national ratio of 1:7,138 indicating a shortage of chiropractic services (see Appendix D).
  4. The Board has inadequate controls over the written examination. In addition, the written examination requirement is redundant of required National Board examinations, resulting in two testings of Alaskan applicants (see Recommendations No. 1 and No. 4).
  5. The Board should do more to assure that "not to compete provisions" in associate employee employment contracts are not unduly restrictive (see Recommendation No. 2).
  6. There are no stated Board objectives relating to the public's best interest either by statute or in the budget documents (see Recommendation No. 10 and see the OL Performance Audit Report).
- II. The extent to which the operation of the board, commission, or agency program has been impeded or enhanced by existing statutes, procedures, and any other matter, including budgetary, resource, and personnel matters.
  1. The Division of Occupational Licensing (OL) has not provided updated records, files and statistics for Board use (see the OL Performance Audit Report).

2. Current statutory Board make-up permits inter-professional opinion differences to effect Board operations (see Recommendations 4 and 6).

III. The extent to which the board, commission or agency has recommended statutory changes which are generally of benefit to the public interest.

1. The Board has proposed regulations in an attempt to standardize professional education requirement.
2. The Board has not adopted reciprocity or continuing education amendments to its enabling legislation.

IV. The extent to which the board, commission or agency has encouraged interested persons to report to it concerning the effect of its regulation and decisions on the effectiveness of service, economy of service, and availability of service which it has provided.

1. No documentation was available to us to determine the extent of the Board's solicitation of interested party input to its regulatory effects.

V. The extent to which the board, commission or agency has encouraged public participation in the making of its regulations and decisions.

1. By statute the Board is to publish notices of its meetings and examinations to encourage public participation. The Board holds its meetings on the same date of examinations so there are no individual public notices relating to examinations and meetings. We found the following advertisements were published during the last two and one-half years.

Number of Meetings and Examinations	7
Number of Advertisements	19
Average Advertisements per Newspaper	1

The average per newspaper publication of meeting and examination notices is based upon the use of four papers, one in Ketchikan, Fairbanks, Juneau and Anchorage. The breakdown of meetings, and notices, is as follows:

Meeting of

Newspapers Used

11/75	1
01/76	2
06/76	4
01/77	4
07/77	4
01/78	3
06/78	1

For the June 1978 examination, notice was published in one paper specifying the examination application deadline was May 10, 1978. The one time notice was published May 10, 1978 (see the OL Performance Audit Report).

2. Meetings minutes for the past two and one-half years indicate no public participation or attendance.

VI. The efficiency with which public inquiries or complaints regarding the activities of the board, commission or agency filed with it, with the department to which a board or commission is administratively assigned, or with the office of the ombudsman have been processed and resolved.

1. According to the Department of Commerce and Economic Development records, five complaints have been filed with the Department and/or the Board. Of the five complaints, only two were considered as closed files at August 29, 1978. The remaining three complaints (2 filed April 1977 and 1 filed December 1977) remained open as of August 29, 1978 (see the OL Performance Audit Report).

VII. The extent to which a board or commission which regulates entry into an occupation or profession has presented qualified applicants to serve the public.

1. A low number of complaints are on file with Occupational Licensing against chiropractic practitioners for a total of six over the past three years.
2. However, allegations and statements by practitioners - some of which are under review - cast a doubt over the present methods used in determining an applicants qualifications. Some of these are:
  - a. Use of a State written examination redundant of required National Board exams (see Recommendation No. 1).

- b. Unwritten examination grading procedures used by the Board (see Recommendation No. 4).
- c. The use of questionable employment contracts, previously unscrutinized by the Board, containing restrictive not-to-compete provisions (see Recommendation No. 2).

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

- 1. Overall, the Board has not engaged in discriminatory practices. However, Chiropractic examination applications require unnecessary information such as age, date of birth, place of birth, original surname (if changed) and a picture of the applicant. These application requirements - if not justifiable by the Board - may be in violation of Equal Employment Opportunity requirements (see the OL Performance Audit Report).

IX. The extent to which statutory, regulatory, budgeting or other changes are necessary to enable the agency, board or commission to better serve the interests of the public and to comply with the factors enumerated in this subsection.

Please refer to the previous section - Findings and Recommendations - for detail on recommended changes to enable the Board to better serve the public interest.

APPENDIXES

APPENDIX A

BOARD OF CHIROPRACTIC EXAMINERS  
REVENUES COMPARED WITH EXPENDITURES  
(UNAUDITED)

Average Revenue, (see Schedule 1 and Note 1)	\$ 1,500
Expenditures (Note 2)	<u>11,900</u>
Excess of Expenditures over Revenues	<u><u>\$ (10,400)</u></u>

Schedule 1  
Type and Amount of Revenues

Revenue Type	Amount	Collection Time
Exam Application Fee	\$25	With application
Re-examination Fee	10	With application
Temporary Permit	25	With permit issuance
License Fee	50	With license issuance
Renewal Fee	50	Biennially
Associate License	30	With license issuance

Note 1

Most of the Board's revenue is generated from license issuance and renewal. These revenues are collected once every two years, which causes revenues to be greater in one year than revenues of the next year. Therefore, we calculated and reported an average of the revenues collected in fiscal years 1977 and 1978 to obtain an accurate representation of Board revenues.

Note 2

Expenditures included those made by Board members, such as travel and per diem, and an allocated percentage (estimated) of total administrative expenses of OL. They do not include expenditures for efforts of other departments, such as the Department of Law, that may be assisting the Board and OL.



Response (Note 1)		
<u>Yes</u>	<u>No</u>	<u>No Opinion</u>

- |   |            |     |        |
|---|------------|-----|--------|
| 11. Do you think the Board of Chiropractic Examiners should be made up of:  |            |     |        |
| A. a majority of chiropractors.   | A.         | 85% |        |
| B. an equal number of chiropractors and public members.   | B.         | 9%  |        |
| C. a majority of public members.  | C.         | 0%  |        |
| Please circle one.  | NO OPINION |     | 6%     |
| 12. Have you had any contact with the Board of Chiropractic Examiners? Yes No   |            | 82% | 18% 0% |
| 13. Do you have any complaints concerning the service provided by the staff support of the Division of Occupational Licensing, Department of Commerce? Yes No |            | 18% | 79% 3% |

Note 1

Number of questionnaires mailed to Alaskan licensed chiropractors.	<u>45</u>
Number of chiropractors who responded.	<u>33</u>
Questionnaire response rate.	<u>73%</u>

APPENDIX C

QUESTIONNAIRE SENT TO BOARD MEMBERS

1. What do you believe to be the goals and objectives of the Board of Chiropractic Examiners?

<u>Summary</u>	<u>Number of Board Member Responses (Notes 1 and 2)</u>
Examine applicants for technical and clinical skills.	<u>4</u>
Serve best interest of the public.	<u>1</u>
Fulfill administrative duties and function within Alaska Statutes.	<u>2</u>
Determine applicants meet State requirements.	<u>2</u>
Keep aware of changes in the profession.	<u>3</u>
Make recommendations to Department of Commerce and Economic Development and the Governor.	<u>1</u>

2. Do you believe that the Board is achieving its goals as you perceive them in question number 1? Please show how the goals and objectives are or are not being achieved.

<u>Summary</u>	<u>Number of Board Member Responses</u>
Yes, Board is Achieving its goals.	<u>4</u>
Through:	
Examinations and practical demonstrations.	<u>2</u>
Actions at Board meetings.	<u>1</u>
Referral of investigative and legal topics to Department of Commerce and Economic Development.	<u>1</u>
Creation of goals.	<u>1</u>

3. Is the staff from the Department of Commerce and Economic Development and/or other departments adequate to perform the administrative and enforcement duties necessary for the operation of the Board? What staff support services are provided adequately/inadequately?

