



SHES

SB 54

SB 55

1 the basis of probation;

2 (B) limit practice to those areas prescribed;

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

6 (6) impose limitations or conditions on the practice of a
7 dispensing optician.

8 (b) The board may withdraw probation status of a dispensing
9 optician if it finds that the deficiencies which required the sanction
10 have been remedied.

11 (c) The board may summarily suspend a dispensing optician's
12 license before final hearing or during the appeals process if the board
13 finds that he poses a clear and immediate danger to the public health
14 and safety if he continues to practice. A dispensing optician whose
15 license is suspended under this section shall be entitled to a hearing
16 by the board no later than seven days after the effective date of the
17 order. The dispensing optician may appeal the suspension after a
18 hearing to a court of competent jurisdiction.

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

22 (e) The board shall seek consistency in the application of dis-
23 ciplinary sanctions, and significant departure from prior decisions
24 involving similar situations shall be explained in findings of fact or
25 orders.

26 * Sec. 11. AS 03.71.180 is amended to read:

27 Sec. 08.71.180. PRACTICING WITHOUT A LICENSE. It is unlawful for
28 a person to practice as a dispensing optician without a license issued
29 under this chapter or while his license is suspended or revoked. A

1 person who violates this section is guilty of a class B misdemeanor.

2 * Sec. 12. AS 08.71 is amended by adding a new section to read:

3 Sec. 08.71.190. CONTACT LENSES. (a) Contact lenses may be dis-
4 pensed only upon the written contact lens prescription of a licensed
5 physician or optometrist, except duplicate contact lenses may be dis-
6 pensed under an original prescription.

7 (b) The dispensing optician shall instruct a patient to return to
8 the prescribing physician or optometrist for inspection of the fit of
9 contact lenses.

10 * Sec. 13. AS 08.71.230(1) is amended to read:

11 (1) limit or restrict a licensed physician or optometrist [OR
12 EMPLOYEES WORKING UNDER THE PERSONAL SUPERVISION OF A LICENSED PHYSICIAN
13 OR OPTOMETRIST] from the practices enumerated in this chapter, and each
14 licensed physician and optometrist has all the rights and privileges
15 which may accrue under this chapter to dispensing opticians licensed
16 under it;

17 * Sec. 14. AS 08.71.240 is amended by adding new paragraphs to read:

18 (4) "dispensing optician" means a person who, on written
19 prescription from a licensed physician or optometrist, prepares and
20 dispenses to the intended wearer or person who writes the prescription,
21 original or duplicate lenses, eyeglasses, contact lenses, and appurte-
22 nances to them, and interprets, measures, adapts, fits, and adjusts
23 lenses, eyeglasses, contact lenses, and appurtenances to them* to the
24 face for the aid or correction of visual or ocular anomalies of the
25 human eye;

26 (5) "supervision" means the provision of any needed direc-
27 tion, control, consultation, instruction, evaluation, and personal
28 inspection of work being performed.

29 * Sec. 15. AS 08.71.030, 08.71.050, 08.71.060, 08.71.070, 08.71.200, and

DELETING

1 08.71.240(3) are repealed.

2 * Sec. 16. This Act takes effect immediately in accordance with AS 01.10.-
3 070(c).

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WORKSHOP RECOMMENDED CHANGES

SB 541 - Dispensing Opticians

- 1) Delete "reasonable" in Sec. 10 (AS 08.71.175(6)(d))

P5, L21

SB 549 - Nursing Home Administrators

- 1) Make board's composition comply with federal regulations - suggest reducing to three member board

P1, L22

SB 550 - Pharmacy

- 1) Rationale for wholesale licenses

SB 551 - Optometry

- 1) Include Canada
- 2) Remove "certificate number"
- 3) Include definition of optometry/practicing optometry

P3, L12

P6, L21

P7, L1

CSSB 541 - SECTIONAL (DISPENSING OPTICIANS)

- * Sec. 1 -- Provides "exception" to current statute which renews licenses biennially and allows our "health boards" to renew every four years
- Sec. 2 -- Changes composition of board--decreases number of board members from seven to five, membership is to be composed of four dispensing opticians and one public member. Also the members' term of service is increased from three to four years. Limits board member to two successive four year terms
- Sec. 3 -- Allows for "removal of board members"
Enumerates "powers and duties" of board
- Sec. 4 -- Reduces number of hours, 10,000 to 6,000, that an individual must be engaged in the practice of dispensing optician "outside" in order to qualify to take the exam to be licensed in this state
- Sec. 5 -- Renewal Fee - \$200 - due every four years
- Sec. 6 -- Provides for license renewal to occur every four years instead of biennially
- Sec. 7 -- Allows for "licensure by credentials"
- Sec. 8 -- Deletes "direct" in reference to "direct supervision"
- Sec. 9 -- Delineates circumstances in which disciplinary sanctions may be imposed
- Sec. 10 -- Provides for "disciplinary sanctions"
- Sec. 11 -- Makes practicing as a dispensing optician without a license as a class B misdemeanor
- Sec. 12 -- Deletes the exemption clause which allows employees working under the personal supervision of a physician/optometrist from being licensed as a dispensing optician
- Sec. 13 -- Definitions: "dispensing optician"; "supervision"

Sec. 14 -- Repealers:

08.71.030 (Qualifications of Board Members)
Repeals current composition of board to account
for change to composition of board proposed in
this bill

08.71.050 (Board Regulations) Repeals current
"board regulation" section to account for our
"powers and duties" section proposed in this
bill

08.71.060 (Record of Proceedings) Repeals
this section because "maintenance of records"
section is incorporated in the "powers and
duties" section proposed in this bill

*

08.71.070 (Applicability of Administrative
Procedures Act) Not necessary to have this
appear in this chapter because AS 08.01.090
provides for applicability of administrative
procedure act which is applicable to all boards.

08.71.240(3) (Dispensing Opticians) Repeals
this current definition of dispensing optician
because new definition is provided for in our
bill

SB

549

COMMITTEE REPORT

SENATE

4/7/80

FURTHER: None

Date: 4-9-80

Mr. President:

The Committee on HEALTH, EDUCATION AND SOCIAL SERVICES has had SB 549

professional licensing and the regulation of nursing home administrators

under consideration and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass do not pass
- do pass with attached amendments(s)
- replace with CS for _____ same title
 new title
- and recommends _____
- AND attaches a "Letter of Intent" New Fiscal Note
- reports it back without recommendation
- referred to the _____ Committee

MEMBERS SIGNING DO PASS

[Signature]

[Signature]

MEMBERS HAVING OTHER RECOMMENDATIONS:

[Signature]

 CHAIRMAN
 10/1/80

AMENDMENT

OFFERED IN THE SENATE:

BY: SENATE HESS

To: _____ SENATE BILL No. 549

HOUSE BILL No. _____

PAGE: 1

LINE: 22-26

Page 1, lines 22-26

Delete lines 22-26 and insert new language to read:

(a) The board consists of five members: two nursing home administrators licensed under this chapter and practicing in the state, a registered nurse licensed in the state and having no direct financial interest in any nursing home, and two persons from the general public.

POSITION PAPER

SENATE BILL NO. 549am

"An act relating to professional licensing and to the regulation of Nursing home administrators, and providing for an effective date."

Senate Bill 549am revises current statutes and adds new sections to clarify and strengthen the administration of nursing home administrators licensing procedures. The bill gives the Board of Nursing Home Administrators the authority to develop regulations for the purpose of requiring disciplinary sanctions and making renewal of licenses dependent upon proof of continued competency.

The bill provides specific administrative procedures for applying disciplinary sanctions, and spells out specific grounds for discipline.

The terms of members of the Board of Nursing and limited to approximately eight years and the nursing home administrators license is to be renewed every four years rather than annually.

The Department of Health and Social Services supports Senate Bill 549am as it is written.

As evidenced by the attached letter from Rod Betit, Director, Division of Public Assistance, the existence of and the smooth operation of a Board of Nursing Home Administrators is important to the operation and funding of the State of Alaska's Medicaid program.

The bill does not fiscally affect the cost of operation of the Department of Health and Social Services other than the federal fund participation for the Medicaid program.

Recommended By: Rod Betit Date May 5, 1950
Rod Betit, Director
Division of Public Assistance

Approved By: Helene D. Beirne Date 5/9/50
Helene D. Beirne, Commissioner
Department of Health and Social Services

THE LEGISLATURE OF THE STATE OF ALASKA
ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. Senate Bill No 549am

Title "An act relating to professional licensing & regulation of Nursing Home Administrators"

Requested by Commissioner's Office

Date 5/6/80

II. FISCAL DETAIL

Agency Affected Department of Health and Social Services

Program Category Affected Health /Division of Public Assistance

BRU, Program, or Subprogram(s) Affected Medicaid

(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 80	FY 81	FY 82	FY 83	FY 84	FY 85
100 PERSONAL SERVICES	0	0	0	0	0	0
200 TRAVEL	0	0	0	0	0	0
300 CONTRACTUAL	0	0	0	0	0	0
400 COMMODITIES	0	0	0	0	0	0
500 EQUIPMENT	0	0	0	0	0	0
600 LAND & STRUCTURES	0	0	0	0	0	0
700 GRANTS, CLAIMS, ETC.	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0

FUNDING (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER (Specify Fund Source)	0	0	0	0	0	0

POSITIONS

FULL TIME	0	0	0	0	0	0
PART TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

Original: Legislative Finance
cc: Budget and Management

Prime Sponsor (First Legislator Named)

Prepared by Robert H. O'Brien Date: 5/6/80
Division/Office: Public Assistance PH:465-3557
Department of Health & Social Services

March 31, 1980

March 31, 1980

Document Number 59-80

The Honorable Glenn Hackney
Chairman, Senate HESS Committee
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Senator Hackney:

House Bill 447 proposes terminating the existence of the Board of Nursing Home Administrators on January 1, 1981 and reassigns its responsibilities to the Department of Commerce and Economic Development.

At the time various Boards and Commissions were being considered for "sunsetting" by the Legislature in 1979, it was found that the existence of the Board of Nursing Home Administrators or some similar type of "peer review" system was, by federal law, (U.S. Code 42 Sub-Chapter XIX S. 1596 a(29)) necessary if the State of Alaska was to continue to receive federal fund participation for Medicaid nursing home services.

Federal fund participation is an essential part of the Medicaid nursing home services funding. Nursing home services comprise 70% of the total Alaska Medicaid budget (twenty-nine million dollars) and therefore, approximately fourteen million dollars (50% matching) could be lost in federal fund participation if some type of "peer review" licensing function is not provided for in Alaska Statute.

When viewed superficially, it is difficult to justify the need for, and cost of a statewide, regionally represented, five member Board of Nursing Home Administrators when only approximately 35 licenses have been issued since 1976. However, with approximately fourteen million dollars in federal fund participation dependent upon the state having "either a Board of Nursing Home Administrators or an agency of the state responsible for licensing under the Healing Arts Act of the state" the cost and need is easier rationalized.

What seems needed is a method of administering the issuance of Nursing Home Administrators licensured through the Department of Commerce and Economic Development while at the same time providing a method of inexpensive "peer review." Some alternatives that we have considered are as follows:

1. Establish the Long Term Care Division of the Alaska State Hospital Association as the board the Department of Commerce and Economic Department must consult with regarding:

March 31, 1980

- a. Promulgating of regulations.
- b. Revocation of licenses.
- c. Establishment of procedures to insure that licenses uphold standards.
- d. Adoption of criteria for educational requirements.

