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STATE OF ALASKA

AUDIT DIVISION
POUCH W
JUNEAU, ALASKA 99811

THE LEGISLATURE

BUDGET AND AUDIT COMMITTEE

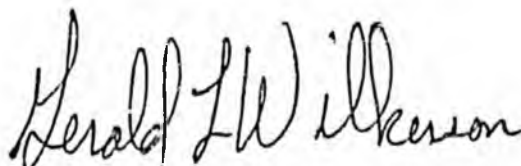
July 7, 1982

Members of the
Legislative Budget and Audit Committee:

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

A PERFORMANCE REVIEW OF THE BOARD OF NURSING

July 7, 1982



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

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PURPOSE AND SCOPE OF THE REVIEW

Purpose

In accordance with the intent of Alaska Statutes 24.20.271(1) and 44.66.050 (Sunset Legislation), a review of the Board of Nursing was conducted to determine if the Board has been operating in an effective, efficient, and economical manner.

As required by legislative intent, this report shall be considered during the legislative oversight function in determining whether the Board of Nursing should be reestablished. The law currently specifies that this Board will terminate on June 30, 1983, but will continue until June 30, 1984, for the purpose of concluding its affairs.

Scope

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

1. Applicable statutes and Board regulations;
2. review of records and documents of the Board and the Division of Occupational Licensing (OL), Department of Commerce and Economic Development;
3. interviews with OL employees; and,
4. complaints filed with OL, the Ombudsman's Office, the Equal Employment Opportunity Office, and the Human Rights Commission.

Scope Constraints

This review was hampered by the following constraint:

1. For fiscal years 1979 and 1980 the Board did not submit a formal annual report to the Governor and the Legislature as required by AS.08.68.100(6).

ORGANIZATION AND FUNCTION

The Board of Nursing, created in 1941, is a regulatory board composed of 7 members - 4 registered nurses, 1 licensed practical nurse, and 2 public members. The primary purpose of the Board is to protect the public's health, safety, and welfare through the regulation of the nursing practice.

The Board determines the minimum quality of nursing care in the State by:

1. Establishing or amending rules and regulations necessary and desirable to enforce State statutes;
2. approving curricula, adopting standards, and accrediting nursing education programs;
3. examining and issuing licenses to qualified applicants; and,
4. holding hearings in order to revoke, suspend, or take other action on the license of a person violating the nursing statutes and regulations.

In addition, the Board has staff support from the Division of Occupational Licensing (OL). The Division employs an Executive Officer of the Board who is statutorily responsible for performing administrative duties and assisting the Board in conducting examinations and educational programs.

OL is composed of two sections. The licensing section processes applications, prepares license files, collects inquires, and provides other administrative assistance to the Board. The other section provides investigative services to the Board in the event of consumer or other professional complaints.

The Board currently regulates the practice of professional nursing (RN's) and practical nursing (LPN's). In 1973, the Legislature amended AS 08.68.410(5) to allow practice as an advanced nurse practitioner (ANP). An ANP is a registered nurse who by virtue of specialized education and experience, has become certified to perform acts of medical diagnosis, and prescription of medical, therapeutic, or corrective measures. The 1973 amendment required ANP regulations to be promulgated jointly by the Board of Nursing and the State Medical Board. The regulations authorizing the practice of advanced nurse practitioners, 12 AAC 44.400-490, went into effect January 13, 1980.

During October 1981 regulations went into effect allowing practice as a registered nurse anesthetist (RNA). An RNA is a certified registered nurse who has specialized education

and experience in administering anesthesia. RNA's were exempted from ANP regulations because of the nature of their practice and their working relationship with physicians.

Most licensing requirements are established by statute. Nurses are licensed by either examination or endorsement. The Board of Nursing recognizes and uses the State Board Test Pool Examination, a national test prepared by the National League of Nurses. Licenses by endorsement are issued to nurses licensed in other states that have licensing requirements acceptable to the Board of Nursing. In addition, temporary permits are issued to applicants awaiting examination or license by endorsement if they meet certain requirements.

REPORT CONCLUSIONS

In our opinion, the Board of Nursing is operating in the public's best interest and should continue to regulate the practice of nursing. This control is necessary to protect the public's health, safety, and welfare.

Membership on the Board requires a great deal of dedication, time, and effort on the part of each Board member. We commend the members for their service in what is often a complex and difficult job.

While the Board has made significant progress in the implementation of prior audit recommendations, 2 of the 6 audit recommendations presented in our report entitled, "A Performance Review of the Board of Nursing" dated October 6, 1978, have not been fully implemented.

The Board should continue its effort towards developing relevant and effective regulations that will maintain a level of competence for practitioners (see Prior Audit Recommendation No. 1).

In addition, the Board should continue its effort in developing formal regulations which define and list examples of license violations (see Prior Audit Recommendation No. 4).

Finally, examination date announcements still do not allow adequate time for all interested applicants to submit applications before the required deadline (see Prior Audit Recommendation No. 12 from "A Performance Review of the Division of Occupational Licensing" dated October 30, 1978).

PRIOR AUDIT RECOMMENDATIONS

The Board has made significant progress in the implementation of prior audit recommendations. However, 2 of the 6 audit recommendations presented in a previous audit report dated October 6, 1978, have not been fully implemented. The following is the status of these 2 audit recommendations.

Prior Audit Recommendation No. 1

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

The underlying purpose of continuing education (CE) is to permit professional education on a postgraduate level and allow for the maintenance and upgrading of professional competency.

The Alaska Nurses Association believed that CE was an essential means by which nurses maintain professional competence, and had a voluntary CE program for registered nurses. In addition, the University of Alaska's School of Nursing had been designing CE programs in preparation for a mandatory requirement. In response to a 1978 Legislative Audit questionnaire, 57 percent, 53 percent, and 68 percent of the nurses favored CE requirements for RN's, LPN's, and ANP's respectively.

Legislative Audit's Current Position

The Board addressed the prior audit recommendation of requiring mandatory continuing education by evaluating it as one method of ensuring nursing competence. The Board proposed statutory amendments requiring the renewal of a nursing license contingent upon the practitioner's compliance with a "continuing competency" requirement. The statute, AS 08.68.276, was amended (effective July 2, 1982) allowing the Board to establish these competency requirements by regulations. The Board is currently deliberating over 8 different options concerning this competency requirement. The Board should continue its effort in developing relevant and effective regulations that will maintain a level of competence for practitioners.

Prior Audit Recommendation No. 4

The Board of Nursing, in conjunction with the Attorney General, should compose formal regulations which define and list examples of license violations.

AS 08.68.270 outlines nursing license violations which are grounds for denial, suspension, or revocation of a license. The list includes vague terms such as "moral turpitude" and

"unprofessional conduct" which many nurses probably would not understand without a lawyer's advice. To date, the Board has not clarified or given examples of these terms.

The public and the nursing profession would be better informed and protected if they had guidance as to what constitutes an illegal act.

Legislative Audit's Current Position

Expending a considerable amount of time and effort, the Board addressed this problem in the statute revisions. The Board was successful in amending AS 08.68.270 to allow the Board, through regulations, to define license violations. The Board should continue its effort in developing these formal regulations.

The following recommendation was included in the audit report titled "A Performance Review of the Division of Occupational Licensing" dated October 30, 1978. The following is the status of the recommendation involving the Board of Nursing.

Prior Audit Recommendation No. 12

The Department of Commerce and Economic Development and all licensing boards should ensure that public notices of examinations are sufficiently and timely advertised.