<u>Summary</u>	<u>Number of Board Member Responses</u>
Support Services provided are adequate.	<u>3</u>
No reduction in support staff should be made.	<u>1</u>
Investigative and enforcement services slow and/or inadequate.	<u>3</u>
Board should assume more routine functions.	<u>1</u>

4. What evidence exists demonstrating that the absence of regulations governing chiropractors and/or the Board would be detrimental to the public's best interest?

<u>Summary</u>	<u>Number of Board Member Responses</u>
Lose identity of Chiropractic as a health care provider	<u>1</u>
No one to consider public complaints.	<u>1</u>
Leave public in hands of untrained people.	<u>1</u>
Allow uncontrolled practice without recourse.	<u>1</u>

5. Are there any statutes or regulations that you believe to be obsolete, vague, unduly restrictive, and/or inadequate to provide the Board with the responsibility and power to properly govern the purpose and activities of the Board? Please list and explain.

<u>Summary</u>	<u>Number of Board Member Responses</u>
Repeal of Associate License law.	<u>2</u>
Associate laws will "die" naturally.	<u>1</u>

5. (Cont'd.)

<u>Summary</u>	<u>Number of Board Member Responses</u>
Consideration of and possible amendments to advertising restrictions.	<u>2</u>
Statutes regarding examination grading are vague.	<u>1</u>
Amend statutes to reflect number of members of Board.	<u>1</u>

6. Do you think continuing education requirements should be adopted by the Board? Why or why not.

<u>Summary</u>	<u>Number of Board Member Responses</u>
Yes, Adoption of requirement should be made.	<u>4</u>
To:	
Be exposed to changes and trends in profession.	<u>3</u>
For intraprofessional contact.	<u>1</u>
Chiropractic profession is moving towards such a requirement.	<u>1</u>

7. Do you think the Board should grant licenses by reciprocity to chiropractors holding licenses from other states? Why or why not.

<u>Summary</u>	<u>Number of Board Member Responses</u>
Reciprocity is OK but requires continual monitoring at additional expense.	<u>1</u>
Not unless other States reciprocate with Alaska.	<u>1</u>
May reduce standards in Alaska.	<u>1</u>
Only if a common standard or universal method is adopted.	<u>1</u>
Through National Board examinations.	<u>1</u>

8. What changes could be made to the Board which would improve its service to the public?

<u>Summary</u>	<u>Number of Board Member Responses</u>
Lay members add open healthiness at additional expense.	<u>1</u>
Eliminate Associate License Laws.	<u>1</u>
Reciprocate with states who reciprocate with Alaska.	<u>1</u>
Improved follow-up on complaints by the Department of Commerce and Economic Development.	<u>1</u>

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Note 1

Number of Board members.	<u>5</u>
Number of Board member responses.	<u>4</u>
Board member response rate.	<u>80%</u>

Note 2

Four out of five Board members responded to each question with several answers. Thus, total responses for each question may exceed the number of Board members.

APPENDIX D

COMPARISON OF WESTERN REGION STATES  
CHIROPRACTOR vs. RESIDENT RATIOS

	<u>Population</u> <u>(Note 1)</u>	<u>Number of</u> <u>Chiropractors</u> <u>(Note 2)</u>	<u>State</u> <u>Ratio:Chiropractor</u> <u>to Resident</u>
<u>Western Region (Note 3)</u>			
Montana	761,000	171	1: 4,451
Idaho	857,000	121	1: 7,083
Wyoming	406,000	72	1: 5,639
Colorado	2,619,000	392	1: 6,682
New Mexico	1,190,000	306	1: 3,889
Arizona	2,296,000	591	1: 3,885
Utah	1,268,000	174	1: 7,288
Nevada	633,000	231	1: 2,741
Washington	3,658,000	719	1: 5,088
Oregon	2,376,000	401	1: 5,926
Alaska	407,000	39	1:10,436
California	21,896,000	4,292	1: 5,102
Hawaii	895,000	96	1: 9,323
<u>Regional Totals</u>	<u>39,262,000</u>	<u>7,605</u>	<u>1: 5,163</u>
<u>National Totals</u>	<u>216,330,000</u>	<u>30,308</u>	<u>1: 7,138</u>

Note 1

Population figures as provided by the United State's Department of Commerce for year ended June 30, 1977.

Note 2

Number of chiropractors according to the 1978-1979 Directory published by the Federation of Chiropractic Licensing Boards. Figures are for calendar year ending December 31, 1977.

Note 3

Western Region composition as determined by the United State's Department of Commerce and used in their reports.

RECEIVED

STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
JUNEAU

JAN 11 AM.

LEGISLATIVE  
AUDIT

January 9, 1979

Mr. Gerald Wilkerson  
Legislative Auditor  
Division of Legislative Audit  
Pouch W  
Juneau, Alaska 99811

Dear Mr. Wilkerson:

We have reviewed your preliminary reports as shown below:

1. Board of Examiners in Optometry
2. Board of Dispensing Opticians
3. Board of Psychologist and Psychological Associate Examiners
4. Board of Chiropractic Examiners
5. Alaska State Medical Board
6. Board of Veterinary Examiners
7. State Physical Therapy Board
8. Board of Pharmacy
9. Board of Nursing
10. Board of Nursing Home Administrators
11. Board of Dental Examiners
12. Alaska Transportation Commission

We view these reviews of agency programs and activities which are specifically subject to termination in a manner different from those made of State departments or agencies. Usually we in the Executive Branch endeavor to respond directly to each finding and recommendation. However, in regard to the Boards and Commissions, the Executive Branch agency during a public hearing shall demonstrate a public need for its continued existence or the discontinuation of the program, and the extent to which any change in the manner of exercise of its functions or activities may increase efficiency of administration or operation consistent with the public interest.

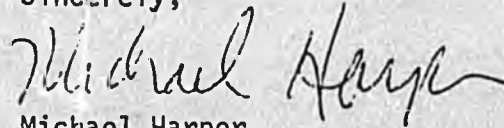
The Executive Branch of Alaska Government has made an extensive study of the above Boards and the Alaska Transportation Commission. We are continuing to study those entities, their origin, their present and future potential, and other related subjects in conjunction with Alaska statutes 24 and 44 (Sunset Legislation). As prescribed in AS 44.66.050 one or more legislative hearings are to be held to receive testimony from the public, the Commissioner of the department having administrative responsibility for each, and the members of the Boards or Commission involved. During those hearings we will present our findings and recommendations affecting each of the foregoing Boards and the Alaska Transportation Commission.

Mr. Gerald Wilkerson  
Page 2

January 9, 1979

Accordingly, we are presenting this in addition to the responses from the Department of Commerce, Department of Law, and the individual Board or Commission members and others on an interim basis.

Sincerely,

A handwritten signature in cursive script that reads "Michael Harper". The signature is written in dark ink and is positioned above the typed name.

Michael Harper  
Administrative Assistant  
to the Governor

# STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

## DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

OFFICE OF THE COMMISSIONER / POUCH D - JUNEAU 99811

December 15, 1978

**RECEIVED**

JAN 11 AM

**LEGISLATIVE  
AUDIT**

Gerald L. Wilkerson, CPA  
Legislative Auditor  
Division of Legislative Audit  
Pouch W  
Juneau, Alaska 99811

Dear Mr. Wilkerson:

The following comments are in response to the performance review of the Board of Chiropractic Examiners as submitted by the Division of Legislative Audit.

Recommendation No. 1. Agreed. Discussions will be held with the board concerning this recommendation as AS 08.20.130 mandates board authority in this area.