The Long Term Care Division of the Alaska State Hospital Association meets at least bi-annually and at no expense to the State could provide the professional support needed to fulfill federal statute requirements. The Long Term Care Division of the Alaska State Hospital Association is composed of all the nursing home administrators in the State of Alaska.

- II. Establish a Board, for federal purposes, composed of state employees who's offices are in Juneau. This type of board should meet during regular working hours and therefore, should be no added expense to the State.
 - a. Director of Occupational Licensing.
 - b. Director of Public Assistance.
 - c. Director of Public Health.
 - d. Director of Nursing Board.
- III. The development of a comprehensive healing arts act, which would encompass all healing professions.
- IV. Reinstatement of the existing Board of Nursing Home Administrators with appropriate funding and staffing in the Division of Occupational Licensing to accomplish the tasks required.

The Division of Public Assistance opposes House Bill 447 and support the reinstatement of the Board of Nursing Home Administrators. We feel the cost of supporting the operation of such a board are justified when compared to the amount of federal fund participation involved.

Sincerely,



Rod Betit
Director

RS:DO:lar
bcc: BSS Commissioner's Office

MEMORANDUM

TO: Debra Behr, Special Assistant
to the Commissioner
Health & Social Services

DATE: April 18, 1980

FILE NO.

TELEPHONE NO.

FROM: Portia Kaufmann, Administrator
State Health Planning & Development
Certification & Licensing

SUBJECT: Position Paper - Senate Bill 549

For an act entitled: "An Act relating to professional licensing and to the regulation of nursing home administrators; and providing for an effective date."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA.

* Section 1. AS 08.01.010 is amended by adding a new paragraph to read:

(22) Board of Nursing Home Administrators.

Discussion:

1. A current license is required by Federal regulations for nursing home administrators.
2. Federal regulations do not require the administrator of a hospital with long term care beds to be a licensed nursing home administrator unless state regulations have this requirement.

As of this date, the State of Alaska has required a hospital administrator to be licensed as a nursing home administrator if the hospital has a long term care unit.

3. Intermediate Care Facilities for the mentally retarded federal regulations require the administrator to be a qualified Mental Retardation Specialist (A educational background in preference to medical background), unless the State requires him/her to be a licensed nursing home administrator.

Intermediate Care Facilities for the mentally retarded (ICF/MR) that care for persons with developmental disabilities have an orientation to normalization and a wellness model as opposed to the medical model. Therefore, the administrator of an ICF/MR must have a different background. Alaska has adopted for licensure the Federal Regulations for ICF/MR. Therefore, ICF/MRs are not licensed as nursing homes, but as ICF/MRs.

Senate Bill No. 549 refers to the re-establishment of the Board of Nursing to administer the required licensure program for nursing home administrators.

Comment: The Department of Health & Social Services concurs with the content of this Bill.

cc Phoebe Lindsley, Director
State Health Planning & Development
PK:arn

WORKSHOP RECOMMENDED CHANGES

SB 541 - Dispensing Opticians

Separate fee

- 1) Delete "reasonable" in Sec. 10 (AS 08.71.175(6)(d))

P5, L21

* SB 549 - Nursing Home Administrators

- 1) Make board's composition comply with federal regulations - suggest reducing to three member board

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P3, L12

P6, L21

P7, L1

PART 252—MEDICAL ASSISTANCE PROGRAMS: RELATED RESPONSIBILITIES

§ 252.10 State programs for licensing administrators of nursing homes.

(a) *Purpose.* This section establishes the procedures for States to follow to comply with the requirement for States participating in a title XIX program to establish programs for the licensure of administrators of nursing homes.

(b) *Definitions.* When used in this section:

(1) "Nursing home," for purposes of requiring supervision by a licensed administrator, means any institution or facility, or distinct part of a hospital, which, regardless of its designation, is licensed or formally recognized as meeting State nursing home standards under State law. In those States that do not employ the term "nursing home" in their licensing statutes, "nursing home" means the equivalent term or terms as determined by the administrator, Social and Rehabilitation Service. For purposes of obtaining such determination, the single State agency responsible for the administration of the title XIX program in such State shall submit to the Regional Commissioner copies of current State statutes which define for licensure purposes institutional health care facilities. Not included in this definition is a Christian Science sanatorium operated, or listed and certified, by the First Church of Christ, Scientist, Boston, Mass., or a distinct part of a hospital, which hospital meets the definition in § 249.10(b)(1) or (14)(iv) of this chapter, that is designated or certified as a skilled nursing facility but is not licensed separately or formally approved as a nursing home by the State.

(2) "Nursing home administrator" means any individual who is charged with the general administration of a nursing home, whether or not such individual has an ownership interest in such home, and whether or not his functions and duties are shared with one or more other individuals.

(3) "Board" means a duly appointed State board established for the purpose of carrying out a State program for licensure of administrators of nursing homes, and which is assigned all the duties, functions, and responsibilities prescribed in paragraph (c)(2) of this section. Said board shall be composed of individuals representative of the professions and institutions concerned with the care and treatment of chronically ill or infirm elderly patients; provided that less than a majority of the board membership shall be representative of a single profession or institutional category, and pro-

vided further that the noninstitutional members shall have no direct financial interest in nursing homes. For purposes of this definition, nursing home administrators are considered representatives of institutions. This definition is effective July 1, 1973, or earlier at the option of the State.

(4) "Agency," unless otherwise indicated, means the agency of the State responsible for licensing individual practitioners under the healing arts licensing act of the State.

(5) "License" means a certificate or other written evidence issued by a State agency or board to indicate that the bearer has been certified by that body to meet all the standards required of a licensed nursing home administrator under this section.

(6) "Provisional license" means a temporary license issued by the State agency or board to an individual who does not meet all the qualifications for licensure.

(7) "Calendar year" means the period from January 1 through December 31.

(c) *State plan requirements.* A State plan for medical assistance under title XIX of the Social Security Act must include a State program for the licensure of administrators of nursing homes which:

(1) Provides that no nursing home within the State may operate except under the supervision of an administrator licensed in the manner provided in this section.

(2) Provides for licensing of nursing home administrators by the single agency of the State responsible for licensing individual practitioners under the healing arts act of the State, or, in the absence of such an act or agency, a State licensing board representative of the professions and institutions concerned with the care of chronically ill and infirm aged patients and established to carry out the purposes of section 1908 of the Social Security Act; It shall be the function and duty of such agency or board to:

(i) Develop, impose, and enforce standards which must be met by individuals in order to receive a license as a nursing home administrator, which standards shall be designed to insure that nursing home administrators will be individuals who are of good character and are otherwise suitable, and who, by training or experience in the field of institutional administration, are qualified to serve as nursing home administrators;

(ii) Develop and apply appropriate techniques, including examinations and investigations, for determining whether an individual meets such standards.

ST. ANN'S NURSING HOME
415 Sixth Street, Juneau, Alaska 99801 (907) 586-3883

MARCH 30, 1980

THE SENATE HESS COMMITTEE
THE ASSEMBLY BUILDING, ROOM 106
JUNEAU, ALASKA

REF: ~~HOUSE BILL NO. 447~~

SENATOR HACKNEY, AND MEMBERS OF THE HESS COMMITTEE:

ST. ANN'S NURSING HOME AND I APPRECIATE THIS OPPORTUNITY TO ADDRESS THIS HEARING CONCERNING THE SUNSETTING OF THE BOARD OF NURSING HOME ADMINISTRATORS.

LADIES AND GENTLEMEN, WE ARE, TO PUT IT MILDLY, CONCERNED FOR THE WELFARE OF NOT ONLY THE TWENTY-EIGHT MEDICAID PATIENTS IN RESIDENCE AT ST. ANN'S, BUT ALSO THE MEDICAID PATIENTS AT INSTITUTIONS SUCH AS OURS THROUGHOUT THE STATE. THERE MUST BE BETWEEN 400 AND 500 ELDERLY CITIZENS OF THE STATE WHO ARE TOTALLY DEPENDENT UPON MEDICAID FOR MAINTENANCE OF THEIR HEALTH CARE IN INSTITUTIONS.

AS AN ADMINISTRATOR OF A NURSING HOME, I AM ACUTELY FEARFUL THAT, SHOULD THIS BILL PASS AND THE UNFORTUNATE SUNSETTING OF THE BOARD OF NURSING HOME ADMINISTRATORS NOT BE REVERSED, THE STATE WILL - WITHIN 30 DAYS - BE OUT OF THE FEDERAL MEDICAID PROGRAM AS FAR AS NURSING HOME CARE IS CONCERNED. UNLESS THE STATE IS WILLING TO PICK UP THE 50% OF COST THAT THE FEDERAL PROGRAM NOW PAYS, AS AN ADMINISTRATOR, I WILL HAVE TO FIND OTHER (AND I'M CERTAIN) LESS SATISFACTORY PLACEMENT FOR THESE TWENTY-EIGHT PATIENTS AT ST. ANN'S.

MARCH 30, 1980

PAGE 2

WHERE CAN THEY GO -- THOSE PATIENTS WHO HAVE SUFFERED SO MUCH BECAUSE OF PHYSICAL DISABILITIES BROUGHT ON BY ADVANCE AGE. WHERE IS THE LOVING AND THOUGHTFUL AND SKILLED NURSING CARE GOING TO COME FROM. THE COMMUNITY HOME HEALTH CARE AND HOMEMAKERS PROGRAMS ARE STRAINED TO THE LIMIT NOW. NO OTHER FACILITIES CAN TAKE UP ALL THE EXTRA LOAD. DOES THE LEGISLATURE WANT NURSING HOMES TO CUT DOWN ON CARE TO FIT THE SHRUNKEN DOLLARS? NO ONE BELIEVES YOU ARE ASKING THAT -- THE EMPHASIS HAS ALWAYS BEEN ON INCREASED AND BETTER CARE.

UNDER THE TERMS OF THE FEDERAL SOCIAL SECURITY ACT THAT ESTABLISHES STATE MEDICAID PROGRAMS, IT IS CLEARLY STATED THAT THERE MUST BE A "HEALING ARTS ACT" OR A "BOARD OF NURSING HOME ADMINISTRATORS" TO EXAMINE AND LICENSE ADMINISTRATORS. THERE IS NO ROOM FOR DEVIATION SINCE THIS IS A STATUTORY PROVISION RATHER THAN A DEPARTMENTAL REGULATION. HOWEVER, NO DEFINITIONS AS TO SIZE AND COMPOSITION ARE GIVEN EXCEPT THAT A "BOARD" MUST INCLUDE ONE MEMBER FROM THE INSTITUTIONAL SETTING. WE FEEL THAT THE STATE SHOULD HAVE THE RIGHT TO DETERMINE WHAT DEPARTMENT SUCH A "BOARD" WOULD FUNCTION IN, AND WE DO UNDERSTAND THAT THE DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT IS A LOGICAL CHOICE. HOWEVER, THE NECESSITY FOR THE "BOARD" TO BE A DISTINCT AND RECOGNIZABLE ENTITY (WITHIN THE DEPARTMENT) REMAINS.