The Department is required by statute to publish notices of examination, and it is each board's responsibility to notify the Department of upcoming examinations far enough in advance to permit proper advertisement.

During our review of examination advertisements, we found that many notices did not allow adequate time for individuals interested in taking the examination to submit applications within the advertised deadline. For example, on May 25, 1978, the Department advertised an upcoming Registered Nurses' examination. The notice required all completed applications to be submitted to the Department by May 26, 1978.

Legislative Audit's Current Position

Regulations for the Board of Nursing concerning the public notification of examinations, 12 AAC 44.290(b), state in part "application, fee and all credentials shall be on file in the board office not later than six weeks prior to the date of the examination."

A review of the advertising dates and the dates of examination from February 1979 through April 1982, disclosed

that there were many notices that did not give ample time between the publication and exam dates. For example, the Anchorage exam notification for the February 1982 exam was advertised 4 days in advance of the examination. Advertisements should be published early enough to allow adequate time for all interested candidates to submit applications before the required deadline.

ANALYSIS OF PUBLIC NEED

Limited Analysis

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

- I. The extent to which the board, commission or program has operated in the public interest.
 - A. The following areas demonstrate the extent to which the Board has operated in the public's best interest.
 1. The Board has held public hearings to discuss statute and regulation revisions concerning; continuing competency requirements, Board membership, foreign nurse graduate requirements, and the definition of license violations. As a result of the Board's efforts, regulations and statutes have been revised governing these areas.
 2. The Board accredits and periodically surveys Alaska nursing education programs to ensure that educational standards are being maintained.
 - B. The following conditions and activities existed which could not be demonstrated to be in the public's best interest.
 1. Examination date announcements did not allow adequate time for all interested applicants to submit applications before the required deadline (see Prior Audit Recommendation No. 12).
- II. The extent to which the operation of the board, commission, or agency program has been impeded or enhanced by existing statutes, procedures, and practices which it has adopted, and any other matter, including budgetary, resource, and personnel matters.
 - A. When adjustments are made to the State Board Test Pool Exam it would be easier for the Board to reflect these adjustments in the exam fees, if these fees were established by regulation.

B. The availability of the teleconference network has enhanced the Board's ability to efficiently communicate throughout the State during subcommittee meetings and public hearings.

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

A. The Board is currently developing relevant and effective regulations that will maintain a level of competence for practitioners.

B. Statutory amendments were passed that ensure full representation on the Board.

C. Statutory revisions were ratified allowing the foreign student a temporary permit to practice nursing until the next nursing examination is given.

D. The Board is in the process of developing formal regulations which define and list examples of license violations.

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

A. When the need arises, the Board assists nursing applicants who have repeatedly failed the examination. The applicants are helped through counseling or referred to useful textbooks.

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

A. The Board advertises meetings and examinations in newspapers in Anchorage, Fairbanks and Juneau. This complies with the requirements of the Administrative Procedures Act.

B. As recorded by the Board minutes, approximately 208 individuals have attended Board meetings during the past three years. This attendance figure does not include Board members or State employees.

VI. The efficiency with which public inquiries or complaints regarding the activities of the board,

commission or agency filed with it, with the department to which a board or commission is administratively assigned, or with the office of the ombudsman have been processed and resolved.

- A. Reviewing the complaint files of the Division of Occupational Licensing, it is determined that the Division is handling the complaints in a timely and efficient manner.
- B. Two complaints were filed with the Ombudsman during the fiscal years 1979 through 1981. One complaint concerned an obnoxious investigator representing the Board. The second complaint regarded an applicant seeking licensure by endorsement. Both of these complaints were subsequently resolved.

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

- A. During the fiscal years 1979 through 1981, the Board issued approximately 1801 licenses and 1236 temporary permits to practice nursing in Alaska. Approximately 85% of the licenses issued are through the Board's statutory and regulatory endorsement procedures.

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

- A. The nursing application solicits unnecessary information according to the State Equal Employment Opportunity Commission. Solicitation of items such as spouse's name, maiden name and place of birth should not be requested unless it is job related and absolutely essential.

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

Please refer to the previous section, Prior Audit Recommendations.

APPENDIXES

APPENDIX A

BOARD OF NURSING
REVENUES COMPARED WITH EXPENDITURES
For the Fiscal Year Ended June 30, 1981
(UNAUDITED)

Average Revenue (Schedule 1 and Note 1)	\$ 58,856
Expenditures (see Note 2)	
Direct Expenditures	\$54,799
Indirect Expenditures	<u>95,962</u>
Total Expenditures	<u>150,761</u>
<u>Excess of revenues Over Expenditures</u>	<u>\$ (91,905)</u>

Schedule 1
Types of Revenues

<u>Revenues</u>	<u>FEE RATES</u> <u>FY 1979-</u> <u>FY 1981</u>	<u>FEE RATES</u> <u>Effective</u> <u>July 2, 1982</u>	<u>Collection Time</u>
<u>Registered Nurse</u>			
Application Fee	\$20	\$30	With application
License by Exam- ination Fee	20	20	With application
License by Endorsement Fee	20	20	With application
License Renewal Fee	15	20	Biennially
Late Fee Fine	10	10	With late payment
<u>Licensed Practical Nurse</u>			
Application Fee	\$15	\$20	With application
License by Exam- ination Fee	15	10	With application
License by Endorsement Fee	15	10	With application
License Renewal Fee	15	20	Biennially
Late Fee Fine	10	10	With late payment

Note 1

Most of the nursing revenues are composed of license renewal fees. These fees are collected once every two years and cause revenues in one year to be much greater than the revenues collected in the next year. Therefore, we calculated and reported an average of the revenues collected in fiscal year 1980 and 1981 in order to obtain an accurate representation of collected revenues.

Note 2

Direct expenditures include Board travel and those expenditures shown for the Board in the Division's accounts. Indirect expenditures are an allocated percentage of the administrative expenses of OL and an allocated percentage of the investigative expenses of OL. They do not include the expenditures for efforts of other departments, such as the Department of Law, that may be assisting the Board and OL.

APPENDIX B

BOARD OF NURSING
EXAMINATION STATISTICS

Description

The State Board Test Pool Examination is prepared by the National League of Nurses with input from the fifty State Boards of Nursing.

It is used by all fifty states to test nursing applicants for licensure.

The test is composed of five parts: psychiatric, obstetric, surgical, medical and nursing for children.

A grade of 350 on each part is considered a passing grade by all states except Hawaii.

Alaska Registered Nurse Examination Statistics

<u>FY 1981₁</u>	<u>Alaska Graduates</u>	<u>Other State's Graduates</u>	<u>Foreign Graduates</u>	<u>Total</u>
Passed	4	4	2	10
Failed	0	1	8	9
Total	4	5	10	19
% Pass Rate	100%	80%	20%	52%
<u>FY 1980₁</u>				
Passed	43	17	1	61
Failed	6	3	15	24
Total	49	20	16	85
% Pass Rate	88%	85%	6%	72%
<u>FY 1979₁</u>				
Passed	29	20	1	50
Failed	8	4	4	16
Total	37	24	5	66
% Pass Rate	78%	83%	20%	76%

Alaska Licensed Practical Nurse Examination Statistics

<u>FY 1981</u> ₁	<u>Alaska Graduates</u>	<u>Other State's Graduates</u>	<u>Foreign Graduates</u>	<u>Total</u>
Passed	1	5	1	7
Failed	<u>0</u>	<u>2</u>	<u>1</u>	<u>3</u>
Total	<u>1</u>	<u>7</u>	<u>2</u>	<u>10</u>
% Pass Rate	<u>100%</u>	<u>71%</u>	<u>50%</u>	<u>70%</u>
 <u>FY 1980</u> ₁				
Passed	20	10	9	39
Failed	<u>2</u>	<u>2</u>	<u>3</u>	<u>7</u>
Total	<u>22</u>	<u>12</u>	<u>12</u>	<u>46</u>
% Pass Rate	<u>91%</u>	<u>83%</u>	<u>75%</u>	<u>85%</u>
 <u>FY 1979</u> ₁				
Passed	14	8	9	31
Failed	<u>2</u>	<u>1</u>	<u>6</u>	<u>9</u>
Total	<u>16</u>	<u>9</u>	<u>15</u>	<u>40</u>
% Pass Rate	<u>88%</u>	<u>89%</u>	<u>60%</u>	<u>78%</u>

Note 1

Statistics are from the Executive Officer of the Board of Nursing.