Recommendation No. 2. We agree. The division has referred this particular problem to the Attorney General's office for a legal opinion. It will also be discussed at the next meeting of the board scheduled for January 6, 1979.

Recommendation No. 3. Agree. However, statute changes would have to be considered for applicant qualifications and licensure of out-of-State individuals. AS 08.20.140 clearly addresses license by reciprocity rather than by endorsement. We believe either method of licensure is acceptable, but would favor licensure by endorsement over licensure by reciprocity.

Recommendation No. 4. Agreed. Regulations adopted by the board in 1971 will be updated to reflect these recommendations. Discussions will be held with the board on January 6, 1979 concerning revision of regulations.

Recommendation No. 5. Agreed. The board president temporarily suspended an associate license under interpretation of 12 AAC 16.210(c).

December 15, 1978

The board president was notified to adhere to the Administrative Procedures Act and that the actions would have to be taken by the full board.

It should be noted the board realized a possible error in the loss of an application and, in fact, held a special examination in August 1978 for the benefit of this candidate.

Recommendation No. 6. I do not recommend increased board membership. Five members is sufficient to conduct board duties in a fair and impartial manner. Discussions will be held with the board on January 6, 1979 concerning the composition of the board.

Recommendation No. 7. We agree that continuing education is desirable and needed as a condition for relicensure, however, quality control of education programs would be established. Again, discussions will be held with the board concerning legislation in this area.


Recommendation No. 8. Agreed. A single code of ethics should be agreed upon by the full board.

Recommendation No. 9. Agreed. The division is addressing this matter for all boards through introduction of legislation to eliminate unconstitutional restrictions on advertising.

Recommendation No. 10. Agreed. This board as well as all boards, will be contacted in March or April 1979 for input into the division's budget for FY '81. This input will address the boards goals, objectives, and financial needs.

I appreciate the time and efforts expended by your staff.

Yours truly,



H. Phillip Hubbard  
Commissioner

**DEPARTMENT OF COMMERCE &  
ECONOMIC DEVELOPMENT**

**DIVISION OF OCCUPATIONAL LICENSING**

CENTURY PLAZA  
142 E. 3RD AVENUE  
ANCHORAGE, ALASKA 99501  
PHONE: (907) 277-3623

January 8, 1979

**RECEIVED**

JAN 9 AM.

LEGISLATIVE  
AUDIT

State of Alaska  
Division of Legislative Audit  
Pouch W  
Juneau, Alaska 99811

Attn: Mr. Robert Bilden, Auditor

Gentlemen:

The following comments contain the Board of Chiropractic Examiners response to the Legislative Audit committee's preliminary report.

Recommendation #1

Currently an applicant is not given Part I or Part II of the state examination when he/she has successfully completed the National Board exam, Part I and Part II. When the applicant does not have the National Board, the state is obligated to test the competency of the chiropractor in the basic science and chiropractic discipline subjects.

Recommendation #2

The board has undertaken extensive changes in the regulations relating to the associate chiropractor regulations which should clarify this problem.

Recommendation #3

Since 1975 twenty-four applicants have been examined for licensure with only two failing. This equals less than a 10% failure rate compared to other states failure rates of 25-50%.

The Chiropractic Board has taken steps to simplify application and examination procedures and made changes in the regulations to clarify the procedures an applicant takes to obtain licensure in the State of Alaska.

The Board has requested the Division of Occupational Licensing to contact other state chiropractic licensing boards to establish endorsement or reciprocal licensing agreements.

Recommendation #4

The Board considered current procedures relating to grading and examination procedures during its January 5-6, 1979 meeting. The

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LEGISLATIVE  
AUDIT

Board has set the direction for innovative changes to insure uniform grading and examination procedures will occur in future exams. The Division of Occupational Licensing will be sharing their input in a proposed manual for testing and grading procedures.

Recommendation #5

The Board concurs with this recommendation.

Recommendation #6

It is felt that the present make-up of the board satisfactorily corresponds with state demographics.

Recommendation #7

The Board unanimously concurs with this recommendation.

Recommendation #8

It was the Board's decision to allow sections of the statutes and regulations relating to grounds for suspension and revocation of license to act as the code of ethics.

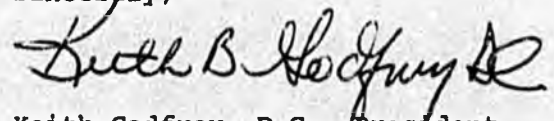
Recommendation #9

In order to bring the regulations in compliance with current legal opinions, the board took at its January 5-6, 1979 meeting appropriate action to eliminate unconstitutional prohibitions.

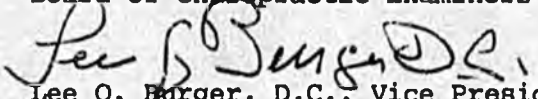
Recommendation #10

The Board concurs with this recommendation.

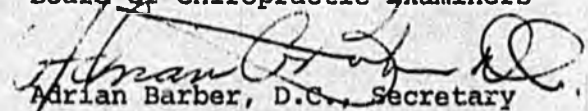
Sincerely,



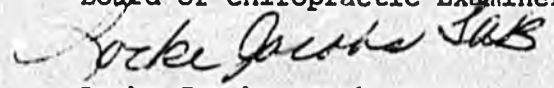
Keith Godfrey, D.C., President  
Board of Chiropractic Examiners



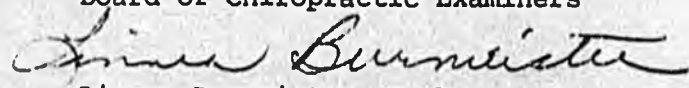
Lee Q. Burger, D.C., Vice President  
Board of Chiropractic Examiners



Marian Barber, D.C., Secretary  
Board of Chiropractic Examiners



Locke Jacobs, Member  
Board of Chiropractic Examiners



Linnea Burmeister, Member  
Board of Chiropractic Examiners

# STATE OF ALASKA

AUDIT DIVISION  
POUCH W—ALASKA OFFICE BUILDING

## THE LEGISLATURE

BUDGET AND AUDIT COMMITTEE

FINANCE DIVISION  
POUCH WF—STATE CAPITOL

JUNEAU, ALASKA 99811

January 11, 1979

Members of the  
Legislative Budget and Audit Committee:

We have reviewed the Board of Chiropractic Examiners response to our report dated October 16, 1978. Our comments on the response follow:

### Recommendation No. 1

The Board stated that "currently an applicant is not given Part I or Part II of the State examination when he/she has successfully completed the National Board Exam, Part I and Part II".

It is our belief the response was in reference to the Board not administering the National Examination when the applicant has previously satisfied the National Board Examination requirements, and the Board will continue with the administering of a State written examination, redundant of the National Examination.

Implementation of Recommendation No. 1 will permit the Board to test the applicant using examinations obtained from the National Board for the areas the applicant is deficient in at the National level and will give the Board the flexibility to test, at the State level, through oral and clinical (adjustive technique) situations while eliminating the subjective and redundant State written examination.



Gerald L. Wilkerson, CPA  
Legislative Auditor  
Division of Legislative Audit

STATE OF ALASKA  
DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT  
DIVISION OF OCCUPATIONAL LICENSING  
BOARD OF CHIROPRACTIC EXAMINERS  
POUCH D  
JUNEAU, ALASKA 99811

CHIROPRACTIC INFORMATION SHEET

No person may practice chiropractic in the state without a license (Sec. 08.20.100, Alaska Statutes).