ST. ANN'S NURSING HOME FEELS STRONGLY THAT THE STATE HAS AN OBLIGATION TO THESE ELDERLY CITIZENS. THEY HAVE SUFFERED MUCH BY REASON OF HAVING FIXED AND LOW INCOMES AT A TIME OF SPIRALLING AND SKYROCKETING COSTS. THEY ARE TRULY LIVING AT SUBSISTENCE LEVELS EVEN IF THEY ARE LUCKY ENOUGH TO AVOID THE RAVAGES OF TIME. ON THEIR RESTRICTED INCOME, IF ILLNESS, INJURY, STROKE OR HEART PROBLEMS HIT THEM, THEY ARE ABSOLUTELY DEPENDENT ON PUBLIC ASSISTANCE AND MEDICAID. THESE CITIZENS, POOR ONLY BECAUSE OF CIRCUMSTANCES OUT OF THEIR CONTROL, ARE DOWN FOR THE COUNT. I, FOR ONE, DON'T WANT TO BE THE ONE TO KICK THEM WHEN THEY ARE HELPLESS.

SENATE HESS COMMITTEE (HB #447)

MARCH 30, 1980

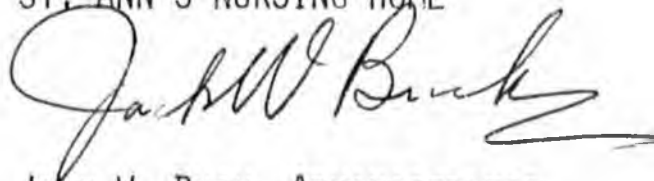
PAGE 3

LADIES AND GENTLEMEN, THE BOARD OF NURSING HOME ADMINISTRATORS IS THE SMALLEST CONCERN HERE. WHAT FORM THE "BOARD" TAKES IN SIZE AND LOCATION WITHIN THE STRUCTURE OF GOVERNMENT IS RELATIVELY UNIMPORTANT AND WITHIN YOUR POWER TO CONTROL. THE IMPORTANT --- THE OVERRIDING CONCERN WE MUST DEAL WITH IS "DO WE REALLY HATE OUR ELDERS SO MUCH THAT WE WANT TO DENY THEM THE ONLY SECURITY THEY HAVE?"

WE MUST HAVE A DISTINCT "BOARD OF NURSING HOME ADMINISTRATORS".

THE PATIENTS AT ST. ANN'S AND I THANK YOU FOR YOUR KINDNESS AND CONSIDERATION IN ALLOWING US TO PRESENT THIS TESTIMONY.

SINCERELY,
ST. ANN'S NURSING HOME

A handwritten signature in cursive script, appearing to read "Jack W. Buck". The signature is written in dark ink and is positioned below the typed name.

JACK W. BUCK, ADMINISTRATOR

TO: Debra Behr, Special Assistant
to the Commissioner
Health & Social Services

DATE: April 18, 1980

FILE NO.

TELEPHONE NO.

FROM: Portia Kaufmann, Administrator
State Health Planning & Development
Certification & Licensing

SUBJECT: Position Paper - Senate Bill 549

For an act entitled: "An Act relating to professional licensing and to the regulation of nursing home administrators; and providing for an effective date."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA.

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(22) Board of Nursing Home Administrators.

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As of this date, the State of Alaska has required a hospital administrator to be licensed as a nursing home administrator if the hospital has a long term care unit.

3. Intermediate Care Facilities for the mentally retarded federal regulations require the administrator to be a qualified Mental Retardation Specialist (A educational background in preference to medical background), unless the State requires him/her to be a licensed nursing home administrator.

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Senate Bill No. 549 refers to the re-establishment of the Board of Nursing to administer the required licensure program for nursing home administrators.

Comment: The Department of Health & Social Services concurs with the content of this Bill.

cc Phoebe Lindsley, Director
State Health Planning & Development
PK:arn

THE FOLLOWING DOCUMENT(S) MAY NOT FILM
LEGIBLY BECAUSE OF POOR QUALITY OF THE
ORIGINAL.

March 31, 1980

Document Number 59-80

The Honorable Glenn MacInoy,
Chairman, Senate HESS Committee
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Senator MacInoy:

House Bill 447 proposes terminating the existence of the Board of Nursing Home Administrators on January 1, 1981 and reassigns its responsibilities to the Department of Commerce and Economic Development.

At the time various Boards and Commissions were being considered for "unsetting" by the Legislature in 1979, it was found that the existence of the Board of Nursing Home Administrators or some similar type of "peer review" system was, by federal law, (U.S. Code 42 Sub-Chapter XIV S. 1396 a(29)) necessary if the State or Alaska was to continue to receive federal fund participation for Medicaid nursing home services.

Federal fund participation is an essential part of the Medicaid nursing home services funding. Nursing home services comprise 70% of the total Alaska Medicaid budget (twenty-nine million dollars) and therefore, approximately fourteen million dollars (50% matching) could be lost in federal fund participation if some type of "peer review" licensure function is not provided for in Alaska Statute.

When viewed superficially, it is difficult to justify the need for, and cost of a statewide, regionally represented, five member Board of Nursing Home Administrators when only approximately 35 licenses have been issued since 1976. However, with approximately fourteen million dollars in federal fund participation dependent upon the state having "either a Board of Nursing Home Administrators or an agency of the state responsible for licensing under the Healing Arts Act of the state" the cost and need is easier rationalized.

It seems needed as a method of administering the issuance of Nursing Home Administrators licensed through the Department of Commerce and Economic Development while at the same time providing a method of "peer review". Some alternatives that we have considered

Alaska State Legislature
Department of Commerce and Economic Development
Juneau, Alaska

March 31, 1980

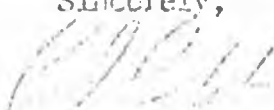
- a. Promulgating of regulations.
- b. Revocation of licenses.
- c. Establishment of procedures to insure that licenses uphold standards.
- d. Adoption of criteria for educational requirements.

The Long Term Care Division of the Alaska State Hospital Association meets at least bi-annually and at no expense to the State could provide the professional support needed to fulfill federal statute requirements. The Long Term Care Division of the Alaska State Hospital Association is composed of all the nursing home administrators in the State of Alaska.

- II. Establish a Board, for federal purposes, composed of state employees who's offices are in Juneau. This type of board should meet during regular working hours and therefore, should be no added expense to the State.
 - a. Director of Occupational Licensing.
 - b. Director of Public Assistance.
 - c. Director of Public Health.
 - d. Director of Nursing Board.
- III. The development of a comprehensive healing arts act, which would encompass all healing professions.
- IV. Reinstatement of the existing Board of Nursing Home Administrators with appropriate funding and staffing in the Division of Occupational Licensing to accomplish the tasks required.

The Division of Public Assistance opposes House Bill 447 and support the reinstatement of the Board of Nursing Home Administrators. We feel the cost of supporting the operation of such a board are justified when compared to the amount of federal fund participation involved.

Sincerely,


Red Mattie
Director

THE PRECEDING DOCUMENT(S) MAY NOT FILM
LEGIBLY BECAUSE OF POOR QUALITY OF THE
ORIGINAL.

AMENDMENT # 1

OFFERED IN THE SENATE:

By: SENATE HESS

To: _____ SENATE BILL No. 549

HOUSE BILL No. _____

PAGE: 1

LINE: 22-26

Page 1, lines 22-26

Delete lines 22-26 and insert new language to read:

(a) The board consists of five members: two nursing home administrators licensed under this chapter and practicing in the state, a registered nurse licensed in the state and having no direct financial interest in any nursing home, and two persons from the general public.

code of federal regulations



Alaska State Department

42

Public Health

PART 400 TO END

Revised as of October 1, 1979

§ 431.630

Title 42—Public Health

but were not because the person was not enrolled in part B. This limit applies to all recipients eligible for enrollment under part B, whether individually or through an agreement under sec. 1843(a) of the Act. However, FFP is available to expenditures required by §§ 435.914 and 436.901 of this subchapter for retroactive coverage of recipients.

143 FR 45188, Sept. 29, 1978, as amended at 44 FR 17965, Mar. 24, 1979.

§ 431.630 Coordination of Medicaid with Professional Standards Review Organizations.

The State plan must provide that the Medicaid agency will comply with provisions of Part 463 of this chapter relating to the activities of PSROs.

141 FR 16398, Mar. 19, 1979.

Subpart N—State Programs for Licensing Nursing Home Administrators

§ 431.700 Basis and purpose.

This subpart implements sections 1903(a)(29) and 1908 of the Act which require that the State plan include a State program for licensing nursing home administrators.

§ 431.701 Definitions.

Unless otherwise indicated, the following definitions apply for purposes of this subpart:

"Agency" means the State agency responsible for licensing individual practitioners under the State's healing arts licensing act.

"Board" means an appointed State board established to carry out a State program for licensing administrators of nursing homes, in a State that does not have a healing arts licensing act or an agency as defined in this section.

"Licensed" means certified by a State agency or board as meeting all of the requirements for a licensed nursing home administrator specified in this subpart.

"Nursing home" means any institution, facility, or distinct part of a hospital that is licensed or formally recognized as meeting nursing home standards established under State law, or that is determined under § 431.704 to

be included under the requirements of this subpart. The term does not include—

(a) A Christian Science sanatorium operated, or listed and certified, by the First Church of Christ, Scientist, Boston, Mass.; or

(b) A distinct part of a hospital if the hospital meets the definition in §§ 440.10 or 440.140 of this subchapter, and the distinct part is not licensed separately or formally approved as a nursing home by the State even though it is designated or certified as a skilled nursing facility.

"Nursing home administrator" means any person who is in charge of the general administration of a nursing home whether or not the person—

(a) Has an ownership interest in the home; or

(b) Shares his functions and duties with one or more other persons.

§ 431.702 State plan requirement.

A State plan must provide that the State has a program for licensing administrators of nursing homes that meets the requirements of §§ 431.703 through 431.713 of this subpart.

§ 431.703 Licensing requirement.

The State licensing program must provide that only nursing homes supervised by an administrator licensed in accordance with the requirements of this subpart may operate in the State.

§ 431.704 Nursing homes designated by other terms.

If a State licensing law does not use the term "nursing home," the HCFA Administrator will determine the term or terms equivalent to "nursing home" for purposes of applying the requirements of this subpart. To obtain this determination, the Medicaid agency must submit to the Regional Medical Director copies of current State laws that define institutional health care facilities for licensing purposes.

§ 431.705 Licensing authority.

(a) The State licensing program must provide for licensing of nursing home administrators by—

(1) The agency designated under the healing arts act of the State; or

(2) A State licensing board.

(b) The State agency or board must perform the functions and duties specified in §§ 431.707 through 431.713 and the board must meet the membership requirements specified in § 431.706 of this subpart.

§ 431.706 Composition of licensing board.

(a) The board must be composed of persons representing professions and institutions concerned with the care and treatment of chronically ill or infirm elderly patients. However—

(1) A majority of the board members may not be representative of a single profession or category of institution; and

(2) Members not representative of institutions may not have a direct financial interest in any nursing home.

(b) For purposes of this section, nursing home administrators are considered representatives of institutions.

§ 431.707 Standards.

(a) The agency or board must develop, impose, and enforce standards that must be met by individuals in order to be licensed as a nursing home administrator.