APPENDIX C

BOARD OF NURSING
ADMINISTRATIVE STATISTICS

	<u>FY 1981</u>			<u>FY 1980</u>			<u>FY 1979</u>		
	<u>RN</u>	<u>LPN</u>	<u>Total</u>	<u>RN</u>	<u>LPN</u>	<u>Total</u>	<u>RN</u>	<u>LPN</u>	<u>Total</u>
Licenses Issued:									
By Endorsement	414	108	522	383	119	502	379	120	499
By Examination	<u>49</u>	<u>38</u>	<u>87</u>	<u>73</u>	<u>34</u>	<u>107</u>	<u>68</u>	<u>26</u>	<u>94</u>
<u>Total Licenses Issued (Note 1)</u>	<u>463</u>	<u>146</u>	<u>609</u>	<u>456</u>	<u>153</u>	<u>609</u>	<u>447</u>	<u>146</u>	<u>593</u>
Permits Issued:									
Awaiting Endorsement	302	71	373	235	78	313	237	70	307
Awaiting Examination	<u>43</u>	<u>27</u>	<u>70</u>	<u>71</u>	<u>21</u>	<u>92</u>	<u>59</u>	<u>22</u>	<u>81</u>
<u>Total Permits Issued (Note 1)</u>	<u>345</u>	<u>98</u>	<u>443</u>	<u>306</u>	<u>99</u>	<u>405</u>	<u>296</u>	<u>92</u>	<u>388</u>
Active Licenses:									
In-State Address	2936	832	3768						
Out-of-State Address	<u>755</u>	<u>217</u>	<u>972</u>						
<u>Total Active Licenses (Note 2)</u>	<u>3691</u>	<u>1049</u>	<u>4740</u>						

Note 1

Statistics are from Division of Occupational Licensing Personnel and available records.

Note 2

Statistics for FY 1981 were from the Board of Nursing's Annual Report. The Statistics for FY 1980 and FY 1979 were not compiled by Division of Occupational Licensing Personnel.

STATE OF ALASKA

DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

OFFICE OF THE COMMISSIONER

JAY S. HAMMOND, GOVERNOR

POUCH D
JUNEAU, ALASKA 99811
PHONE: 465-2500

October 13, 1982

RECEIVED

OCT 14 1982

LEGISLATIVE
AUDIT

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

Dear Mr. Wilkerson:

Thank you for the opportunity to comment on your Preliminary PERFORMANCE REVIEW OF THE BOARD OF NURSING. The Department of Commerce and Economic Development agrees with your basic findings that the Board of Nursing has been operating in the public interest and should be continued. The following comments address some of the detailed findings contained in your review.

Prior Audit Recommendation No. 1

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

An amendment to the nursing statutes, AS 08.68.226, effective July 1, 1982, gives the board the authority to establish regulations to require evidence of continued competency for relicensure. The department was of assistance to and supportive of the Board of Nursing's proposed changes to the statute pertaining to the practice of nursing.

The department has supported the board's efforts to perform a thorough review of the advantages and disadvantages of mandatory continued competency review for relicensure. The board is proceeding cautiously in attempting to determine whether mandatory continuing education or other methods will assure competent nurses for Alaska's public.

The department is currently in the process of renewal for advanced nurse practitioners who are required to comply with continuing education regulations. This experience should aid the board and the department in developing future regulations for continuing competency. The department is prepared to assist the board as they continue with their research and development of continuing competency regulations.

Prior Audit Recommendation No. 4

The Board of Nursing, in conjunction with the Attorney General, should compose formal regulations which define and list examples of license violations.

The department endorsed the board in seeking amendments to the statute which specify acts of unprofessional conduct. After review by the House Health, Education and Social Service Committee and consultation with the Attorney General, it was decided that defining acts of unprofessional conduct be carried out by regulation. The Division of Occupational Licensing regulations specialist assisted the board in drafting these regulations which will soon be ready to begin the public hearing process. The department feels that outlining actions which may constitute unprofessional conduct will not only aid the licensees and consumers, but also the board and the department in dealing with violators of the statute.

Other changes in AS 08.068.270 and .340 brought these violation sections into compliance with the Alaska criminal codes, and the rewording of these sections makes the law clearer to the reader.

Prior Audit Recommendation No. 12

The Department of Commerce and Economic Development and all licensing boards should insure that public notices of examinations are sufficiently and timely advertised.

The department performs administrative functions for the Board of Nursing. One of these functions is to public notice examinations.

The Board of Nursing utilizes a national exam for licensure of registered nurses and practical nurses. The national organization sets the dates far in advance to allow for appropriate planning by educational agencies and candidates. Historically and currently, these exams are provided in April and October for LPN's and in February and July for RN's on the same dates around the country.

The department acknowledges the importance of public notice but does not believe the public has been harmed by the lack of timeliness of the notice. The candidates for nursing exams are made aware of the exams through the schools of nursing. The Executive Secretary communicates with and often makes presentations to graduating nursing classes in Alaska regarding the application procedure and the deadlines. The application for exam includes the deadlines so that all candidates are aware of the deadlines. Further, the board has been reasonable and flexible in allowing late applicants to sit the exam when appropriate. The department will work with the board to assure timely notice to the public of the Board of Nursing exams.

We concur with the importance of public notices. The Division of Occupational Licensing recently experienced an incident where the local newspaper lost the advertising order, found it, and due to their printing schedule could only print it on the day prior to the cutoff date for receiving applications. The Board of Nursing has accepted applications after the cutoff date. Normally, applications are received from the schools after graduation for the entire class. Schools must verify graduation and in-progress transcripts.

In addition, the Division of Occupational Licensing has reviewed this procedure in all licensing areas to assure that proper notice is being given. The licensing boards are being made aware of the potential for problems in this area and are being advised that exam dates must be set with sufficient advance notice to the Division of Occupational Licensing to permit timely public notice to be given.

ANALYSIS OF PUBLIC NEED

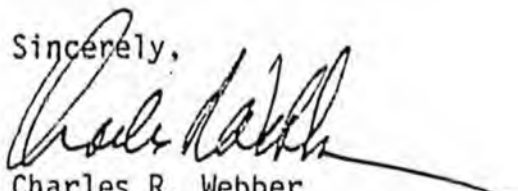
The following comments are intended to amplify the findings contained in the Analysis of Public Need section of the review.

With respect to Section IV on page 12, it should be noted that the Board of Nursing through its executive secretary corresponds on a regular basis with employers of nurses regarding board policies and practices in such areas as the temporary permit process, the license renewal process and disciplinary policies and procedures. We feel that through activities such as these the board has encouraged feedback from those who are affected by its regulations and decisions.