NOTE: IT IS THE RESPONSIBILITY OF THE APPLICANT FOR LICENSURE TO OBTAIN AND FURNISH, WITH HIS/HER APPLICATION, ALL NECESSARY DOCUMENTS AND DATA REQUIRED. DOCUMENTS AND TRANSCRIPTS ARE TO BE CERTIFIED AS TRUE OR THEY WILL BE RETURNED.

The following must be on file before you will be considered for certification of licensure by reciprocity or examination:

1. Completed and notarized application.
2. The appropriate fee(s) enclosed. No cash please.
3. Certified copies of your:
  - a. Liberal Arts transcripts.
  - b. Transcripts from Chiropractic College.
4. The National Board of Chiropractic Examiners transcript of grades with the appropriate seal. Persons applying for licensure by examination, graduating after January 1, 1978, are required to submit a diplomate certificate from the National Board of Chiropractic Examiners.
5. Additional information required by the examining board to complete your application, if necessary.

FEES

- |  |         |
|--|---------|
| 1. Application for examination . . . . .         | \$25.00 |
| 2. Application for re-examination. . . . .       | \$10.00 |
| 3. Issuance of temporary permit. . . . .         | \$25.00 |
| 4. Initial and renewal biennial license. . . . . | \$50.00 |
| 5. Associate license . . . . .                   | \$30.00 |

Please send your application completed in its ENTIRETY, along with necessary documents and fee, to:

The Department of Commerce & Economic Development  
Division of Occupational Licensing  
Board of Chiropractic Examiners  
Pouch D  
Juneau, Alaska 99811

MEMBERS OF THE STATE BOARD OF CHIROPRACTIC EXAMINERS

Keith Godfrey, D.C., President  
Lee O. Burger, D.C., Vice President  
Adrian Barber, D.C., Secretary  
Linnea Burmeister, Public Member  
Locke Jacobs, Public Member

Do not send any portions of your application for licensure to any individual board member. Those applications will be returned to you to be mailed to the above address.

STATE OF ALASKA  
DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT  
BOARD OF CHIROPRACTIC EXAMINERS  
POUCH D  
JUNEAU, ALASKA 99811  
Phone (907) 465-2580

Attach  
Photograph  
Here

**NOTE:** TO BE ELIGIBLE FOR THE EXAMINATION, THIS APPLICATION MUST BE IN THIS OFFICE (SEE ADDRESS ABOVE) AT LEAST THIRTY [30] DAYS BEFORE THE DATE OF THE EXAMINATION.

1. Name \_\_\_\_\_ Age \_\_\_\_\_ Years  
(full name)  
Date of Birth \_\_\_\_\_ Place of Birth \_\_\_\_\_  
(month-day-year) (city-state)  
Present Residence \_\_\_\_\_  
(street) (city-state-zip code)  
Are you a citizen of the U.S.A.? \_\_\_\_\_ If naturalized, give  
date and place of naturalization \_\_\_\_\_  
Has your surname ever been changed? \_\_\_\_\_ If so give date  
and place of change \_\_\_\_\_  
Original surname \_\_\_\_\_

---

2. High School \_\_\_\_\_  
(name) (location) (date of graduation)  
If not a high school graduate, what equivalent educational qualification do  
you have? \_\_\_\_\_

---

3. List names and addresses, of liberal arts or science colleges, studies, and  
credits earned.  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

---

4. Are you presently in practice? \_\_\_\_\_ If yes, give location  
Number of years \_\_\_\_\_  
(street) (city-state-zip code)  
Has any license to practice chiropractic issued to you ever been revoked, sus-  
pended, recalled or cancelled? \_\_\_\_\_ If yes, explain on separate  
paper and submit with this application.  
Have you ever been convicted of, or indicted for, any crime? \_\_\_\_\_ If yes,  
give details on separate paper and submit with this application.  
Are you free from contagious or infectious disease? \_\_\_\_\_  
Have you ever been denied examination for licensure to practice chiropractic?  
\_\_\_\_\_ If yes, give details on a separate paper and submit with this  
application.  
Have you ever held an Alaska license to practice chiropractic? \_\_\_\_\_  
If yes, give details on a separate paper and submit with the application.

---

5. NATIONAL CHIROPRACTIC BOARD EXAMS:  
I hereby apply for the Alaska Chiropractic license based on the National  
Chiropractic Examination dated \_\_\_/\_\_\_/\_\_\_, numbered \_\_\_\_\_. Submit



STATE OF ALASKA

STATUTES  
BOARD OF CHIROPRACTIC EXAMINERS



Printed: October 1978

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# Alaska Statutes

## Title 8. Business and Professions.

### Chapter

01. Centralized Licensing (§§ 08.01.010 — 08.01.110)
02. Miscellaneous Provisions (§§ 08.02.010 — 08.02.020)
03. Termination, Continuation and Reestablishment of Regulatory Boards (§ 08.03.010)
04. Accountancy Act of 1960 (§§ 08.04.010 — 08.04.690)
08. Alaska Integrated Bar Act (§§ 08.08.010 — 08.08.250)
12. Barbers (§§ 08.12.010 — 08.12.280)
16. Basic Sciences (Repealed)
18. Construction Contractors (§§ 08.18.011 — 08.18.171)
20. Chiropractors (§§ 08.20.010 — 08.20.220)
24. Collection Agencies (§§ 08.24.011 — 08.24.390)
28. Cosmetologists and Hairdressers (§§ 08.28.010 — 08.28.320)
32. Dental Hygienists (§§ 08.32.010 — 08.32.190)
36. Dentistry (§§ 08.36.010 — 08.36.360)
40. Electrical Administrators (§§ 08.40.095 — 08.40.200)
42. Morticians (§§ 08.42.010 — 08.42.130)
44. Embalmers (Repealed)
48. Architects, Engineers and Land Surveyors (§§ 08.48.011 — 08.48.351)
52. Explosives Handlers (§§ 08.52.010 — 08.52.080)
54. Guides (§§ 08.54.010 — 08.54.240)
56. Hotels and Boardinghouses (§§ 08.56.010 — 08.56.070)
60. Junk Dealers and Metal Scrappers (§§ 08.60.010 — 08.60.100)
62. Marine Pilots (§§ 08.62.010 — 08.62.200)
64. Medicine (§§ 08.64.010 — 08.64.380)
66. Motor Vehicle Dealers (§§ 08.66.010 — 08.66.090)
68. Nursing (§§ 08.68.010 — 08.68.410)
70. Nursing Home Administrators (§§ 08.70.010 — 08.70.190)
71. Dispensing Opticians (§§ 08.71.010 — 08.71.240)
72. Optometry Law (§§ 08.72.010 — 08.72.310)
76. Pawnbrokers and Secondhand Dealers (§§ 08.76.010 — 08.76.030)
80. Pharmacy Act (§§ 08.80.010 — 08.80.490)
84. Physical Therapists Practice Act (§§ 08.84.010 — 08.84.200)
86. Psychologists and Psychological Associates (§§ 08.86.010 — 08.86.230)
88. Real Estate Brokers and Salesmen (§§ 08.88.011 — 08.88.431)
92. Concert Promoters (§§ 08.92.010 — 08.92.090)
98. Veterinarians (§§ 08.98.010 — 08.98.250)
99. Board of Welding Examiners (§§ 08.99.010 — 08.99.120)

## Chapter 01. Centralized Licensing.

Section	Section
10. Applicability of chapter	80. Department regulations
20. Board organization	87. Powers and duties of department
25. Public members	90. Applicability of the Administrative Procedure Act
30. Quorum	100. License renewal, lapse and reinstatement
40. Transportation and per diem	105. Penalty for improper payment
50. Administrative duties of department	110. Definitions
60. Application for license	
70. Administrative duties of boards	