(b) The standards must be designed to insure that nursing home administrators are—

- (1) Of good character;
- (2) Otherwise suitable; and
- (3) Qualified to serve because of training or experience in institutional administration.

§ 431.708 Procedures for applying standards.

The agency or board must develop and apply appropriate procedures and techniques, including examinations and investigations, for determining if a person meets the licensing standards.

§ 431.709 Issuance and revocation of license.

Except as provided in § 431.714 of this subpart, the agency or board must—

(a) Issue licenses to persons who meet the agency's or board's standards; and

(b) Revoke or suspend a license if the agency or board determines that

the person holding the license substantially fails to meet the standards.

§ 431.710 Provisional licenses.

To fill a position of nursing home administrator that unexpectedly becomes vacant, the agency or board may issue one provisional license, for a single period not to exceed 6 months. The license may be issued to a person who does not meet all of the licensing requirements established under § 431.707 but, who—

- (a) Is of good character and otherwise suitable; and
- (b) Meets any other standards established for provisional licensure by the agency or board.

§ 431.711 Compliance with standards.

The agency or board must establish and carry out procedures to insure that licensed administrators comply with the standards in this subpart when they serve as nursing home administrators.

§ 431.712 Failure to comply with standards.

The agency or board must investigate and act on all complaints it receives of violations of standards.

§ 431.713 Continuing study and investigation.

The agency or board must conduct a continuing study of nursing homes and administrators within the State to improve—

- (a) Licensing standards; and
- (b) The procedures and methods for enforcing the standards.

§ 431.714 Waivers.

The agency or board may waive any standards developed under § 431.707 of this subpart for any person who has served in the capacity of a nursing home administrator during all of the 3 calendar years immediately preceding the calendar year in which the State first meets the requirements in this subpart.

§ 431.715 Federal financial participation.

No FFP is available in expenditures by the licensing board for establishing and maintaining standards for the li-

Sec. 16 - Penalty for violating chapter

Sec. 17 - Brings nursing homes administrators under the
"administrative adjudication" section of Title 44

Sec. 18 - Repeal section

Sec. 19 - Effective date

WO 8317
Cook

BY THE HEALTH, EDUCATION AND
SOCIAL SERVICES COMMITTEE

1 IN THE SENATE

2 SENATE BILL NO.

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to professional licensing and to the
7 regulation of nursing home administrators; and pro-
8 viding for an effective date."

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

10 * Section 1. AS 08.01.010 is amended by adding a new paragraph to read:

11 (22) Board of Nursing Home Administrators.

12 * Sec. 2. AS 08.01.050(19) is amended to read:

13 (19) provide investigative services to the boards established
14 under AS 08.20, [AS 08.32,] AS 08.36, AS 08.64, AS 08.68, AS 08.70,
15 AS 08.71, AS 08.72, AS 08.80, AS 08.84, and AS 08.86, for the purpose of
16 assisting those boards in matters of professional discipline.

17 * Sec. 3. AS 08.01.100(a) is amended to read:

18 (a) Except as provided in this title, [ALL] licenses shall be
19 renewed biennially on the dates set by the department with the approval
20 of the respective board.

21 * Sec. 4. AS 08.70.020(a) is amended to read:

22 (a) The board consists of five members: three [TWO] nursing home
23 administrators licensed under this chapter and practicing in the state,
24 one [A] registered nurse licensed in the state, and one public member
25 [TWO PERSONS FROM THE GENERAL PUBLIC].

26 * Sec. 5. AS 08 70.020(c) is amended to read:

27 (c) Board members serve staggered terms of four [THREE] years or
28 until their successor is appointed, except that a member appointed to a
29 vacated term serves the duration of that term. A person who has served

1 two successive complete terms may not be reappointed until four years
2 from the expiration of the second term [ON THE FIRST BOARD TWO MEMBERS
3 SERVE ONE-YEAR TERMS, TWO MEMBERS SERVE TWO-YEAR TERMS AND ONE MEMBER
4 SERVES A THREE-YEAR TERM].

5 * Sec. 6. AS 08.70.050(a)(2) is amended to read:

6 (2) examine, approve issuance of licenses and renewal of
7 [LICENSE, AND RENEW THE] licenses of qualified persons;

8 * Sec. 7. AS 08.70.050(a)(3) is amended to read:

9 (3) establish procedures to insure that licensees continue to
10 uphold the board's standards; impose disciplinary sanctions upon [RE-
11 VOKE, SUSPEND, OR REFUSE TO RENEW LICENSES OF] persons who fail to
12 uphold the standards;

13 * Sec. 8. AS 08.70.050(a) is amended by adding a new paragraph to read:

14 (6) adopt regulations insuring that renewal of a license is
15 contingent upon proof of continued competency by the licensee.

16 * Sec. 9. AS 08.70 is amended by adding a new section to read:

17 Sec. 08.70.055. REMOVAL OF BOARD MEMBERS. A member of the board
18 may be removed from office by the governor for cause. The board may by
19 regulation provide that unexcused absences from meetings constitute
20 cause for removal.

21 * Sec. 10. AS 08.70.080 is amended to read:

22 Sec. 08.70.080. LICENSE REQUIRED. Only a licensed nursing home
23 administrator may manage, supervise, or be generally in charge of a
24 nursing home [UNLESS EXCEPTED BY THIS CHAPTER]. Only a nursing home
25 which is supervised by a licensed nursing home administrator may operate
26 in Alaska [UNLESS SPECIALLY EXCEPTED BY THE BOARD. THIS SECTION DOES'
27 NOT APPLY TO THE ALASKA PIONEERS' HOMES].

28 * Sec. 11. AS 08.70.140(b) is amended to read:

29 (b) An administrator may apply to the board for renewal of his

1 license every four years by submitting an application for renewal and
 2 proof of continued competency as required by regulation [TO THE BOARD];
 3 application forms for renewal are provided by the department.

4 * Sec. 12. AS 08.70.140(c) is amended to read:

5 (c) A person whose license has expired for a period of 24 [12]
 6 months or more must apply for a license and be examined in the same
 7 manner as an applicant who has not been licensed before.

8 * Sec. 13. AS 08.70.150 is amended to read:

9 Sec. 08.70.15C. FEES. The following fees shall be imposed under
 10 this chapter when applicable:

- 11 (1) examination fee \$50 [\$25]
- 12 (2) investigation fee for persons applying
 13 for a license under AS 08.70.110(b) \$50 [\$25]
- 14 (3) [ANNUAL] license renewal fee (required
 15 every four years) \$200 [\$50]

16 * Sec. 14. AS 08.70 is amended by adding a new section to read:

17 Sec. 08.70.155. GROUNDS FOR IMPOSITION OF DISCIPLINARY SANCTIONS.

18 After a hearing the board may impose disciplinary sanctions when it
 19 finds that a licensee

- 20 (1) secured a license through deceit, fraud, or intentional
 21 misrepresentation;
- 22 (2) engaged in deceit, fraud, or intentional misrepresenta-
 23 tion in the course of providing professional services or engaging in
 24 professional activities;
- 25 (3) advertised professional services in a false or misleading
 26 manner;
- 27 (4) has been convicted of a felony or other crime which
 28 affects his ability to continue to practice competently and safely;
- 29 (5) intentionally or negligently engaged in or permitted the

1 performance of patient care by persons under his supervision which does
2 not conform to minimum professional standards regardless of whether
3 actual injury to the patient occurred;

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

6 (7) continued to practice after becoming unfit due to

7 (A) professional incompetence;

8 (B) failure to keep informed of or use current profes-
9 sional theories or practices;

10 (C) addiction or severe dependency on alcohol or other
11 drugs which impairs his ability to practice safely;

12 (D) physical or mental disability;

13 (8) engaged in lewd or immoral conduct in connection with the
14 delivery of professional service to patients;

15 (9) sold or furnished a license to another;

16 (10) practiced as a nursing home administrator or used a
17 designation tending to imply that he is a nursing home administrator
18 without a license issued under this chapter.

19 * Sec. 15. AS 08.70.160 is repealed and re-enacted to read:

20 Sec. 08.70.160. DISCIPLINARY SANCTIONS. (a) When it finds that a
21 licensee is guilty of an offense under AS 08.70.155, the board may
22 impose the following sanctions singly or in combination:

23 (1) permanently revoke a license to practice;

24 (2) suspend a license for a determinate period of time;

25 (3) censure a licensee;

26 (4) issue a letter of reprimand;

27 (5) place a licensee on probationary status and require him

28 to

29 (A) report regularly to the board upon matters involving

1 the basis of probation;

2 (B) limit practice to those areas prescribed;

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

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

8 (b) The board may withdraw probation status if it finds that the
9 deficiencies which required the sanction have been remedied.

10 (c) The board may summarily suspend a license before final hearing
11 or during the appeals process if the board finds that the licensee poses
12 a clear and immediate danger to the public health and safety if he
13 continues to practice. A person whose license is suspended under this
14 section shall be entitled to a hearing by the board no later than seven
15 days after the effective date of the order. The person may appeal the
16 suspension after a hearing to a court of competent jurisdiction.

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

20 (e) The board shall seek consistency in the application of dis-
21 disciplinary sanctions, and significant departure from prior decisions
22 involving similar situations shall be explained in findings of fact or
23 orders.

24 * Sec. 16. AS 08.70.170 is amended to read:

25 Sec. 08.70.170. PENALTIES. A person convicted of violating a
26 provision of this chapter is guilty of a class B misdemeanor [PUNISHABLE
27 BY A FINE OF NOT MORE THAN \$500, OR BY IMPRISONMENT FOR NOT MORE THAN
28 ONE YEAR, OR BY BOTH].

29 * Sec. 17. AS 44.62.330(a) is amended by adding a new paragraph to read:

1 (47) Board of Nursing Home Administrators (AS 08.70.010).

2 * Sec. 18. AS 08.70.060, 08.70.070, and 08.70.140(a) are repealed.

3 * Sec. 19. This Act takes effect immediately in accordance with AS 01.10.
4 070(c).

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NURSING HOME ADMINISTRATORS

The following changes are to be incorporated into the practice act revisions re: the following health boards - Dental, Dispensing Opticians, Veterinarians, Physical Therapists, Optometrists, Psychologists, Chiropractors, Pharmacy, Nursing Home Administrators, Medical.