Similarly, with respect to Section V on page 12, the board encourages public participation in its deliberation by disseminating information regarding meetings to professional organizations, employers of nurses and other interested parties.

In closing, I would like to thank you again for the opportunity to comment on your findings and to express the department's appreciation for the constructive evaluations contained in your reviews.

Sincerely,



Charles R. Webber
Commissioner

CRW/mc1/8

STATE OF ALASKA

DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

DIVISION OF OCCUPATIONAL LICENSING

JAY S. HAMMOND, GOVERNOR

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October 5, 1982

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

RECEIVED
OCT 19 1982
LEGISLATIVE
AUDIT

Dear Mr. Wilkerson,

Re: Preliminary Audit Report, Board of Nursing

The preliminary audit report on:

A Performance Review of the Board of Nursing, July 7, 1982, was received on September 28, 1982. This was timely as the Board of Nursing met on September 29, 30, and October 1, 1982. The entire Board had the opportunity to review the report and share their responses with me. The Board collectively prepared their response to the report.

Prior Audit Recommendation No. 1

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

The Board of Nursing believes it to be in the best interests of the consumer to assure that licensees maintain competency to practice nursing. One of the Board's steps in attempting to accomplish this was seeing a proposed statutory change become law. The statute, AS 08.68.276, gives the Board the authority to establish regulations to require evidence of continuing competency for relicensure. This amendment went into effect July 1, 1982.

The Board has taken additional steps towards implementation of this recommendation. The Board established through regulation, continuing education requirements for advanced nurse practitioners which became effective January 13, 1980. These regulations, 12 AAC 44.470 require evidence of continuing education for the biennial renewal of advanced nurse practitioner authorization.

In 1980, the Board established a continued competency subcommittee which has carried out the task of reviewing the literature and the experience of other states regarding continuing education and competency. Concurrent to this committee beginning work, the Alaska Nurses Association made public the results of a state wide survey of registered nurses begun in the fall of 1978. There was a 42% response from 2,422 questionnaires sent by the Nurses Association. This survey was indepth and provided much information of value to the Board. A major point reported from this survey was that only 26% of the respondents thought continuing education should be mandatory for relicensure. The Association feels it is generally the concern of Alaska nurses that before a mandatory continuing education law is proposed, a financially feasible and accessible continuing education network be established.

The Board's subcommittee carried out a survey in December 1980 of all Boards of Nursing in the United States to determine more about the state of the art nationally. The survey indicated that only eight states had implemented mandatory continuing education requirements for relicensure. (See Attachment I). The committee members communicated further with the states who experienced mandatory requirements, and learned that some of these states are experiencing severe problems administering these programs. Two of these states have gone on to rescind their mandatory continuing education rules. Available literature indicates that now 12 states have mandatory continuing education requirements for nurses. The Board believes that continuing education is only one avenue for demonstrating competency, and there are other measurable alternatives.

Through the committee's work, the Board developed a definition of continued competency. The Board's working definition is "The ability to safely and effectively apply nursing knowledge, principals and concepts in the performance of nursing service, nursing education, nursing administration and nursing research." Once defined, the Board continued with outlining methods for measuring competency. Attachment II displays these measures. The Board is working further to define these methods for use in future regulations.

The continued competency committee has been searching for input from consumers on this issue and has developed a consumer survey. They are now looking for a means of carrying out this survey on a state wide basis.

Prior Audit Recommendation No. 4

The Board of Nursing, in conjunction with the Attorney General, should compose formal regulations which define and list examples of license violations.

The Board of Nursing agreed with audit recommendation No. 4. The Board of Nursing with the aid of the Attorney General, proposed the addition of a new section to the Nurse Practice Act which outlined actions which may constitute unprofessional conduct. After the House Health, Education and Social Service Committee review and further consultation with the Attorney General's office, it was advised that the defining of unprofessional conduct not be put into statute. The amendments effective July 1, 1982 allow the Board to promulgate regulations defining unprofessional conduct. The Board has worked with the Division of Occupational Licensing Regulations Specialist to develop these regulations. The draft regulations are prepared for publication and public comment at this time. (See Attachment III).

The Board believes that other changes in AS 08.68.270 and .340 help to designate what are illegal acts. The new statute revises several definitions and now includes an explanation of "incompetent" which serves to further inform consumers and nurses in this area.

Prior Audit Recommendation No. 12

The Department of Commerce and Economic Development and all licensing boards should insure that public notices of examinations are sufficiently and timely advertised.

Alaska statute 08.01.050 Administrative duties of the Department include (6) public notice of examination. The Board of Nursing utilizes a National Exam for licensure of RN's and LPN's. The dates of the exam are decided by the National Council State Boards of Nursing who own the exam and to which this Board is a member. The dates are established ten years in advance. The Board has made the department aware of the dates so that adequate notice may be made to candidates. (See Attachment IV).

There are several other items in the report about which the Board wishes to provide information. On page 4, the report states that "The Board of Nursing recognizes and uses the State Board Test Pool Examination, a national test prepared by the National League of Nurses." The Board does use the State Board Test Pool Examination, now called the National Council Licensure Exam. This national test is prepared by the National Council State Boards of Nursing.

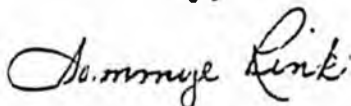
The Board wishes to clarify on page 12, the section regarding statutory changes for Foreign students. An applicant for licensure by exam who is a graduate of a foreign school of nursing may be issued a temporary permit if he/she has successfully completed the Commission on Graduates of Foreign Nursing Schools Exam.

Lastly, the Board wishes to explain further relating to examinations. In appendix B, the description of the exam refers only to the RN exam but data is given for both RN and PN exam. These exams are prepared by the National Council State Boards of Nursing with input from the constituent member Boards.

The practical nurse requires a comprehensive exam given in two sections with a recommended passing score of 350. All states use 350 except for New Jersey and Washington.

Thank you for your consideration of this response. If I can be of further assistance do not hesitate to contact me. The Board of Nursing looks forward to your final report.

Sincerely,

A handwritten signature in cursive script that reads "Sammie Rink".

Sammie Rink, R.N.
Chairperson
Alaska Board of Nursing

SR:GMM:1b

Attachments

DATE _____

1. Name of State Board Reporting _____
2. How many nurses are licensed in your State?
- | | | | | | |
|--------------|-------|------------|-------|-------|-------|
| RN (Active) | _____ | (Inactive) | _____ | Total | _____ |
| LPN (Active) | _____ | (Inactive) | _____ | Total | _____ |
3. Has your Board defined continuing professional competency?
Definition:
4. In regard to addressing the issues of continuing competency, is your Board:
Thinking about it Planning to address in the future
Implementing requirements for license renewal now Future
5. Is your Board under pressure from legislature or any other professional groups to make a decision on the competency issue? Yes No
Groups: _____
6. Has your Board or any other professional or non-professional group carried out a consumer survey in your state to determine how the consumer feels about continuing professional competency? Yes No
7. Does your Board require evidence of competency for relicensure? Yes No
8. Check the following requirements for relicensure if required by your Board:
- | | |
|--------------------------------|--------------------------|
| Continuing Education Credits | <input type="checkbox"/> |
| Active Practice in Nursing | <input type="checkbox"/> |
| Peer Review | <input type="checkbox"/> |
| Performance Evaluation | <input type="checkbox"/> |
| Nursing Process Audits | <input type="checkbox"/> |
| Formal Educational Achievement | <input type="checkbox"/> |
| Self Study | <input type="checkbox"/> |
| Re-examination | <input type="checkbox"/> |
| Other _____ | <input type="checkbox"/> |
| _____ | <input type="checkbox"/> |

9. Please supply information regarding any of the requirements checked above.

Example: 40 contact hours or 4 CEC's required every two years.