Sec. 08.01.010. Applicability of chapter. This chapter applies to the

- (1) Board of Public Accountancy;
- (2) Board of Barber Examiners;
- (3) Repealed by § 6 ch 32 SLA 1971.
- (4) Board of Chiropractic Examiners;
- (5) Board of Hairdressing and Beauty Culture Examiners;
- (6) Board of Dental Examiners;
- (7) Board of Electrical Examiners;
- (8) State Board of Registration for Architects, Engineers and Land Surveyors;
- (9) State Medical Board;
- (10) Board of Nursing;
- (11) Board of Examiners in Optometry;
- (12) Board of Pharmacy;
- (13) Real Estate Commission;
- (14) Board of Veterinary Examiners;
- (15) Board of Psychologist and Psychological Associate Examiners;
- (16) Collection Agency Board;
- (17) Board of Welding Examiners;
- (18) Board of Marine Pilots;
- (19) Board of Dispensing Opticians;
- (20) Guide Licensing and Control Board;
- (21) State Physical Therapy Board. (§ 1 ch 59 SLA 1966; am § 2 ch 136 SLA 1967; am § 2 ch 101 SLA 1968; am § 2 ch 143 SLA 1968; am § 2 ch 151 SLA 1968; am § 1 ch 106 SLA 1970; am § 6 ch 32 SLA 1971; am § 4 ch 179 SLA 1972; am § 2 ch 45 SLA 1973; am § 14 ch 66 SLA 1973; am § 1 ch 43 SLA 1975; am § 1 ch 43 SLA 1977)

Effect on amendments. — The first 1973 amendment added paragraph (10).

The second 1973 amendment inserted "and Psychological Associate" in paragraph (15).

The 1975 amendment added paragraph (20).

The 1977 amendment added paragraph (21).

Editor's note. — Section 2, ch 59, SLA 1966, provides: "The Department of Commerce shall provide for the orderly

transfer of the service functions which are to be performed by the department under this chapter."

Section 4, ch 59, SLA 1966, provides: "A provision in existing law which conflicts with this Act is superseded by this Act."

Legislative committee reports. — For report on ch. 143, SLA 1968, (JH 707), see 1968 House Journal, p. 836. For report on ch. 32, SLA 1971 (HH 111 am), see 1971 House Journal, p. 138.

**Sec. 08.01.020. Board organization.** Unless otherwise provided, all board members are appointed by the governor and serve at his pleasure. Unless otherwise provided, the governor shall designate the chairman of the board, and all other officers shall be elected by the board members. (§ 1 ch 59 SLA 1966)

**Sec. 08.01.025. Public members.** No public member of a board may:

- (1) be engaged in the occupation which the board regulates;
- (2) be associated by legal contract with a member of the occupation which the board regulates except as a consumer of the services provided by a practitioner of the occupation; or
- (3) have a direct financial interest in the occupation which the board regulates. (§ 1 ch 258 SLA 1976)

**Sec. 08.01.030. Quorum.** A majority of the membership of a board constitutes a quorum unless otherwise provided. (§ 1 ch 59 SLA 1966)

**Sec. 08.01.040. Transportation and per diem.** A board member is entitled to transportation expenses and per diem as set out in AS 39.20.180. (§ 1 ch 59 SLA 1966)

**Sec. 08.01.050. Administrative duties of department.** (a) The department shall provide the following administrative and budgetary services when appropriate:

- (1) collect fees and issue receipts;
- (2) maintain records and files;
- (3) issue and receive application forms;
- (4) notify applicants of acceptance or rejection of applicants as determined by the board;
- (5) designate dates examinations are to be held and notify applicants;
- (6) publish notice of examination;
- (7) arrange space for holding examinations;
- (8) notify applicants of results of examinations;
- (9) issue licenses and certificates or temporary licenses or certificates as authorized by the board;
- (10) issue duplicate licenses or certificates upon proof by the licensee of loss of the original and payment by the licensee of a fee of \$2;
- (11) notify licensees of renewal dates at least 30 days before the expiration date of their licenses;
- (12) compile and maintain current a register of licenses;
- (13) answer routine inquiries;
- (14) maintain files relating to individual licensees;
- (15) arrange for printing and advertising;
- (16) purchase supplies;
- (17) employ secretarial help when needed;
- (18) perform other services which may be requested by the board;

(19) provide investigative services to the boards established under chs. 20, 32, 36, 64, 68, 71, 72, 80, 84, and 86 of this title, for the purpose of assisting those boards in matters of professional discipline.

(b) The form and content of a license, authorized by a board listed in § 10 of this chapter, including any document evidencing renewal of a license, shall be determined by the department after consultation with an, consideration of the views of the board concerned. (§ 1 ch 59 S.L.A. 1966; am § 1 ch 102 S.L.A. 1976; am § 39 ch 218 S.L.A. 1976; am § 2 ch 258 S.L.A. 1976)

*Effect of amendments.* — The first 1976 amendment added paragraph (19) of present subsection (a).

The second 1976 amendment substituted "Department of Commerce and Economic Development" for "Department of Commerce" in the introductory paragraph of present subsection (a).

The third 1976 amendment designated the provisions of this section as subsection (a), and in that subsection, substituted

"department" for "Department of Commerce" and "when appropriate" for "for the boards" in the introductory language and inserted "by the licensee" two places in paragraph (10). The amendment also added subsection (b).

While none of the amendments gave effect to the others, this section is set out as it appears in ch. 258, S.L.A. 1976, with the inclusion of paragraph (19) of subsection (a) added by ch. 102, S.L.A. 1976.

**Sec. 08.01.060. Application for license.** All applications for examination or licensing to engage in the business or profession covered by this chapter shall be made in writing to the department. (§ 1 ch 59 S.L.A. 1966)

**Sec. 08.01.070. Administrative duties of boards.** Each board shall perform the following duties in addition to those provided in its respective law:

- (1) keep minutes and records of all proceedings;
- (2) hold a minimum of one meeting each year;
- (3) hold at least one examination each year;
- (4) request, through the department, investigation of violations of its laws and regulations;
- (5) prepare and grade examinations;
- (6) pass on qualifications of applicants for examination and license;
- (7) forward minutes of meetings to the department within 20 days;
- (8) forward results of examinations to the department;
- (9) notify the department of meeting dates at least 15 days before meeting. (§ 1 ch 59 S.L.A. 1966)

**Sec. 08.01.080. Department regulations.** The department shall adopt regulations to carry out the purposes of this chapter including but not limited to describing:

- (1) how an examination is to be conducted;
- (2) what is contained in application forms;
- (3) how a person applies for an examination or license. (§ 1 ch 59 S.L.A. 1966)

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

(b) If it appears to the commissioner that a person has engaged in or is about to engage in an act or practice in violation of a provision of this chapter or a regulation adopted under it, or any of the laws pertaining to or regulations adopted by the boards listed in § 10 of this chapter, he may, if he considers it in the public interest, and after notification to all board members by telephone or telegraph of a proposed order or action unless a majority of the members of the board object within 10 days,

(1) issue an order directing the person to stop the act or practice; however, reasonable notice of and an opportunity for a hearing must first be given to the person, except that the commissioner may issue a temporary order before a hearing is held; a temporary order remains in effect until a final order affirming, modifying, or reversing the temporary order is issued or until 15 days after the person receives the notice and has not requested a hearing by that time; a temporary order becomes final if the person to whom the notice is addressed does not request a hearing within 15 days after receiving the notice; the commissioner or his designee shall be the hearing officer at the hearing; and shall issue a final order within 10 days after the hearing;

(2) bring an action in the superior court to enjoin the acts or practices and to enforce compliance with this chapter, a regulation adopted under it, or an order issued under it, or any of the laws pertaining to or regulations adopted by the boards listed in § 10 of this chapter;

(3) examine or have examined the books and records of any person whose business activities require licensure by a board listed in § 10 of this chapter and he may require that person to pay the reasonable costs of the examination; and

(4) issue subpoenas for the attendance of witnesses, and the production of books, records and other documents. (5 3 ch 258 SLA 1976)

**Sec. 08.01.090. Applicability of the Administrative Procedure Act.** The Administrative Procedure Act (AS 44.62) applies to regulations adopted and proceedings held under this chapter, except those under AS 08.01.087(b). (5 4 ch 59 SLA 1966; am § 4 ch 258 SLA 1976)

*Effect of amendment —* The 1976 amendment added "except those under AS 08.01.087(b)" to the end of the section.