- P1, L22 #1 - Board members and composition, NURSING HOME ADMINISTRATORS / REGISTERED NURSE / PUBLIC MEMBER
- P1, L29 - Limit board membership to two consecutive four year terms.
- P3, L9 #2 - Revise fee schedule,
P3, L1 Allow for license renewal to occur every four years
- #3 - Eliminate re: to "good character," "professional conduct," etc., unless behavior defined.
- * #4 - Consider giving boards responsibility of determining licensing standards through regulations.
- * #5 - Out-of-state licensees credentialed through a process/by standards equivalent to ours - should be licensed by endorsement.
- #6 - Eliminate standards protecting economic interest of occupational groups, reducing information flow or restricting competition.
- #7 - License renewal provisions have been revised which allow for renewal to occur every four years.
MAKE license renewal contingent upon proof of continued competency with BOARDS DETERMINING BY REGULATION how continued competency will be demonstrated.
- P3, L2
- #8 - Licensing violations: make sure that each board may revoke, suspend or take any other disciplinary action necessary to correct incompetency.
- P4, L7
- #9 - Establish section providing for removal of board members.
Grounds for removal should include: (1) unexcused absences, (2) license violation, (3) anything detrimental to public interest served by board.
- P2, L17

* PROVIDED FOR IN 08.70.050(b)

** " " 08.70.110(b)

(Nursing Home Admin already have provided for these provisions)

S B

550

A M E N D M E N T

OFFERED IN THE SENATE:

By: SENATE HESS

To: _____ SENATE BILL No. 550

HOUSE BILL No. _____

PAGE: _____

LINE: _____

Page 5, line 25

Delete "\$25" and insert "\$100"

Page 7, line 2

Delete "licensed physician" and insert "person licensed to prescribe controlled substances"

Page 7, line 4

Delete "licensed physician, surgeon, dentist, or veterinarian" and insert "person licensed to prescribe federal legend drugs"

Page 3, line 23

Delete "08.80.420" and insert "08.80.420(b)"

SB550 "An Act relating to ^{S. HESS 19-580} ~~proposing~~ presenting a bill to the pasture
B. HESS

Introduced 4-7-80
Logged 4-7-80
Reference - none
Comm. meeting 4-9-80
" action

HSS notified

WORKSHOP RECOMMENDED CHANGES

SB 541 - Dispensing Opticians

- 1) Delete "reasorable" in Sec. 10 (AS 08.71.175(6)(d))

P5, L21

SB 549 - Nursing Home Administrators

- 1) Make board's composition comply with federal regulations - suggest reducing to three member board

P1, L22

SB 550 - Pharmacy

- 1) Rationale for wholesale licenses

SB 551 - Optometry

- 1) Include Canada
- 2) Remove "certificate number"
- 3) Include definition of optometry/practicing optometry

P3, L12

P6, L21

P7, L1

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of our more
lar sports.
canoe, outdoor
enthusiasts can
slowly through
dreds of miles of hinterlands
wise inaccessible by either
or air. In many streams, or
trips can be made and
can be filled with the
canoeing.

PHARMACISTS

- QUESTION*
- Sec. 1 -- Provisions of this chapter will not affect other boards and commissions provided for in Title 8.
 - Sec. 2 -- Makes board members term 4 years instead of 5
 - Limits board membership to two consecutive four year terms.
 - Sec. 3 -- Adds to board's "powers" the ability to adopt licensing standards
 - Sec. 4 -- Removes requirement that board members residing in another judicial district grade examination
 - Sec. 5 -- Allows for license renewal to occur every four years
 - Sec. 6 -- Provides for removal of board members by governor for cause
 - Sec. 7 -- Housekeeping
 - Sec. 8 -- Reduces number of internship hours registration applicant must have after graduation
 - Sec. 9 -- This section was mistakenly repealed so it is necessary to have it put back in. The section dealing with "malpractice" is the section to be repealed which is provided for in this bill
 - Sec. 10 - Provides for licensure by credentials
 - Sec. 11 - Provides flexibility in allowing a member of the board, rather than entire board, to issue a temporary license for an individual filing for a license by credentials
 - Sec. 12 - Again provides for flexibility in allowing a member of the board rather than entire board, to issue an emergency permit
 - Sec. 13 - Places qualifications on retail and wholesale drug dealers. Currently the only thing that covers these individuals is the amount of fees they are required to pay. This provision will mandate qualifications.
 - Sec. 14 - Revises fees
 - Sec. 15 - Imposes grounds for disciplinary sanctions



Sec. 16 - Enumerates "Disciplinary Sanctions"

Sec. 17 - Provides for penalty for individual who is found guilty of violating chapter

Sec. 18 - Defines "controlled substance"

Sec. 19 - Repeal section

Sec. 20 - Effective date

AMENDMENT

OFFERED IN THE SENATE:

BY: SENATE HESS

TO: _____ SENATE BILL No. 550

HOUSE BILL No. _____

PAGE: _____

LINE: _____

Page 5, line 25

Delete "\$25" and insert "\$100"

Page 7, line 2

Delete "licensed physician" and insert "person licensed to prescribe controlled substances"

Page 7, line 4

Delete "licensed physician, surgeon, dentist, or veterinarian" and insert "person licensed to prescribe federal legend drugs"

Page 8, line 23

Delete "08.80.420" and insert "08.80.420(b)"

87-715

PHARMACY - SECTIONAL

- Sec. 1 -- 08.01.50(10) mandates that Dept. of Commerce (DOL) will issue a duplicate license for a fee of \$2. This provision is allowing DOL to make an "exception" in regards to duplicating a pharmacy license. The fee for duplicating a pharmacy license is being raised to \$10 (See Sec. 15, Fees).
- Sec. 2 -- Provides for "exception" to current statute which renews licenses biennially and allows our "health boards" to renew licenses every four years.
- Sec. 3 -- Makes boardmembers term 4 years instead of 5
-- Limits board membership to two consecutive four year terms
- Sec. 4 -- Expands board's authority for establishing license requirements
- Sec. 5 -- Removes requirement that board members residing in another judicial district grade examination
- Sec. 6 -- Provides for board to adopt regulations making license renewal contingent upon continued competency
-- Provides for board to hold hearings & order disciplinary sanctions
- Sec. 7 -- Provides for removal of board members by governor for cause
- Sec. 8 -- Housekeeping - deletes re: to board
- Sec. 9 -- Reduces number of internship hours applicant must have after graduation
- Sec.10 -- This section inadvertently repealed. The section dealing with "malpractice" is the section to be repealed which is provided for in this bill
- Sec.11 -- Provides for licensure by credentials
- Sec.12 -- Provides flexibility in allowing a member of the board, rather than entire board, to issue a temporary license for an individual filing for a license by credentials
- Sec.13 -- Again provides for flexibility in allowing a member of the board, rather than entire board, to issue an emergency permit
- Sec.14 -- Deletes "shopkeeper" permit. Places qualifications on retail and wholesale drug dealers in the state. Currently the only control over these people is that they must pay a fee and they are issued a permit, but there are no standards regulating these people. This provision will mandate standards.
- Sec.15 -- Revises fees.
- Sec.16 -- Imposes grounds for disciplinary sanctions
- Sec.17 -- Enumerates "disciplinary sanctions"
- Sec.18 -- Penalty clause
- Sec.19 -- Defines "controlled substance"

-continued on next page-

Sec. 20 -- Repealers:

08.80.030(6) - Repeals board's power to "examine applicants for shopkeeper permits."

08.80.040(3) - Repeals board's duty to "initiate prosecution of any person violating this chapter."

08.80.040(7) - Repeals board's duty to "issue shopkeeper permits."

08.80.117 - Repeals malpractice insurance

08.80.160(13)- Repeals shopkeepers permit fee

08.80.250 - Repeals "Renewal of lapsed registration." This repeal is necessary because this bill is providing for the board to establish regulations in which renewal will be based upon continued competency

08.80.260 - Repeals "Grounds for refusing or revoking a license." We are replacing this with our "Grounds for imposition of disciplinary sanctions" section.

08.80.265 -Repeals "Limits or conditions on license; discipline." We are replacing this with our "Disciplinary sanctions" section.

08.80.365(2) -Repeals subsection (2) of this section. Partial closure of pharmacy. A pharmacy or paharmacy drug department which is open for business at times different than the remainder of the store or building in which the pharmacy is located shall.....
(2) be advertised by the methods described in secs. 420 and 430 of this chapter only if the signs or symbols are attached or located within the portions of the store or building where the pharmacy is located.

08.80.380 - Repeals "issuance of shopkeeper permits."

08.80.420(b) - Repeals subsection (b) of this section. Certain advertising prohibited.....(b) A person may not advertise in any manner, prices, percentiles of prices or discounts for drugs requiring a prescription.

08.80.480(19)-Repeals definition of shopkeeper.

Sec. 21 -- Effective date.

COPY OF OUR COMM: HEE'S AMENDMENTS
ATTACHED.

A M E N D M E N T

OFFERED IN THE SENATE:

BY: SENATE HESS

To: _____ SENATE BILL No. 550

HOUSE BILL No. _____

PAGE: _____

LINE: _____

Page 5, line 25

Delete "\$25" and insert "\$100"

Page 7, line 2

Delete "licensed physician" and insert "person licensed to prescribe controlled substances"

Page 7, line 4

Delete "licensed physician, surgeon, dentist, or veterinarian" and insert "person licensed to prescribe federal legend drugs"

Page 8, line 23

Delete "08.80.420" and insert "08.80.420(b)"



MARCH 31, 1980

BOARD OF PHARMACY

No problem with section 1-4

Section 5. Sen. Fahrenkamp. Does this require the department to notify these people if their licenses are out or is it the person who has got the license job to see that they get their license?

Ann Griggs. As it reads in here, it looks as though they are going to be on their own which is something that we don't mind at all.

Sen. Hackney. Does this cause any problem as far as you are concerned?

McCorcle. No, that's the way I think it should be.

Sen. Hackney. As long as they know when it expires, its up to them to renew it.

Jana Varatti. I, as a board member, do not agree with that in that if we are increasing the length of time between renewing licences, I think it would be very helpful if only once every four years a notice was sent out to the people. We're cutting it in half by saying "from two to four" and I think that it would be very helpful with all the licenses and registrations and everything that professionals have to maintain to have the department send out a notice. I don't see anything in this proposed statute that addresses that. I can't remember in the statute what the requirements on the department are, but I don't think it addresses that in this bill.

Sen. Hackney. It doesn't say that the division can't go ahead and notify them, so I would almost say that if the Pharmacy Board was to decide they wanted notification, I think Ann would be willing to say 'ok, we'll blow 15¢ every four years.

Sen. Fahrenkamp. Another part of that wording bothers me . . . "contingent upon proof of continued competency". Who makes that determination, how, where, when and why?

Sen. Hackney. That would be by regulation that the method of determining that continued competency would be . . . that's something we can't write into law.

Sen. Fahrenkamp. Well, I'm sure of that, but I'm just wondering if they have something on which they base that determination now.

McCorcle. As of now, we have no way of proof of continued competency. The national board has tried to put together an exam for people that have been practicing for a number of years of a similar type as the entrance exam. At this point nothing has been developed.

Sen. Fahrenkamp. Is there offered within this state or within the U.S. updated materials, or can you get them through teleconferencing or can you get them through cassettes or training sessions. It seems to be just unreasonable to state we are going to require this, this or this when it's not offered in this state or not available.

McCorcle. The board actually feels this way too. This was not our putting in.

Sen. Hackney. The reason for this particular one being added, were concerns brought up during the hearings held on the Sunset last year . . .

Sen. Fahrenkamp. My only problem with it is, it's all right to require people keeping up with their education if the means of doing so is available, but if it isn't then I think we are being unreasonable and we should look at that.

Sen. Hackney. I agree, but this, again, really depends on the people who make up that Pharmacy board because they are going to be the ones who determine for their own profession what criteria should be set up for determining that continuing competency.

McCorcle. This is going to make us do that?

Sen. Hackney. Yes. It says you 'shall adopt regulations'.

Section 6 of the bill provides for removal of board members by the governor for cause. You'll notice that unexcused absences from meetings constitute cause for removal. But again, the board can determine how many absences that might . . . that was something that we heard during testimony that often board members flat don't show up and there is no way to get rid of them.