10. Have other professional groups addressed the competency issue in your state?

Yes No Group: _____

11. Would you like the results of this survey? Yes No

12. Would you be willing to share copies of surveys you have conducted or information related to the area of competency? Yes No

RN ACTIVE INACTIVE	LPN ACTIVE INACTIVE	Thinking about it	Implementing Reg.	Future	YES	NO	YES	NO	YES	NO	C.E.	Act. Pract	Peer Rev.	Perf. Eval.	Nurs. Proc. Audit	Formal Ed.	Self Study	Re-examination	other
38,000			X			X		X		X	X								
13,000	10,000					X		X		X	X								
35,000	15,000			X	X			X		X	X								
2,898	1,128	X		X	X			X		X	X								
6,000	2,000		X			X		X		X	X								
1,000	800					X		X		X	X								
76,000	23,000			X		X		X		X	X								
8,258	4,488	X			X			X		X	X								
193,000	62,610	X				X		X		X	X								
38,000	15,000																		
13,000	3,500					X		X		X	X								
2,000	650					X		X		X	X								
150,000	50,000					X		X		X	X								
4,000	12,000					X		X		X	X								
10,691	3,686			X		X		X		X	X								
14,435	7,099			X		X		X		X	X								
7,116	1,191																		
28,000	17,000		X			X		X		X	X								

NURS.
ASSOC.

Refresher co

Refresher

YES	NO	WHO?	YES	NO	
	X			X	
X		Nurses Assoc.		X	Defined incompetency
	X			X	
X		All Health Prof.			30 hours, Continued Education every 2 years
	X			X	
X		Nurses Assoc.		X	
	X			X	Refresher if not active in 5 years.
	X			X	24 contact hours every 2 years.
				X	1 year employment in 5 years proposed - were not allowed to adopt.
	X			X	
	X			X	
X		Pharm		X	Have carried out study on competency.
	X			X	
	X		X		45 hours for 3 years.
	X			X	15 contact hours, Continued Education now - 30 hours after July, 1982.
X		Nurses Assoc.		X	1 year active practice in 5 years, 15 hours Continued Education
X		N.H. Admt. Dietician		X	
				X	
X		Medical sych.		X	

	YES	NO	WHO?	YES	NO	
MA						
MI						
MINN					X	30 C.E.U. every 2 years, demonstration of a skill required after 1986.
MS		X		X		
MO		X			X	Active practice within 2 years.
MT	X		Nurses Assoc.		X	Voluntary Continued Education through Nurses Association.
NE		X			X	Legislative mandate Continued Education and practice after January, 1983.
NV						
NH		X			X	Refresher if not active in 5 years.
NJ		X		In process		
NM		X		X		Legislative mandate Continued Education
NY		X			X	
NC	X		Nurses Assoc.		X	
ND						
OH						
OK						
OR					X	960 hours of practice in 5 years to renew license.
PA		X			X	
RI		X			X	
SC		X		X		Authority of Board to require C.E. repealed in the 1979 legislative session.
SD						
TN		X			X	Refresher if inactive for 5 years.

Measure of Competency

1. Continuing Education

Short-term educational offerings accredited or approved by an approval body such as ANA-CEARP or other State Boards of Nursing including but not limited to workshops, seminars, inservice offerings, self-study and other non academic courses applicable to the participant's practice.

2. Formal Education Achievement

Including but not limited to academic courses in a formal nursing program which may lead to a degree, diploma or certification of completion. Refresher courses which meet the Board's guidelines may apply.

3. Certification

National accrediting bodies approved by the Board will be accepted as evidence of competency.

4. Performance Evaluation

A current employer's evaluation which includes psycho-social and technical skills which satisfactorily meets the standard of performance of the agency.

5. Nursing Process Audit

Concurrent or retrospective study which has brought about an improvement in or reinforced the quality of care that the participant provides may be used as evidence of competency.

6. Peer Review

A documented performance evaluation by a peer based on predetermined standards of performance including psycho-social and technical skills. Define how the person performing the peer evaluation meets the Board's criteria.

7. Scholarly and Professional Activities

This category will include but not be limited to activities as article/book publication, research, teaching and working on professional committees.

8. Exams

The Board will consider successful performance on written and oral competency based examinations, including but not limited to New York State Regents Exam.

(10) Violating the confidentiality of information or knowledge concerning a client.

(11) Physically or verbally abusing a client.

(12) Using alcohol or other drugs to the extent that the use interferes with nursing functions.

(13) Violating state or federal laws regulating drugs by forging prescriptions or by unlawfully distributing drugs or narcotics.

(14) Falsifying a client's records or intentionally making a incorrect entry in a client's chart.

(15) Leaving a nursing assignment without properly notifying appropriate personnel.

(16) Permitting another person to use his or her nursing license or permit for any purpose.

(17) Intentionally or negligently contributing to violation a law or regulation regulating nursing practice.

(18) For any person not authorized to practice as a registered nurse anesthetist to use the title registered nurse anesthetist, nurse anesthetist or certified registered nurse anesthetist or the abbreviation CRNA or any other words, letters, signs or figures to indicate that the person is a registered nurse anesthetist.

(19) For a registered nurse anesthetist to perform duties outside of the scope of practice described in 12 AAC 44.510 (Eff. 10/8/81 Reg. 80).

(20) For any person not authorized to practice acts of medical diagnosis or medical therapeutics as an advanced nurse practitioner, to use the title nurse practitioner or advanced nurse practitioner, or the abbreviation NP or ANP or any other words, letters, signs or figures to indicate that the person is an advanced nurse practitioner.

(21) For an advanced nurse practitioner to perform duties other than those specified in section 430 of this chapter. (Eff. 1/13/80, Reg. 73)

Authority: AS 08.68.100(1)

AS 08.68.270(8)

September 29, 1982

S B

164

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST
 Bill/Resolution No. CSSB 237 "An Act relating to professional licensing and
 Title to the regulation of the practice of medicine.
 Requested by Senate HESS Committee Date 4-9-81

II. FISCAL DETAIL
 Agency Affected Department of Commerce & Economic Development
 Program Category Affected Public Protection
 BRU, Program, or Subprogram(s) Affected Regulation & licensing of professions; administration
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each
 component in the analysis section.) investigations
EXPENDITURES (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES		102.8	110.0	117.7	125.9	134.7
200 TRAVEL		5.1	5.7	6.4	7.2	8.0
300 CONTRACTUAL		10.2	10.9	11.7	12.5	13.4
400 COMMODITIES		.0	.0	.0	.0	.0
500 EQUIPMENT		2.4	.0	.0	.0	.0
600 LAND & STRUCTURES		8.1	8.1	8.1	8.1	8.1
700 GRANTS, CLAIMS, ETC.						
TOTAL		128.6	134.7	143.9	153.7	164.2

FUNDING (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
GENERAL FUND		128.6	134.7	143.9	153.7	164.2
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
FULL TIME		3	3	3	3	3
PART TIME						
TEMPORARY						

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

PERSONAL SERVICES - FY'82 salary schedule, 7% inflation factor projected.