**Sec. 08.01.100. License renewal, lapse and reinstatement.** (a) All licenses shall be renewed biennially on the dates set by the department with the approval of the respective board.

(b) A registration, license, permit or certificates requiring renewal to continue effective must be renewed on or before the date set by the department or it will lapse. A penalty of \$10 shall be charged in addition to all delinquent renewal fees for reinstatement of a registration, license, permit or certificate which remains lapsed for more than 60 days. (§ 1 ch 59 SLA 1966; am § 2 ch 94 SLA 1968)

**Sec. 08.01.105. Penalty for improper payment.** An applicant shall pay a penalty of \$10 each time a negotiable instrument is presented to the department in payment of an amount due and payment is subsequently refused by the named payor. (§ 3 ch 258 SLA 1976)

**Sec. 08.01.110. Definitions.** In this chapter

(1) "board" includes the boards and commissions listed in § 10 of this chapter;

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

(3) "commissioner" means the commissioner of commerce and economic development;

(4) "license" means any license, certificate, permit, or registration or similar evidence of authority issued by one of the boards listed in § 10 of this chapter;

(5) "licensee" means any person who holds a license;

(6) "occupation" means any of the trades or professions for which licensure is required by one of the boards listed in § 10 of this chapter. (§ 1 ch 59 SLA 1966; am § 40 ch 218 SLA 1976; am § 5 ch 258 SLA 1976)

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

The second 1976 amendment added paragraphs (3) through (6).

## Chapter 02. Miscellaneous Provisions.

### Section

- 10. Professional designation requirements
- 20. Limitation of liability for members of licensing boards

**Sec. 08.02.010. Professional designation requirements.** (a) A person licensed in the state as a chiropractor as defined in AS 08.20.220, a dentist as defined in AS 08.36.360, a medical practitioner or osteopath as defined in AS 08.64.380, a professional nurse as defined in AS 08.68.410, an optometrist as defined in AS 08.72.300(3), a registered pharmacist under AS 08.80, a registered physical therapist under AS 08.84, or a psychologist under AS 08.86, shall professionally identify

himself by the use of appropriate letters or a title after his name which represents his specific field of practice. The letters or title shall appear on all signs, stationery or other advertising in which the person offers or displays his professional services to the public. In addition, a person engaged in the practice of medicine or osteopathy under AS 08.64.380(2), or a person engaged in any manner in the healing arts who diagnoses, treats, tests, or counsels other persons in relation to human health or disease and identifies himself by using the letters "M.D." or the title "doctor" or "physician" or any other title which tends to show that the person is willing or qualified to diagnose, treat, test, or counsel another person, shall clarify the letters or title by adding the appropriate specialist designation, if any, such as "dermatologist", "radiologist", "audiologist", "naturopath", or the like.

(b) A person subject to (a) of this section who fails to comply with the requirements of (a) of this section shall be given notice of his noncompliance by his appropriate licensing board. If, after a reasonable time, with opportunity for a hearing, his noncompliance continues, the board may suspend or revoke his license or registration, or administer other disciplinary action which in its determination is appropriate. (S 1 ch 6 SIA 1973)

**Sec. 08.02.020. Limitation of liability for members of licensing boards.** No person is liable for damages or other relief in an action by reason of his performance of a duty, function, or activity as a member of a licensing board or by reason of a recommendation or action of the board when the person acts in the reasonable belief that his action or recommendation is warranted by facts known to him or to the board after reasonable efforts to ascertain the facts upon which the action or recommendation is made. (S 45 ch 102 SIA 1976)

### Chapter 03. Termination, Continuation and Reestablishment of Regulatory Boards

#### Section

#### 10. Termination, continuation and reestablishment of regulatory boards

**Cross reference.** — As to review of the activities of agencies, boards and commissions, see AS 44.66.010 et seq.

**Editor's note.** — Section 1, ch 149, SIA 1977, provides: "The legislature finds that the substantial increase in the number of state agencies, boards and commissions, and the proliferation of rules and regulations which such has adopted have contributed to a public disenchantment with the operation of state government, and that there is need for an effective and

regular system of security of the programs and activities of all agencies, boards and commissions. The legislature further finds that the establishment of a system for periodic review by the public and the executive and legislative branches of certain state agencies, boards and commissions will help the governor and the legislature to determine the need for the continued existence of each of the agencies, boards and commissions."

**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 08.49.010);
- (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. (S 2 ch 149 SLA 1977)

## Chapter 20. Chiropractors.

### Article

1. Board of Chiropractic Examiners (§§ 08.20.010 — 08.20.090)
2. Licensing and Regulation (§§ 08.20.100 — 08.20.190)
3. Unlawful Acts and Penalties (§§ 08.20.200 — 08.20.210)
4. General Provisions (§ 08.20.220)

### Article 1. Board of Chiropractic Examiners.

#### Section

10. Creation and membership of Board of Chiropractic Examiners
20. Members of board
30. Members' terms; vacancies
40. Organization of board
50. Power of officers to administer oaths and take testimony

#### Section

55. Board regulations
60. Power of board to adopt seal
- 70 — 80. [Repealed]
90. Quorum of board

**Sec. 08.20.010. Creation and membership of Board of Chiropractic Examiners.** There is created the Board of Chiropractic Examiners consisting of five members appointed by the governor. (§ 35-3-23 ACLA 1949; am § 2 ch 102 SLA 1976)

*Effect of amendment.* — The 1976 amendment substituted "five members" for "three members."

*Am. Jur., ALR and C.J.S. references.* — 41 Am. Jur., Physicians and Surgeons, § 27.

*Constitutionality of statute prescribing conditions of practicing medicine as*

*affected by discrimination against chiropractors,* 37 ALR 680; 51 ALR 600.

*Kind or character of treatment which may be given by one licensed as chiropractor,* 86 ALR 630.

*70 C.J.S. Physicians and Surgeons* § 1, 8, 10, 12, 15.

**Sec. 08.20.020. Members of board.** Three members of the board shall be licensed chiropractic physicians who have practiced chiropractic in this state not less than two years. Two members of the board shall be persons with no direct financial interest in the health care industry. Each member serves without pay but is entitled to per diem and travel expenses allowed by law. (§§ 35-3-23, 35-3-30 ACLA 1949; am § 3 ch 102 SLA 1976)

*Revisor's note.* — This section relating to per diem and expenses was impliedly amended by § 1, ch. 130, SLA 1963, as amended by § 1 ch. 34, SLA 1960.

*Effect of amendment.* — The 1976 amendment substituted "Three members"

for "Each member" and "licensed chiropractic physicians who" for "a licensed chiropractic physician and shall" in the first sentence and added the present second sentence.