Section 7 is housekeeping.

Sen. Sturgulewski. I have a question on Sec. 8. 160 visa-vi the 540, is that a reasonable thing?

Conger. We got that from the board.

McCorcle. Yes, we discussed that at the last meeting and we agreed . . .

Sen. Sturgulewski. That 160 is enough after the kind of training they are getting. OK, no problem with that.

Sen. Hackney. Section 9 . . .

Conger. That section was deleted by mistake and it should have been the section dealing with malpractice insurance so now they are coming back putting this intern pregraduate and postgraduate pharmacist program back into the statute and deleting the malpractice insurance section that was supposed to have been taken out.

Sen. Hackney. No problem with that Mr. McCorcle?

McCorcle. No.

Sen. Hackney. Section 10. Instead of endorsement, it simply changes the word.

Section 11.

Sen. Sturgulewski. As I recall, the reason for that was if the board didn't meet it might keep someone from being licensed for too long a period of time.

Conger. This permits just a member of the board, not the entire board.

Ann Griggs. That's good. Some times they have to sit and wait for six or seven weeks.

Sen. Hackney. Section 12.

Section 13. Qualifications on retail and wholesale drug dealers. Mr. McCorcle, you might address the difference between a retail and a wholesale drug dealer.

McCorcle. Well, the wholesaler would be one that would sell to another, not the consumer . . .

Sen. Hackney. Do we have any wholesale drug dealers in the state?

Sen. Sturgulewski. Well, like V.F. Grace (?). This is something different. He would not be issued a license by the board of pharmacy whereas he was not licensed before.

Conger. What this is doing is deleting the shopkeeper permit provision and what happened before is retail and wholesale licenses were granted, however, the only thing that dealt with those subjects in the law was the permit. How much they would pay for a fee but would not discuss their qualifications or anything like this so that is what this section is attempting to do.

And they are getting rid of the shopkeeper permit business.

Sen. Sturgulewski. What about land facilities and equipment, etc. in Sec. 13. What about out of state distributors now, I don't quite understand what we are saying here. Are we saying they have to be physically land based in Alaska in order to be a wholesale, to have a wholesale license. Isn't that kind of a radical thing. Let's take a look of how it really works out there, we've got Pay N Save and we've got all of these different kinds of things. What are we saying by this? Are we adding a new, OK, the current law, as I understand it, allows for licensing of these wholesalers but does not require any conditions. What I seem to be reading, and I just got this, it looks like you are talking about having to be physically located within Alaska. What if I sell to a chain, to Pay N Save, to Safeway, to whoever, are we talking about completely revolutionizing the drug business here by this bill?

McCorcle. I don't think so.

Sen. Sturgulewski. But there is a difference. If ~~XXXXXX~~ we're saying here they have to be located in Alaska we are doing a major change in the whole distribution. I'm not saying that's good or bad, I'm merely saying I want to know what I am doing. And, I don't know what we are doing by adding section 13.

Ann Griggs. What you are saying is that then the detail men that come in from Parke Davis and these outfits would not be physically located in Alaska.

Sen. Sturgulewski. Well, they aren't now. That's what I am saying.

Ann Griggs. This is non-controlled legend drugs.

McCorcle. I'm still not sure that I understand your question. The mail order places outside are not licensed in Alaska, but we say nothing about those people.

Sen. Sturgulewski. Why don't you tell me what section 13 says.

McCorcle. It just says that if anybody wants to set up a business, a wholesale business, in Alaska, he has to have the equipment to do it.

Sen. Sturgulewski. Can he be a wholesale drug dealer from outside? And have a licensed if he is based outside.

McCorcle. I don't see how we could license an outside firm. No.

Sen. Hackney. But, that wouldn't prevent a salesman from coming in though, would it?

Sen. Sturgulewski. Well, I wonder if it would.

Ann Griggs. I don't know. I'm wondering as Sen. Sturgulewski says, if it would in the long run prevent . . .

Sen. Sturgulewski. What are non-controlled legend drugs again?

McCorcle. They are those that require prescription, but are not narcotic in the classified section.

It seems to me that we are only dealing with our own people. We are writing laws to govern the practice in this state.

Sen. Sturgulewski. I understand that, but what's the difference between a wholesale drug dealer that happens to reside in the state and any one of the national firms that have their warehousing out there and they sell to the druggist who stocks it. So, why do we say we will license just the ones that happen to have their facilities here.

Sen. Fahrenkamp. I think I can clear that up. We don't issue any license to out of state we have no control over them. That doesn't mean we prohibit them in the state. But, if we do license one within the state then they must show that they are not just getting a fluke license, that they do have the capability of carrying it out.

We have no control over outside business. We cannot license a large drug company outside, but that doesn't mean we can't use their drugs within the state. If they are setting up a business here though as a wholesaler in the state then they must show that they have what ever is necessary to do the job they say they can do in the state before they are issued a license.

Sen. Hackney. Then when a salesman comes through, would you read that that the salesman would have to have a license?

Sen. Fahrenkamp. No, the salesman wouldn't be a wholesaler, he'd be a salesman for the wholesalers of the outside company.

Sen. Hackney. That's right, he's not wholesaler himself.

Tam Cook. It seems to me that the salesman would be affected if he is distributing drugs.

Sen. Hackney. But, what if he is only taking orders?

Tam Cook. If he is taking orders, I'm sure that that would be called distributing drugs because once he's got the order, he's got to fill it doesn't he?

Sen. Hackney. Well, I don't think we want to cover that individual. How do we get it out of there.

Tam Cook. We can simply describe that this section does not apply in the case of an out of state salesman who is working for a wholesaler which is located out of state.

Sen. Sturgulewski. Why do we want to cover the one in state? Are we doing it because we inspect their, if they are doing manufacturing, to see if they are doing the right kind of manufacturing. Are we checking them to see that they . . . why some and why not all, and why not anybody?

Tam Cook. I think along that line, one might muse upon why we would subject our in state salesman to a licensing procedure and then not subject an out of state person to the same procedure if the purpose of the license is to impose some kind of control upon their activities, I would think it would be in the state's interest to control everybody.

Sen. Sturgulewski. But, the point is that we've tied it in. If he furnishes proof that he is equipped with land, facilities, equipment and so on to carry on the business, then we are going to license him. But, apparently, we are not going to license in this case, and here is where I get confused, if we have a salesman for anybody and he lives here, we are not going to license him and we are not going to license somebody that flied into the state, so why are we licensing the one that have a physical facility?

Sen. Hackney. Why don't we just exclude anyone who

Sen. Sturgulewski. Didn't this come from the pharmacists?

Conger. Yes. This section did.

McCorcle. Well, for one thing the wholesale needs something to hang his hat on too. If you are going to be in business you need some reason to be in business. You need something to be legal.

Sen. Sturgulewski. Are you talking about a business license?

McCorcle. Partly, yes.

Sen. Sturgulewski. This is different. This is a professional license by the Board of Pharmacy.

Tam Cook. My suspicion is that because so many of these drugs that these manufacturers or wholesalers will be dealing with have both federal and state controls on them that unless a person did have some kind of a license he would not be able to manufacture or have them within the state. So, pershpas this is a necessary section to enable industries to be established within our state and to enable them to go ahead and manufacture especailly federally controlled drugs. Is this what you were getting at sir?

McCorcle. Well, it seems to me that the wholesale outfit should I mean if it is only separating the wholesale from the retail . . .

Sen. Sturgulewski. I'm trying to look for the public protection here and I don't see that I have enough information.

Jana Varrati. It seems that all states provide for the wholesaling procedure in their states. It seems to me that this provides for the setting up of a wholesaling process in Alaska and that it is not necessary to license people coming in from other states if they are already licensed in the state from which they are coming?

Sen. Sturgulewski. Where we do we have anybody that has the power to check to see that somebody does in fact . . . for instance on mobile homes we have a procedure where the department of Commerce, there are certain manufacturers that are licensed to have their produce within the state.

If that's what the case is, that everybody that wells drugs is licensed, but we are just taking care of our own . . .

I have no objection if this is a reasonable thing. It has not been shown to me that this is a reasonable thing.

Sen. Hackney. OK, we'll take that up with Mr. Ulmer.

~~Sec. 16 of the bill describes what the board may do in the way of disciplinary sanctions. Any problem with that?~~

Section 17

-8-
Sen. Hackney. Section 14 of the bill is the fee section.

Sen. Fahrenkamp. What happens when we set fees by legislation? Are we taking away one of the duties of the board if we set the fees ourself and is it going to mean that in order to change any fees in the future that you have to come to the legislature with a bill to change them?

Ann Griggs: You do anyway because they are all set by statute.

Sen. Hackney. It gives the legislature an opportunity to look at the fees . . .

McCorcle. Mr. Ulmer was concerned about being only one, well \$200 for four years. Is it going to be pro-rated then? Four years is getting to be quite a long time for a license. Suppose the guy dies the first six months or the second six months or whatever?

Ann Griggs. No, the pharmacist himself is licensed, not the store.

Licenses are pro-rated in most cases.

Sen. Hackney. Section 15 poses grounds for disciplinary sanctions. Does anyone have any problems with the 12 items listed?

Sen. Sturgulewski. This has always been a problem. It would certainly help the board.

Ann Griggs. I will eventually have to have clarification on #12 under that.

Tam Cook. The reason for number 12. #12 was included in the old, original bill that the pharmacy board was set up under. It is one of the recently added provisions. In Title 9 there is now as a part of the medical malpractice insurance section there is now a provision where essentially it provides #12. For some reason when that was adopted, this section was added to all of the health boards. I picked it up and put it in here, but there is no reason to leave it in there. Essentially, that provision is in effect anyway as a part of the medical malpractice provisions if they apply to this board. I believe it was put automatically into all of the health boards because when you read it it doesn't sound very syncicle when you apply it to the various boards.

Sen. Hackney. Let's say that someone had a malpractice against a pharmacist and they came to that pharmacy with a prescription to be filled and the pharmacist said OK, but you sign off on . . . but that is covered elsewhere in law?

Tam Cook. Yes, and how it applies exactly to the pharmacist, I'm not sure. It was a general provision under the medical malpractice health laws that were passed and the only way that I can imagine it would come up in regards to a pharmacy would be if a pharmacist actually filled a prescription with a incorrect drug.

Sen. Hackney. LET'S STRIKE IT.

Sec. 16 of the bill describes what the board may do in the way of disciplinary sanctions. Any problem with that?

Section 17 provides the class of misdemeanor that the person may be guilty of who violates a provision of the chapter. Any problem with that?

Section 18. Defines controlled substances. I presume that is in line with the laws that took place two years ago.

Tam Cook. The criminal code uses the term "controlled substance" and they refer us to these statutes so in order to be somewhat consistent I used the criminal codes' treatment. The two statues in question actually come from the health department controlled foods and drugs and they each provide a fairly lengthy description of what constitutes a controlled substance.

Sen. Hackny. Section 19 simply repeals present sections of law.

Section 20 is the effective date.

So, our only real problem with this is section 13 and Paul, would you work with Miss Cook and get hold of Eldor Ulmer maybe in a three-way conversation and see if we can't get that things straightened out.