1 Investigator, Range 18, gen. govt., 12 mos.	\$ 40,348.00
1 Executive Officer, Range 18, partially exempt, 12 mos.	40,348.00
1 Clerk typist III, Range 8, gen. govt., 12 mos.	22,140.00
	<u>\$ 102,836.00</u>

TRAVEL - 12% inflation factor projected

Investigator: 5 days per diem per month @ \$67/day	4,000.00
One out-of-town trip per month @ \$250.00 per trip	3,000.00
Executive Officer, 5 board meetings	1,500.00
One out-of-state trip	700.00
	<u>\$ 9,200.00</u>

CONTRACTUAL - 7% inflation factor projected.

1 Mag Card typewriter lease	3,000.00
-----------------------------	----------

IV. DATE 4-9-81 PREPARED BY Marjorie Odland,
Regulations Specialist (continued next page)
 AGENCY Division of Occupational Licensing
 PHONE 465-2535

Original: Legislative Finance
 cc: Budget and Management
 Prime Sponsor (First Legislator Named)

1919 Lathrop St.
Drawer 2
Fairbanks, Alaska 99701
March 10, 1983

Rep. Mike Davis
State Capitol
Pouch V
Juneau, Alaska 99811

Dear Mike:

I am writing you regarding HB230, "An Act relating to licensing and regulation of the practice of medicine." I suspect that you remember much of the Bill from your time working with former Rep. Brian Rogers.

The Bill was essentially written by the Alaska State Medical Board 4 years ago as a remedy for statutory inadequacies in AS 08.64, the Medical Practice Act. As I have related to you in the past, the Bill provides for an improved definition of the practice of medicine, allows for emergency ~~summary~~ suspension powers (while maintaining due process), gives statutory authority for denial of licensure on the basis of disciplinary proceedings held in other states, and performs several "house-cleaning" functions:

The Board feels that the passage of this Bill is essential for continued meaningful Board operation, and, hence, for consumer protection. We solicit your support for the Bill as a member of the House HESS Committee, and hope that you could be able to support it before the full House as well.

The Bill has, I believe, suffered in the past from what Sandra Stringer referred to as a "lack of sexiness"--rather than passing because it was good and non-controversial, it has languished for precisely those reasons. Hopefully, the current Session will prove more responsive (glad I didn't say "responsible") than the last two.

I would like to correct a mis-representation in the Governor's letter of support accompanying the Bill. It is true that the highly controversial language dealing with midwives has been removed from the current version of the Bill. This modification was made last Session by the Senate HESS Committee on the Bill's fore-runner (it was called SB 237 then). The Board felt that the remainder of the proposed legislation was so important that the controversy surrounding midwifery was best left for some other time and, therefore, agreed with the deletion. However, it is not true that the bill is otherwise "substantially unchanged" from the old SB237. A check of SB 237 will reveal that provisions were made for an Executive Officer for the Board as well as an Investigator responsible to the Board. All reference to these positions was omitted in the current HB 230. Inasmuch as the Board feels that such administrative support is crucial to a meaningful effort at medical licensing and discipline, we would contend that the omission of such support from HB 230 represents a significant departure from the language and intent of the old SB 237.

The Board strongly urges that these positions be re-instated in HB 230. We have been severely handicapped in terms of investigative abilities, in at least one instance being unable to pursue a case with near-fatal consequences, by lack of investigative manpower, commitment and talent. Further, lack of executive support has resulted in our inability to follow through on various projects in the regulatory, administrative, and fact-finding arenas. As Board Chairman for 3 1/2 years, I have been constantly amazed by the dedication and perseverance of the public and professional members of the Board, and I feel proud of what has been accomplished. But I feel that the area of medical licensing is too important to be a part-time avocation which depends solely on the dedication of a group of people who, after all, still have to work 12 hours or more daily, and who are not necessarily selected on the basis of administrative, political or clerical expertise. The Board of Real Estate Examiners (to name one) already has such support, and even the Board of Nursing has an executive officer. The image of Alaska as a state which cares more for the policing of Realtors than for the medical care its citizens might receive is incredulous, if not downright laughable. ~~If the State wishes to maintain high quality medical care for its people, give us the resources with which to accomplish the goal.~~

I certainly appreciate any consideration which you are able to give to these matters. I am, as always, more than willing to provide any information that you might desire, and I'd be pleased to testify, answer questions, give opinions, or do anything else that would further the cause.

Sincerely yours,



Jeffrey A. Partnow, MD
Alaska State Medical Board

1919 Lathrop St.
Drawer 2
Fairbanks, Alaska 99701
March 28, 1983

Sen. Joe P. Josephson
Alaska State Senate
Pouch V
Juneau, Alaska 99811

Dear Sen. Josephson:

I would like to thank you and the members of the Senate HESS Committee personally and on behalf of the State Medical Board for the chance to testify before the Committee today concerning SB164.

To restate our position, the Board is very much in favor of the Bill. We feel that the proposed changes in the definition of the practice of medicine, as well as the streamlining of investigative and disciplinary activities are essential to the Board's ability to function in the Public Interest. We feel that we need more control over our investigative functions in order to handle cases in a more timely fashion and to insure that important cases are not neglected; SB164 guarantees this through its provision of an investigator who is responsible to the Board.

As I indicated in my testimony, the Board is also strongly in favor of the establishment of an Executive Officer for the Board, and would very much like to see provision for this added to the current Bill. We feel that the absence of such a position has hampered Board function up till now. We feel that the Board will have increased administrative activities resulting from legislatively-mandated Regulation of Continuing Medical Education (CME), Physician Assistants, Mobile Intensive Care Paramedics, Advanced Nurse Practitioners, and (hopefully) a heavier investigative load. The end result of these increases will, I believe, tax the limited administrative abilities of the Board Members beyond the coping point. The work of "keeping the ball rolling" between meetings is already substantial and is made even more difficult by periodic changes in Board membership and Board officers as well as by periodic changes in Licensing Examiners and others within the Division of Occupational Licensing and the Department of Commerce. The efforts required to track proposed legislation and to testify concerning the Board's position on numerous bills related to the medical field are already beyond those which can be reasonably expected of volunteer Board Members in their spare time. Yet, I believe, the Public has a right to expect such services from the Board, and the Board would dearly like to have the ability to provide them. We feel that the presence of an Executive Officer would go far toward relieving these frustrations. In some of its administrative and quasi-judicial functions, the Board is like a legislative committee, and it is difficult to envision such a committee functioning smoothly without dedicated staff support.

I am encouraged by Sen. Halford's calculations indicating that Board Revenues would cover the expenses of establishing the two positions. If that were not the case, I would favor increasing License fees further: I believe that it is in the Public Interest to insure that a Medical

License indicates that adequate and on-going quality assurance is performed and I feel that it is consistent with both Public Interest and the interests of the Profession that license fees pay the costs of providing such assurance. By the way, Board revenues are actually substantially greater than was indicated at the Hearing. In addition to funds obtained from MD licensing, there are also significant revenues gathered from issuance of various temporary and locum tenens permits to MDs. Further income is provided by fees collected in connection with issuing permits for Physician Assistants and Paramedics. Mr. Treager, the Director of the Division of Occupational Licensing, can, I am sure, provide you with exact figures.

Finally, I would like to let you know that a bill similar to SB164 is currently wending its way through the House. It is called HB230, and it has been discussed extensively by Board representatives (myself and Richard Monkman, the Assistant A.G. from the Anchorage Office who deals with Occupational Licensing cases) before the House Labor and Commerce Committee chaired by Rep. Furnace. Hopefully, the awareness of the Bill in each Chamber by members of the other Chamber will facilitate the ultimate passage of relevant Medical Board legislation.