**Sec. 08.20.030. Members' terms; vacancies.** Members serve for staggered terms of three years. The terms of the public members of the board may not expire at the same time. Vacancies on the board shall be filled for the unexpired term. (§ 35-3-23 ACLA 1949; § 4 ch 102 SLA 1976)

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

**Sec. 08.20.040. Organization of board.** Every two years, the board shall elect from its membership a president, vice president and secretary. (§ 35-3-24 ACLA 1949)

**Sec. 08.20.050. Power of officers to administer oaths and take testimony.** The president and the secretary may administer oaths in conjunction with the business of the board. (§ 35-3-24 ACLA 1949)

**Sec. 08.20.055. Board regulations.** The board shall adopt substantive regulations necessary to effect the provisions of this chapter. (§ 1 ch 102 SLA 1960)

**Sec. 08.20.060. Power of board to adopt seal.** The board shall adopt a seal and affix it to all licenses issued. (§ 35-3-24 ACLA 1949)

**Sec. 08.20.070. Secretary.**  
 Repealed by § 3 ch 59 SLA 1966.

**Sec. 08.20.080. Records, reports and accounts of board.**  
 Repealed by § 3 ch 59 SLA 1966.

**Sec. 08.20.090. Quorum of board.** A majority of the board constitutes a quorum for the transaction of business (§ 35-3-24 ACLA 1949)

**Article 2. Licensing and Regulation.**

Section	Section
100. Practice of chiropractic without license prohibited	150. Recording of license
110. Application for license	160. Temporary permits
115. Malpractice insurance	170. Grounds for suspension, revocation or refusal to issue a license
120. Qualifications for license	175. Limits or conditions on license; discipline
130. Examinations	180. Fees
135. Associate	190. Disposition of fees
140. Out-of-state licenses	

**Sec. 08.20.100. Practice of chiropractic without license prohibited.** No person may practice chiropractic in the state without a license. (§ 35-3-21 ACLA 1949)

*Cited in Territory of Alaska v. Hawkins, 9 Alaska 673 (1939). Am. Jur. reference. — 41 Am. Jur., Physicians and Surgeons, §§ 15, 16, 27.*

**Sec. 08.20.110. Application for license.** A person desiring to practice chiropractic shall apply in writing to the board. (§ 35-3-26 ACLA 1949)

**Sec. 08.20.115. Malpractice insurance.** If medical malpractice insurance for chiropractors becomes unavailable on the voluntary market and the director of insurance finds, after public hearing, that the unavailability is impairing the delivery of chiropractic services to the public, the director of insurance may require all persons licensed under this chapter to carry medical malpractice insurance and to purchase their insurance from the Medical Indemnity Corporation of Alaska established under AS 21.88. If a finding of unavailability of insurance on the voluntary market and impairment of services has been made under this section, purchase of medical malpractice insurance from the Medical Indemnity Corporation of Alaska is a condition of license under this chapter. The provisions of this section are satisfied if the licensee's employer maintains insurance for him from the Medical Indemnity Corporation of Alaska. (§ 5 ch 102 SLA 1976)

**Sec. 08.20.120. Qualifications for license.** An applicant shall be issued a license to practice chiropractic if he

- (1) Repealed by § 25 ch 245 SLA 1970.
- (2) has had a high school education or its equivalent;

(2) has successfully completed at least two academic years of study in a college of liberal arts or sciences;

(4) is a graduate of a legally chartered accredited school or college of chiropractic, approved by the board, which requires for graduation a residence course of instruction of not less than four years of nine months each;

(5) passes an examination given by the board;

(6) Repealed by § 8 ch 32 SLA 1971.

(7) passes to the satisfaction of the board Part I and Part II of the examination of the National Board of Chiropractic Examiners. (§ 35-3-25 ACLA 1949; am § 1 ch 65 SLA 1955; am § 1 ch 91 SLA 1965; am § 25 ch 245 SLA 1970; am § 8 ch 32 SLA 1971; am § 1 ch 84 SLA 1972)

Revisor's note (1972). — In ch. 84, SLA 1972, the apparently necessary word "examination" was omitted from AS 08.20.120(7). It has been added here. — Legislative committee reports. — Chapter 245, SLA 1970 (HCSSB 399 am II), was identical to CSHB 406 (Jud.). For report on CSHB 406 (Jud.), see 1970 House Journal Supplement No. 6. For report on ch. 32, SLA 1971 (HB 111 am), see 1971 House Journal, p. 138.

**Sec. 08.20.130. Examinations.** (a) Examinations for a license to practice chiropractic may be held in the time and manner fixed by the board.

(b) The examination may include practical demonstration and oral and written examination in those subjects usually taught in accredited chiropractic schools.

(c) A general average rating of 75 per cent is a passing grade on the examination.

(d) An applicant may take a re-examination within one year after failing the examination upon payment of a fee of \$10. (§ 35-3-27 ACLA 1949; am § 2 ch 91 SLA 1965)

Am. Jur. reference. — 41 Am. Jur., Physicians and Surgeons, §§ 40, 41.

**Sec. 08.20.135. Associate.** A person who complies with § 120 (1), (2), (4), (5), and (6) of this chapter shall, pending compliance with (3) of § 120 of this chapter, be licensed to serve as an associate in an existing chiropractic clinic or office under the direct supervision of a licensed chiropractor for a period not to exceed three years. (§ 3 ch 91 SLA 1965)

Editor's note. — Paragraphs (1) and (6) of § 120, referred to in this section have been repealed.

**Sec. 08.20.140. Out-of-state licenses.** The board may issue a license without examination to an applicant presenting satisfactory proof of the possession of a license or certificate of registration in a state or territory of the United States, or a foreign country, if the requirements for

registration at the date of his license are considered by the board as equivalent to those in this chapter, and if the licensing jurisdiction extends the same privilege to those holding a license from this state. (§ 35-3-25 ACLA 1949; am § 1 ch 53 SLA 1955)

**Sec. 08.20.150. Recording of license.** Each licensee shall record his license with the clerk of the superior court in the judicial district in which he is practicing his profession. (§ 35-3-28 ACLA 1949)

**Sec. 08.20.160. Temporary permits.** Temporary permits may be issued to persons apparently qualified until the next regular meeting of the board. (§ 35-3-28 ACLA 1949)

**Sec. 08.20.170. Grounds for suspension, revocation or refusal to issue a license.** (a) The board may refuse to issue, or may suspend or revoke a license upon any of the following grounds:

- (1) malpractice;
- (2) misrepresentation;
- (3) unprofessional conduct;
- (4) habitual intemperance, or addiction to the use of narcotics;
- (5) conviction of a felony or misdemeanor involving moral turpitude;
- (6) violation of any provision of this act.

(b) The Administrative Procedure Act (AS 44.62) applies to any action taken by the board for the suspension or revocation of a license.

(c) Any person whose license is suspended or revoked may within two years from date of suspension apply for reinstatement, and if the board is satisfied that the applicant should be reinstated, it shall order reinstatement. (§ 35-3-29 ACLA 1949)

*Am. Jur. reference.* — 41 Am. Jur.,  
Physicians and Surgeons, §§ 44 to 46.

**Sec. 08.20.175. Limits or conditions on license; discipline.** (a) In addition to action under § 170 of this chapter, upon a finding that by reason of demonstrated problems of competence, experience, education or health the authority to practice chiropractic should be limited or conditioned or the practitioner disciplined, the board may reprimand, censure, place on probation, restrict practice by specialty, procedure or facility, require additional education or training, or revoke or suspend a license.