C. 4/1/80 hearing committee made amendments as they appear on forms

PHARMACY - SECTIONAL

- Sec. 1 -- 08.01.50(10) mandates that Dept. of Commerce (DOL) will issue a duplicate license for a fee of \$2. This provision is allowing DOL to make an "exception" in regards to duplicating a pharmacy license. The fee for duplicating a pharmacy license is being raised to \$10 (See Sec. 15, Fees).
- Sec. 2 -- Provides for "exception" to current statute which renews licenses biennially and allows our "health boards" to renew licenses every four years.
- Sec. 3 -- Makes boardmembers term 4 years instead of 5
-- Limits board membership to two consecutive four year terms
- Sec. 4 -- Expands board's authority for establishing license requirements
- Sec. 5 -- Removes requirement that board members residing in another judicial district grade examination
- Sec. 6 -- Provides for board to adopt regulations making license renewal contingent upon continued competency
-- Provides for board to hold hearings & order disciplinary sanctions
- Sec. 7 -- Provides for removal of board members by governor for cause
- Sec. 8 -- Housekeeping - deletes re: to board
- Sec. 9 -- Reduces number of internship hours applicant must have after graduation
- Sec.10 -- This section inadvertently repealed. The section dealing with "malpractice" is the section to be repealed which is provided for in this bill
- Sec.11 -- Provides for licensure by credentials
- Sec.12 -- Provides flexibility in allowing a member of the board, rather than entire board, to issue a temporary license for an individual filing for a license by credentials
- Sec.13 -- Again provides for flexibility in allowing a member of the board, rather than entire board, to issue an emergency permit
- Sec.14 -- Deletes "shopkeeper" permit. Places qualifications on retail and wholesale drug dealers in the state. Currently the only control over these people is that they must pay a fee and they are issued a permit, but there are no standards regulating these people. This provision will mandate standards.
- Sec.15 -- Revises fees.
- Sec.16 -- Imposes grounds for disciplinary sanctions
- Sec.17 -- Enumerates "disciplinary sanctions"
- Sec.18 -- Penalty clause
- Sec.19 -- Defines "controlled substance"

-continued on next page-

Sec. 20 -- Repealers:

08.80.030(6) - Repeals board's power to "examine applicants for shopkeeper permits."

08.80.040(3) - Repeals board's duty to "initiate prosecution of any person violating this chapter."

08.80.040(7) - Repeals board's duty to "issue shopkeeper permits."

08.80.117 - Repeals malpractice insurance

08.80.160(13)- Repeals shopkeepers permit fee

08.80.250 - Repeals "Renewal of lapsed registration." This repeal is necessary because this bill is providing for the board to establish regulations in which renewal will be based upon continued competency

08.80.260 - Repeals "Grounds for refusing or revoking a license." We are replacing this with our "Grounds for Imposition of disciplinary sanctions" section.

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08.80.365(2) -Repeals subsection (2) of this section. Partial closure of pharmacy. A pharmacy or pharmacy drug department which is open for business at times different than the remainder of the store or building in which the pharmacy is located shall.....
(2) be advertised by the methods described in secs. 420 and 430 of this chapter only if the signs or symbols are attached or located within the portions of the store or building where the pharmacy is located.

08.80.380 - Repeals "issuance of shopkeeper permits."

08.80.420(b) - Repeals subsection (b) of this section. Certain advertising prohibited.....(b) A person may not advertise in any manner, prices, percentiles of prices or discounts for drugs requiring a prescription.

08.80.480(19)-Repeals definition of shopkeeper.

Sec. 21 -- Effective date.

The following changes are to be incorporated into the practice act revisions re: the following health boards - Dental, Dispensing Opticians, Veterinarians, Physical Therapists, Optometrists, Psychologists, Chiropractors, Pharmacy, Nursing Home Administrators, Medical.

#1 - Board members and composition, NO CHANGE

P1, L21 - Limit board membership to two consecutive four year terms.

P5, L1 #2 - Revise fee schedule.

P2, L5 Allow for license renewal to occur every four years

#3 - Eliminate re: to "good character," "professional conduct," etc., unless behavior defined.

P1, L25 #4 - Consider giving boards responsibility of determining licensing standards through regulations.

P3, L8 #5 - Out-of-state licensees credentialed through a process/by standards equivalent to ours - should be licensed by endorsement.

#6 - Eliminate standards protecting economic interest of occupational groups, reducing information flow or restricting competition.

P2, L5 #7 - License renewal provisions have been revised which allow for renewal to occur every four years.

→ MAKE license renewal contingent upon proof of continued competency with BOARDS DETERMINING BY REGULATION how continued competency will be demonstrated.

P6, L8 #8 - Licensing violations: make sure that each board may revoke, suspend or take any other disciplinary action necessary to correct incompetency.

P2, 10 #9 - Establish section providing for removal of board members. Grounds for removal should include: (1) unexcused absences, (2) license violation, (3) anything detrimental to public interest served by board.

WO 8316
Cook

1 IN THE SENATE

BY THE HEALTH, EDUCATION AND
SOCIAL SERVICES COMMITTEE

2 SENATE BILL NO.

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to professional licensing and to the
7 practice of pharmacy; and providing for an effective
8 date."

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

10 * Section 1. AS 08.01.100(a) is amended to read:

11 (a) Except as otherwise provided in this title [ALL] licenses
12 shall be renewed biennially on the dates set by the department with the
13 approval of the respective board.

14 * Sec. 2. AS 08.80.020 is amended to read:

15 Sec. 08.80.020. TERM OF OFFICE. Members of the board are ap-
16 pointed by the governor, and confirmed by the legislature in joint
17 session, for overlapping terms of four [FIVE] years, or until their
18 successors are appointed and qualified. The terms of the public members
19 shall be staggered so that they do not [NO] expire at the same time. An
20 appointment to fill a vacancy is for the unexpired term. The term of
21 office begins on April 1 of each year. A person who has served two
22 successive complete terms may not be reappointed until four years from
23 the expiration of the second term.

24 * Sec. 3. AS 08.80.030 is amended by adding a new paragraph to read:

25 (9) adopt requirements for licensing in addition to the
26 requirements set out in this chapter.

27 * Sec. 4. AS 08.80.040(1) is amended to read:

28 (1) examine qualified applicants for registration as phar-
29 macists; [EACH EXAMINATION SHALL BE GRADED BY A MEMBER WHO RESIDES IN A

1 JUDICIAL DISTRICT OTHER THAN THE DISTRICT IN WHICH THE APPLICANT RE-
2 SIDES;]

3 * Sec. 5. AS 08.80.040 is amended by adding new paragraphs to read:

4 (8) adopt regulations insuring that renewal of licenses
5 occurs every four years and is contingent upon proof of continued com-
6 petency;

7 (9) hold hearings and order disciplinary sanctions against a
8 person who violates this chapter or the regulations of the board.

9 * Sec. 6. AS 08.80 is amended by adding a new section to read:

10 Sec. 08.80.105. REMOVAL OF BOARD MEMBERS. A member of the board
11 may be removed from office by the governor for cause. The board may by
12 regulation provide that unexcused absences from meetings constitute
13 cause for removal.

14 * Sec. 7. AS 08.80.110(4) is amended to read:

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

17 * Sec. 8. AS 08.80.110(5) is amended to read:

18 (5) have completed at least 1,500 hours of internship
19 training under the direct supervision of a licensed pharmacist in a
20 licensed pharmacy, 160 [540] hours of which must have been completed
21 after graduation.

22 * Sec. 9. AS 08.80 is amended by adding a new section to read:

23 Sec. 08.80.116. LICENSE OF PREGRADUATE AND POSTGRADUATE INTERN
24 PHARMACIST. (a) An applicant for licensure as a postgraduate intern
25 pharmacist shall meet the requirements of AS 08.80.110(1) - (3) and pay
26 the required fee.

27 (b) An applicant for license as a pregraduate pharmacist shall
28 meet the requirements of AS 08.80.110(1) and (2) and shall be enrolled
29 in a pharmacy school recognized by the National Association of Boards of

1 Pharmacy as a junior. An applicant may be on recognized vacation from
2 the pharmacy school; however, the vacation may not exceed one quarter or
3 one semester. The pregraduate internship pharmacist shall pay the
4 required fee.

5 (c) The license of a postgraduate or pregraduate internship phar-
6 macist is valid for one year and may be renewed upon application.

7 * Sec. 10. AS 08.80.140 is amended to read:

8 Sec. 08.80.140. LICENSE BY CREDENTIALS [ENDORSEMENT]. The board
9 may license [REGISTER WITHOUT EXAMINATION] an applicant who has been
10 certified as a registered pharmacist by the National Association of
11 Boards of Pharmacy [,] if the applicant meets the requirements under
12 AS 08.80.110 and passes the state jurisprudence examination [OF AS 08.-
13 80.110(1) - (4)].

14 * Sec. 11. AS 08.80.150 is amended to read:

15 Sec. 08.80.150. TEMPORARY LICENSE [REGISTRATION]. The board, or
16 a member of the board, may [SHALL] issue a temporary license to an
17 applicant applying for a license under AS 08.80.140 [REGISTRATION AS A
18 PHARMACIST UNDER AS 08.80.140] upon written or oral examination before a
19 member of the board and certification by the member to the secretary of
20 the board that the applicant is competent to receive a temporary li-
21 cense. The temporary license is valid for three months, or until the
22 next regular meeting of the board, whichever is longer. A temporary
23 license is not renewable, but at the discretion of the issuing board
24 member may be extended for a period not to exceed 60 days, and an appli-
25 cant may not receive more than one temporary license. An applicant
26 whose license [REGISTRATION] has been denied by the board is not eli-
27 gible to receive a temporary license.

28 * Sec. 12. AS 08.80.155(a) is amended to read:

29 (a) The board, or a member of the board, may [IN ITS DISCRETION]

1 grant an emergency permit to a pharmacist for the purpose of providing
2 coverage in a pharmacy which is temporarily without the services of a
3 pharmacist due to death, illness or other emergency circumstances.

4 * Sec. 13. AS 08.80 is amended by adding a new section to read:

5 Sec. 08.80.157. RETAIL AND WHOLESALE LICENSES. (a) If an appli-
6 cant furnishes proof satisfactory to the board that he is equipped with
7 land, facilities, and equipment, in fee or leased, necessary to carry on
8 the business described in the application and the applicant complies
9 with this chapter, applicable regulations adopted by the board, and pays
10 fees provided for under AS 08.80.160, the board may issue

11 (1) a wholesale drug dealer license to an applicant who
12 manufactures or distributes noncontrolled legend drugs to licensed
13 retail pharmacists, dentists, physicians, surgeons, or veterinarians,
14 who may purchase noncontrolled legend drugs at a wholesale level, or to
15 government agencies which may purchase noncontrolled legend drugs at a
16 wholesale level;

17 (2) a wholesale drug dealer license to a qualified applicant
18 who is in compliance with the Federal Controlled Substance Act of 1969
19 as amended; or

20 (3) a license to a retail pharmacy.

21 (b) A license under this section may not be issued to a person who
22 has been convicted of a wilful violation of a federal law or a law of
23 any state relating to a drug or controlled substance, or who is addicted
24 to a drug or controlled substance. A license may not be issued to a
25 corporation with a managing officer who has been convicted of a wilful
26 violation of a federal law or a law of any state relating to a drug or
27 controlled substance, or who is addicted to a drug or controlled sub-
28 stance.