Again, sincere thanks for the chance to testify on SB164, and special thanks to Nancy in your office for making the teleconference arrangements. I am most appreciative.

Please feel free to contact me or any member of the Board for any further information that you feel would be helpful to you.

Yours truly,


Jeffrey A. Partnow, MD
Alaska State Medical Board

March 28th
SB 1104
SB 1100

Joe, Vic, HALFORD Moss P. Fisher

Jeff Purtnow - Chair Med. Board

summary suspension powers in malpractice -
deny and/or revoke license.

Housekeeping functions.

wanted an Executive office position to handle
Board activities 08.04.015.

want an investigator - prob. w/ O.V. last 2 yrs.
Cases have not been properly dealt with.

Boi would correct 90% of problems.

* - 110 - per diem & expenses - why left out.
section on fees House Lab & comm

Donald Roney - Bi Member; AMA Bd.

wants Executive Director

answers most problems
new duties:

Continuing Competency.

Purtnow -

need for clerk typist

Rick Wilson - Ak. State Med. Assoc

Assoc. supports bill.

Harvey Treager - O.V.

Joe objection to investigator assigned only to Bd.
yes!

In 1982 there were 44 investigations - mostly
a fee dispute. inapprop. to keep to Med Bd.

Joe But could be designated to health related field.
Exec. Director?? Who selects?

Only other area is real estate commission; then
depart. selects investigator

Act. 1 (3) - Bd. is voluntary; duty to duty
supervision to the department. Med. Bd. could not
direct daily.

Current fiscal - \$68,400 - investigator range 18-19

Salary	34.1
benes	5.3
Supp	2.1
fixed benes	2.9
<u>total</u>	<u>44.4</u>
Equipment	24.0

Joe Clerk-typist?

Oppose - done in Depart; all clerical. Don't
know what CE will generate but feel
that depart. can handle.

Partrac & Rooney told him they preferred
investigator after exec. officer

Partrac - until 6 mos. ago, thought exec. most
crucial but now feel they are equal.

Joe questions:

1) investigator only for Bd.
depat not designate / no clerical
Bd - full time.

- 2) depart. supervise investigator.
- 3) pg. 10 line 10 add "physician"

Rick section 10. - hospital liability on reporting?

Joe thinks there is immunity generally to this requirement.
 Patrick agree.

Rick
~~Class~~ Sec. 17 - why only Class B misdemeanor?
 why not Class A

Patrick Bd. has had several cases of unlicensed. Agrees
 that penalty is insignificant.
Looney agree

CS 515 104 line 22 pg 9 - Class A
 line 10 pg 10 - physician
 line 15 pg 10 - AS Ob. 64, 110 (delete) ^{add to 110 - "for state employees"}
 line 24 pg 1 - "his" neutral pronoun.

ALASKA STATE SENATE

JOE P. JOSEPHSON
DISTRICT 6 - ANCHORAGE
1526 F STREET
ANCHORAGE ALASKA 99501
(907) 277 4419



WHILE IN JUNEAU
POUCH V
JUNEAU ALASKA 99811
(907) 465 4907
(907) 465 4525

COMMITTEES
HEALTH EDUCATION & SOCIAL SERVICES (CHAIR)
JUDICIARY (VICE CHAIR)
FINANCE
MAJORITY CAUCUS (CHAIR)

February 1, 1984

Mr. Hubert J. Gellert
Chairman
State Medical Board
406 G Street
Anchorage, Alaska 99501

Dear Hugh:

I was delighted to know you will be coming to Juneau late in February, and look forward to seeing you and visiting with you at that time.

I will be glad to try again; perhaps a session here with you and the Commissioner in one room would be availing. Frankly, I'm concerned that if Commissioner Lyon has a strong negative feeling, that is likely to be the feeling also of Senator Faiks, who tends to ally herself with the perspectives of Commissioner Lyon on such matters.

Let's keep in touch.

With best wishes, I am

Sincerely,

A handwritten signature in cursive script that reads "Joe P. Josephson".

Joe P. Josephson
State Senator

JPJ:rak

Anchorage, AK

January 24, 1984

RECEIVED

JAN 25 1984

Josephson,

Senator Joe Josephson
Pouch V
Juneau, AK 99811


Dear Joe,

I would like to once more solicit your assistance on behalf of the State Medical Board. Last year, you were of great help in getting our new Medical Practice Act passed, including the position of Medical Investigator. Unfortunately, the Governor vetoed the approximately \$70,000 to fill the position and support it. We have been in communication with the Governor and Dick Lyon to see if we could change the administration position, but to no avail. I enclose a copy of Commissioner Lyon's letter as an example of "argument by executive fiat". I cited to the Governor several recent cases that we felt might have been averted with a more vigorous investigative/enforcement presence and the example of the Real Estate Commission which has its own Investigator and Executive Officer. That board has had a marked deterrent effect through its staff presence around the State. I think Dick's arguments could justify abolishing the police.

What we are looking for is a sponsor for insertion of the \$70,000 in the budget and someone to help convince the Governor not to veto it again. Will you help? We would also appreciate any advice you can give us on what we can do further to push this cause which we feel is essential to protect good medical service for Alaskans. We'll be meeting in Juneau February 23d and 24, and I look forward to seeing you then.

Many thanks.

Sincerely,



Hubert J. Gellert

Chairman

State Medical Board

STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

POUCH D
JUNEAU, ALASKA 99811
PHONE: 465-2500

OFFICE OF THE COMMISSIONER

December 28, 1983

Mr. Hubert J. Gellert
Chairman
State Medical Board
406 G Street
Anchorage, Alaska 99501

Dear Mr. Gellert:

The Governor has forwarded a copy of your November 18, 1983 letter to my office.

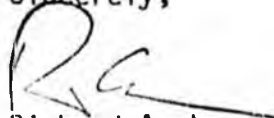
I believe we discussed and shared our mutual concerns when I met with the board on December 8, 1983 in Anchorage. Be assured the staff will continue to work with your board to accomplish your goals.

We would agree strong, vigorous enforcement of the Medical Practice Act is vital to the protection of Alaskan consumers. However, we have no evidence to substantiate that a single assigned investigative position to a board would have this effect. The cases you cited in your letter do not lend support to an assigned investigative position. Those cases would not have been prevented. The situation within the Real Estate Commission is not comparable.

Although we may disagree on independent needs assessments, be assured my instruction to the division is for cooperation. We will assist your board within our legitimate means.

Thank you for taking the time to keep me advised.

Sincerely,



Richard A. Lyon
Commissioner

RAL/mc 5/17b
122383a

Alaska State Legislature

RONALD L. LARSON
DISTRICT 16B

POUCH V
JUNEAU, ALASKA 99811
(907) 465-3727



BOX 53
PALMER, ALASKA 99645
(907) 745-3826

House of Representatives

MEMORANDUM

TO: Senator Josephson
FROM: Representative Ron Larson
DATE: May 24, 1983
SUBJECT: SB 164

A handwritten signature in cursive script, appearing to read "R. Larson".

I have just received the attached comments from Dr. Carolyn Brown, of the Women & Children's Health Associations. As prime sponsors of SB 164 I hope you will keep her concerns in mind.