(b) The Administrative Procedure Act (AS 44.62) applies to any action taken by the board under this section. (§ 6 ch 102 SLA 1976)

**Sec. 08.20.180. Fees.** The board shall impose and collect the following fees:

- (1) upon the filing of an application for examination, \$25;
- (2) upon application for re examination, \$10;
- (3) for issuance of temporary permit, \$25;
- (4) initial and renewal biennial license, \$50;

(5) associate license, \$30. (§ 35-3-30 ACLA 1949; am § 1 ch 13 SLA 1968)

Sec. 08.20.190. Disposition of fees. All fees collected by the board shall be paid into the general fund of the state. (§ 35-3-30 ACLA 1949)

**Article 3. Unlawful Acts and Penalties.**

**Section**

- 200. Violation of § 100 of this chapter
- 210. Fraudulent certificates

Sec. 08.20.200. Violation of § 100 of this chapter. A person who violates § 100 of this chapter is guilty of a misdemeanor, and upon conviction is punishable by a fine of not more than \$1,000, or by imprisonment for not more than a year, or by both. In prosecutions under this section, evidence that the defendant has failed to file his certificate of registration with the board is prima facie evidence that he is not a licensed chiropractor. (§ 3 ch 53 SLA 1955)

Revisor's note. — This section introduces a requirement which does not exist in this chapter, viz., filing a certificate with the board. It is the board's duty to keep a registry.

Sec. 08.20.210. Fraudulent certificates. Any person who obtains or attempts to obtain a chiropractic certificate by dishonest or fraudulent means, or who forges, counterfeits, or fraudulently alters any such certificate is punishable by a fine of not more than \$500, or by imprisonment for not more than six months, or by both. (§ 4 ch 53 SLA 1955)

**Article 4. General Provisions.**

**Section**

- 220. Chiropractic defined

Sec. 08.20.220. Chiropractic defined. Chiropractic is the science of locating and correcting interference with nerve energy transmission and expression within the human body, and the employment and practice of drugless therapeutics, including physiotherapy, hydrotherapy, mechanotherapy, phytotherapy, electrotherapy, chromotherapy, thermotherapy, thalmotherapy, correcting and orthopedic gymnastics, and dietetics which includes the use of foods and those biochemical tissue building products and cell salts found within the normal human body, without the use of drugs or surgery. (§ 35-3-22 ACLA 1949)

Prescription of drugs or medicine illegal — It is illegal and criminal for a chiropractor, without additional qualifications, to prescribe drugs or medicine to sick or injured persons. 1961 Op. Atty Gen., No 23 Expenditures from fishermen's fund for medicine prohibited. — Money cannot

§ 08.24.011

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§ 08.24.016

be expended from the fishermen's fund for the payment of charges for medicines prescribed by chiropractors. 1961 Op. Att'y Gen., No. 23.

Am. Jur. and ALR references. — 41 Am. Jur., Physicians and Surgeons, § 27.

Chiropractors as within term "physician" in rule as to privileged communications, 68 ALR 177.

Kind or character of treatment which may be given by one licensed as chiropractor, 86 ALR 630.

BOARD OF CHIROPRACTIC EXAMINERS  
REGULATIONS

BOARD OF CHIROPRACTIC EXAMINERS

ARTICLE 2. LICENSING

Section

- 30. Application for examination
- 40. Evaluation
- 50. Notification
- 60. Schedule
- 70. Basis of questions
- 80. Identity of applicant
- 90. Method of examination
- 100. Materials
- 110. Leaving examination room
- 120. Disturbance
- 130. Questions
- 140. Grades
- 150. Re-examination
- 160. Time
- 170. Special examination
- 180. Reconsideration of papers
- 190. Certificates
- 200. Temporary permits
- 210. Associates
- 220. Duplicate licenses
- 230. Misrepresentation
- 240. Unprofessional conduct

12 AAC 16.030. APPLICATION FOR EXAMINATION. No applicant may take the examination unless he

(1) applies on the board approved form for application for licensure,

(2) complies with all the forms requirements and any additional requests for information by the secretary of the board when necessary to complete the applicant's credentials,

(3) submits to the board, written proof of meeting all requirements of AS 09.20,

(4) pays the required fees for application, and

(5) applies no less than 30 days before a scheduled examination. (Eff. 3/8/71, Register 37)

Authority: AS 08.20.055  
AS 08.20.130

12 AAC 16.040. EVALUATION. Evaluation of an applicant's credentials in work for liberal arts or science (2 years liberal arts and science college) shall be made from a course of study from an institution equivalent to those of the University of Alaska or acceptable to the regional accrediting agencies for approved colleges of liberal arts or sciences. (Eff. 3/8/71, Register 37)

Authority: AS 08.20.055

BOARD OF CHIROPRACTIC EXAMINERS

12 AAC 16.050. NOTIFICATION. An applicant will be notified of his passing or failing of an examination or the acceptance or denial of his application for examination within a reasonable time from the date of examination or the receipt of application for examination. (Eff. 3/8/71, Register 37)

Authority: AS 08.20.055

12 AAC 16.060. SCHEDULE. The board will when possible, regularly examine applicants on the second Saturday and/or Sunday of January and June at a time and place determined by the board. (Eff. 3/8/71, Register 37)

Authority: AS 08.20.055  
AS 08.20.130(a)

12 AAC 16.070. BASIS OF QUESTIONS. All examination questions will be based upon material contained in standard text books used in chiropractic schools or colleges. (Eff. 3/8/71, Register 37)

Authority: AS 08.20.055

12 AAC 16.080. IDENTITY OF APPLICANT. An applicant for examination will be designated by a number instead of a name, so that the identity is not disclosed to the examiners until the papers are graded. (Eff. 3/8/71, Register 37)

Authority: AS 08.20.055

12 AAC 16.090. METHOD OF EXAMINATION. The paper of an applicant will be identified by numbers as follows:

(1) each envelope will be numbered and will contain a blank sheet of paper with a number on it which the applicant shall write his name and address on the blank and return it to the envelope which shall be sealed and delivered to the director;

(2) each applicant shall place on his examination paper the number given to him. (Eff. 3/8/71, Register 37)

Authority: AS 08.20.055  
AS 08.20.130(a)

12 AAC 16.100. MATERIALS. No applicant may have on his examination table any paper or object other than the examination questions, examination paper, blotter, pencil, pen and ink, eraser, and a watch. (Eff. 3/8/71, Register 37)

Authority: AS 08.20.055  
AS 08.20.130(a)

BOARD OF CHIROPRACTIC EXAMINERS

12 AAC 16.110. LEAVING THE EXAMINATION ROOM. No candidate may leave the examination room for any reason unless accompanied by a proctor or board member. (Eff. 3/8/71 Register 37 )

Authority: AS 08.20.055  
AS 08.20.130(a)

12 AAC 16.120. DISTURBANCE. No applicant may communicate with another applicant during the examination. A disturbance on the part of the applicant will cause him to be required to leave the examination room. (Eff. 3/8/71, Register 37 )

Authority: AS 08.20.055  
AS 08.20.130(a)

12 AAC 16.130. QUESTIONS. An applicant shall rely solely on his own judgement for the meaning of each question and on his own knowledge of the subject in answering each question. (Eff. 3/8/71, Register 37 )

Authority: AS 08.20.055

12 AAC 16.140. GRADES. An applicant failing to make the required grade average will be credited for the subjects passed.

(b) An applicant failing to attain a general average rating of 75 per cent after two examinations is required to produce evidence of refresher courses in the subjects failed before he is allowed a re-examination. (Eff. 3/8/71, Register 37 )

Authority: AS 08.20.055  
AS 08.20.130

12 AAC 16.150. RE-EXAMINATION. (a) An applicant may apply for re-examination by

(1) informing the board of his intention at least 30 days before the next regularly scheduled examination, and

(2) paying the re-examination fee. (Eff. 3/8/71, Register 37 )

Authority: AS 08.20.055

12 AAC 16.160. TIME. An applicant will be allowed to proceed at his own speed on each subject given in the examination, within the time specified. (Eff. 3/8/71, Register 37 )

Authority: AS 08.20.055  
AS 08.20.130(a)