29 * Sec. 14. AS 08.80.160 is amended to read:

1 Sec. 08.80.160. FEES. The following fees shall be imposed under
2 this chapter when applicable:

- 3 (1) examination fee..... \$50
- 4 (2) re-examination fee..... \$15
- 5 (3) [RECIPROCITY] investigation fee for licensing
6 by credentials..... \$25
- 7 (4) [BIENNIAL] pharmacist license fee and renewal
8 fee due every four years..... \$200 [\$50]
- 9 (5) temporary license fee..... \$20 [\$10]
- 10 (6) wholesale drug dealer [BIENNIAL] license fee
11 and renewal fee due every four years..... \$200 [\$50]
- 12 (7) retail pharmacy [BIENNIAL] license fee
13 and renewal fee due every four years..... \$200 [\$50]
- 14 (8) pharmacy intern license [REGISTRATION] fee..... \$10
- 15 (9) emergency permit fee..... \$10
- 16 (10) hospital pharmacy [BIENNIAL] license fee
17 and renewal fee due every four years
18 (in and outpatient)..... \$200 [\$50]
- 19 (11) hospital drug room [BIENNIAL] license fee
20 and renewal fee due every four years
21 (inpatient)..... \$25
- 22 (12) nursing home and related facilities [BIENNIAL]
23 license fee and renewal fee due every four
24 years for inpatient dispensing..... \$100 [\$25]
- 25 [(13) SHOPKEEPERS BIENNIAL PERMIT FEE..... \$10]
- 26 (14) license amendment or replacement fee..... \$10 [\$2]

27 * Sec. 15. AS 08.80.260 is repealed and re-enacted to read:

28 Sec. 08.80.260. GROUNDS FOR IMPOSITION OF DISCIPLINARY SANCTIONS.

29 The board may, after a hearing, impose a disciplinary sanction on a

1 Sec. 08.80.160. FEES. The following fees shall be imposed under
2 this chapter when applicable:

- 3 (1) examination fee..... \$50
- 4 (2) re-examination fee..... \$15
- 5 (3) [RECIPROCITY] investigation fee for licensing
6 by credentials..... \$25
- 7 (4) [BIENNIAL] pharmacist license fee and renewal
8 fee due every four years..... \$200 [\$50]
- 9 (5) temporary license fee..... \$20 [\$10]
- 10 (6) wholesale drug dealer [BIENNIAL] license fee
11 and renewal fee due every four years..... \$200 [\$50]
- 12 (7) retail pharmacy [BIENNIAL] license fee
13 and renewal fee due every four years..... \$200 [\$50]
- 14 (8) pharmacy intern license [REGISTRATION] fee..... \$10
- 15 (9) emergency permit fee..... \$10
- 16 (10) hospital pharmacy [BIENNIAL] license fee
17 and renewal fee due every four years
18 (in and outpatient)..... \$200 [\$50]
- 19 (11) hospital drug room [BIENNIAL] license fee
20 and renewal fee due every four years
21 (inpatient)..... \$25
- 22 (12) nursing home and related facilities [BIENNIAL]
23 license fee and renewal fee due every four
24 years for inpatient dispensing..... \$100 [\$25]
- 25 [(13) SHOPKEEPERS BIENNIAL PERMIT FEE..... \$10]
- 26 (14) license amendment or replacement fee..... \$10 [\$2]

27 * Sec. 15. AS 08.80.260 is repealed and re-enacted to read:

28 Sec. 08.80.260. GROUNDS FOR IMPOSITION OF DISCIPLINARY SANCTIONS.

29 The board may, after a hearing, impose a disciplinary sanction on a

1 person licensed under this chapter when the board finds that he

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

4 (2) engaged in deceit, fraud, or intentional misrepresenta-
5 tion in the course of providing professional services or engaging in
6 professional activities;

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

9 (4) has been convicted of a felony or other crime which
10 affects his ability to continue to practice competently and safely;

11 (5) intentionally or negligently engaged in or permitted the
12 performance of patient care by persons under his supervision which does
13 not conform to minimum professional standards regardless of whether
14 actual injury to the patient occurred;

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

17 (7) continued to practice after becoming unfit due to

18 (A) professional incompetence;

19 (B) failure to keep informed of or use current pro-
20 fessional theories or practices;

21 (C) addiction or severe dependency on alcohol or a drug
22 which impairs his ability to practice safely;

23 (D) physical or mental disability;

24 (8) engaged in lewd or immoral conduct in connection with the
25 delivery of professional service to patients;

26 (9) made a controlled substance available to a person except
27 upon prescription issued by a licensed physician;

28 (10) was convicted of selling federal legend drugs without the
29 prescription of a licensed physician, surgeon, dentist, or veterinarian;

1 (11) violated state or federal regulations pertaining to the
2 provision of adequate security of dangerous drugs;

3 (12) denied care to a person seeking assistance from a phar-
4 macist if the sole reason for the denial was the refusal of the person
5 to execute an agreement to arbitrate an issue arising out of the care
6 sought.

7 * Sec. 16. AS 08.80.265 is repealed and re-enacted to read:

8 Sec. 08.80.265. DISCIPLINARY SANCTIONS. (a) When it finds that a
9 licensee is guilty of an offense under AS 08.80.260, the board may
10 impose the following sanctions singly or in combination:

11 (1) permanently revoke a license;

12 (2) suspend a license for a determinate period of time;

13 (3) censure a licensee;

14 (4) issue a letter of reprimand;

15 (5) place a licensee on probationary status and require the

16 licensee to

17 (A) report regularly to the board upon matters involving
18 the basis of probation;

19 (B) limit practice to those areas prescribed;

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

23 (6) impose limitations or conditions on the practice of a
24 licensee.

25 (b) The board may withdraw probation status if it finds that the
26 deficiencies which required the sanction have been remedied.

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

1 licensee continues to practice. A person whose license is suspended
2 under this section shall be entitled to a hearing by the board no later
3 than seven days after the effective date of the order. The person may
4 appeal the suspension after a hearing to a court of competent juris-
5 diction.

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

9 (e) The board shall seek consistency in the application of dis-
10 ciplinary sanctions, and significant departure from prior decisions
11 involving similar situations shall be explained in findings of fact or
12 orders.

13 * Sec. 17. AS 08.80.460(a) is amended to read:

14 (a) A person who violates a provision of this chapter [FOR WHICH
15 NO PUNISHMENT IS PROVIDED] is guilty of a class B misdemeanor [AND IS
16 PUNISHABLE BY A FINE NOT TO EXCEED \$1,000, OR BY IMPRISONMENT FOR A
17 PERIOD NOT TO EXCEED THREE MONTHS OR BY BOTH].

18 * Sec. 18. AS 08.80.480 is amended by adding a new paragraph to read:

19 (20) "controlled substance" means a narcotic drug as defined
20 in AS 17.10.230(13) or a depressant, hallucinogenic or stimulant drug as
21 defined in AS 17.12.150(3).

22 * Sec. 19. AS 08.80.030(6), 08.80.040(3) and (7), 08.80.117, 08.80.-
23 160(13), 08.80.250, 08.80.260, 08.80.265, 08.80.365(2), 08.80.380, 08.80.420,
24 and 08.80.480(19) are repealed.

25 * Sec. 20. This Act takes effect immediately in accordance with AS 01.10
26 070(c).

SB

551

COMMITTEE REPORT
SENATE

4/7/80

FURTHER:

Date: 5-9-80

Mr. President:

The Committee on HEALTH, EDUCATION AND SOCIAL SERVICES has had SB 551
professional licensing and regulation of the practice of optometry

under consideration and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass do not pass
- do pass with attached amendments(s) same title
- replace with CS for SB 551 new title
- and recommends _____
- AND attaches a "Letter of Intent" New Fiscal Note
- reports it back without recommendation
- referred to the _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

John H. ...
 CHAIRMAN

SB551
S. HESS

An Act relating to ~~the~~ ^{S. HESS 79-80} licensing and ~~the~~ ^{the} regulation of the practice of optometry & ophthalmology

Introduced 4-7-50

Logged 4-7-50

Referred HESS

Comm. Meeting

4-9-50 - held, 59-80 passed CS

" action

When Senate Secy, 4:30 p.m.

HSS notified "LAS"

OPTOMETRY -- CSSB 551

Sec. 12, page 3, line 12 -- insert "or a province of Canada"

Sec. 17, page 4, line 11 -- insert "(9) failed to refer a patient to the appropriate health care practitioner after ascertaining the possible presence of ocular disease."

Sec. 21, and Sec. 22, page 7 -- provide definition of optometry/
practicing optometry

OPTOMETRISTS

PROVIDES "EXCEPTION" TO CURRENT STATUTE WHICH RENEWS LICENSES BIENNIALY AND ALLOWS OUR "HEALTH BOARDS" TO RENEW LICENSES EVERY FOUR YEARS.

Sec. 1 -- ~~Provisions of this chapter will not affect other boards and commissions under Title 8.~~

Sec. 2 -- Gives board provision to regulate and control their profession

✓ Sec. 3 -- Changes board membership terms from three to four years.

Sec. 4 -- Provides for board members removal

✓ Sec. 5 -- changes board composition 4 optms / public
✓ -- limits board membership to two consecutive four year terms

Sec. 6 -- Broadens boards authority to establish license requirements

Sec. 7 -- Allows board to define professional conduct and adopt rules of professional conduct

Sec. 8 -- Broadens boards powers to "order a licensee TO submit to a reasonable physical or mental examination if his physical or mental capacity to practice safely is at issue"

Sec. 9 -- Removes "may" and states the board "shall" issue a branch office certificate of registration

Sec. 10 - Eliminates "normal color perception" requirement to be qualified for optometrist exam.

✓ Sec. 11 - Parts 1 & 2 of the National Optometry Exam will comprise the written part of the Alaska examination

Sec. 12 - Removes a person currently licensed in a territory or foreign country from being eligible for waiver of written examination

✓ Sec. 13 - Provides for license renewal to occur every four years

Sec. 14 - License renewal continuing education requirement

Sec. 15 - Continued competency requirement attached to license renewal

Sec. 16 - Fee revision -- **GO TO SEC 17 ON NEXT PAGE**

CHANGES MADE TO SB 551 / OPTOMETRY -- CSSB 551

Sec. 12, page 3, line 12 -- insert "or a province of Canada"

UNDER "DISCIPLINARY SANCTIONS"

Sec. 17, page 4, line 11 -- insert "(9) failed to refer a patient to the appropriate health care practitioner after ascertaining the possible presence of ocular disease."

Sec 21 and Sec 22 -- DEFINITION OF "OPTOMETRY" AND "PRACTICING OPTOMETRY" TO INCLUDE LANGUAGE "OTHER THAN THE USE OF DRUGS."

CHANGES MADE TO SB 551

Sec. 17 - Imposition of disciplinary sanction provision

✓ Sec. 18 - Disciplinary sanctions enumerated

Sec. 19 - Removing the requirement that an optometrist temporarily practicing in a place other than his normal place of business, SIGN the receipt for a person supplied with glasses

✓ Sec. 20 - This provision provides for an individual that does not want glasses "impact resistant" that he must sign a waiver stating so

Sec. 21 - Repeal

Sec. 22 - Effective date clause