Enclosure

Introduced: 3/8/83
Referred: Health, Education and
Social Services and
Labor and Commerce

*My comments about this
bill.*
C. Rosen

*Now -
my thoughts about
this bill*

1 IN THE SENATE

BY JOSEPHSON

2

C. B.

SENATE BILL NO. 164

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

THIRTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6

For an Act entitled: "An Act relating to professional licensing and to the
7 regulation of the practice of medicine, and extending
8 the termination date of the State Medical Board."

9

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

10

* Section 1. AS 08.01.050 is amended by adding a new subsection to
11 read:

12

(c) After consulting with the State Medical Board (AS 08.64.-

13

010), the department shall employ an individual who is not a member of
14 the board to be assigned as the investigator for the board. The
15 investigator shall

16

(1) conduct investigations into alleged violations of

17

AS 08.64, and into alleged violations of regulations and orders of the
18 State Medical Board;

19

(2) at the request of the State Medical Board, conduct

20

investigations based on complaints filed with the department or with
21 the board; and

22

(3) be directly responsible and accountable to the State

23

Medical Board, except that only the department has authority to termi-
24 nate his employment.

25

* Sec. 2. AS 08.03.010(c)(11) is amended to read:

26

(11) State Medical Board (AS 08.64.010) -- June 30, 1987

27

[1983].

28

* Sec. 3. AS 08.64.010 is amended to read:

29

Sec. 08.64.010. CREATION AND MEMBERSHIP OF STATE MEDICAL BOARD.

1 The governor shall appoint a board of medical examiners, to be known
2 as the State Medical Board, consisting of five [LICENSED] physicians
3 licensed in the state and [,] residing in as many separate geograph-
4 ical areas of the state [ALASKA JUDICIAL DISTRICTS] as possible, and
5 two persons with no direct financial interest in the health care
6 industry.

7 * Sec. 4. AS 08.64.020 is amended to read:

8 Sec. 08.64.020. [STATE MEDICAL BOARD] TERM OF OFFICE. Members
9 shall be appointed for staggered terms [A TERM] of four years, subject
10 to confirmation by a majority of the members of the legislature in
11 joint session, and shall hold office until their successors are ap-
12 pointed and qualified. A person who has served two successive com-
13 plete terms may not be reappointed until four years after the expira-
14 tion of the second term [THE TERMS OF THE PUBLIC MEMBERS OF THE BOARD
15 SHALL BE STAGGERED SO THAT THEY DO NOT EXPIRE AT THE SAME TIME].

16 * Sec. 5. AS 08.64.040 is amended to read:

17 Sec. 08.64.040. REMOVAL OF MEMBERS. The governor may remove a
18 member of the board for cause. The board may by regulation provide
19 that unexcused absences from meetings is cause for removal.

20 * Sec. 6. AS 08.64 is amended by adding a new section to read:

21 Sec. 08.64.085. MEETINGS OF THE BOARD. The board shall meet at
22 least four times a year.

23 * Sec. 7. AS 08.64 is amended by adding a new section to read:

24 Sec. 08.64.101. DUTIES. The board shall

25 (1) examine and issue licenses to applicants;

26 (2) submit an annual report of its proceedings to the
27 governor, including a statement of money received and disbursed;

28 (3) after a hearing, impose disciplinary sanctions on per-
29 sons who violate this chapter, or the regulations or orders of the

1 board;

2 (4) adopt regulations insuring that renewal of licenses is
3 contingent upon proof of continued competency on the part of the
4 licensee.

5 * Sec. 8. AS 08.64.170(a) is amended to read:

6 (a) A person may not practice medicine, podiatry, osteopathy, or
7 acupuncture in the state unless the person is licensed under this
8 chapter, except that

9 (1) a physician assistant may examine, diagnose or treat
10 persons under the supervision, control, and responsibility of either a
11 physician licensed under this chapter or a physician exempted from li-
12 censing [LICENSURE] under AS 08.64.370;

13 (2) a physician-trained mobile intensive care paramedic may
14 render emergency lifesaving service; [AND]

15 (3) a person licensed under AS 08.36 may perform acupunc-
16 ture in the regular practice of dentistry, subject to the regulations
17 of the Board of Dental Examiners; and

18 (4) a person who is licensed or authorized under another
19 chapter of this title may engage in a practice that is authorized un-
20 der that chapter.

21 * Sec. 9. AS 08.64.240 is repealed and reenacted to read:

22 Sec. 08.64.240. LICENSE REFUSED. (a) The board may not grant a
23 license if

24 (1) the applicant fails or cheats during the examination;

25 (2) the board determines that the applicant is profes-
26 sionally unfit to practice medicine or osteopathy in the state; or

27 (3) the applicant fails to comply with a requirement of
28 this chapter.

29 (b) The board may refuse to grant a license to any applicant for

*how does this relate
to lay med assist,
chiropractors,
naturopaths,*

?

1 the same reasons that it may impose disciplinary sanctions under
2 AS 08.64.326.

3 * Sec. 10. AS 08.64.250 is amended to read:

4 Sec. 08.64.250. LICENSE [LICENSURE] BY CREDENTIALS [ENDORSE-
5 MENT]. The board may waive the examination requirement and license by
6 credentials [ENDORSEMENT] if the physician or podiatry applicant meets
7 the requirements of AS 08.64.200 or 08.64.209, submits proof of con-
8 tinued competence as required by regulation, pays the required fee and
9 has

10 (1) an active license from a board of medical examiners
11 established under the laws of a state or territory of the United
12 States or a province of Canada issued after thorough examination; or

13 (2) passed an examination given by the National Board of
14 Medical Examiners or the Federation of State Medical Boards of the
15 United States if the applicant is a physician, or passed an examina-
16 tion given by the National Board of Podiatry Examiners if the appli-
17 cant is a podiatrist.

18 * Sec. 11. AS 08.64.270(a) is amended to read:

19 (a) The board may issue a temporary permit to an applicant who
20 meets the requirements of AS 08.64.200, [OR] 08.64.205, or 08.64.209
21 and pays the required fee.

22 * Sec. 12. AS 08.64.311 is amended to read:

23 Sec. 08.64.311. [BIENNIAL] LICENSE RENEWAL. Licenses shall be
24 renewed four years after the date of issue [BIENNIALY].

25 * Sec. 13. AS 08.64.315 is amended to read:

26 Sec. 08.64.315. FEES. The following fees are imposed under this
27 chapter:

- 28 (1) application \$ 50 [\$25]
29 (2) license by examination 200 [125]

I do believe that costs should be the same for all - MD physician, nurse, chiropractor, etc. Why not?

1	(3) license by <u>credentials</u> [ENDORSEMENT]	
2	or waiver of examination	200 [100]
3	(4) temporary permit	50 [25]
4	(5) locum tenens permit	50 [25]
5	(6) license renewal [, BIENNIAL], active . . .	600 [100]
6	(7) license renewal [, BIENNIAL], inactive . .	200 [25]
7	(8) license by reexamination	150 [75]

* Sec. 14. AS 08.64 is amended by adding a new section to read:

Sec. 08.64.326. GROUNDS FOR IMPOSITION OF DISCIPLINARY SANCTIONS. (a) The board may impose a sanction if the board finds after a hearing that a licensee

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

(2) engaged in deceit, fraud, or intentional misrepresentation while providing professional services or engaging in professional activities;

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

(4) has been convicted, including conviction based on a guilty plea or plea of nolo contendere, of

(A) a felony or other crime if the felony or other crime is substantially related to the qualifications, functions, or duties of the licensee; or

(B) a crime involving the unlawful procurement, sale, prescription or dispensing of drugs;

(5) has procured, sold, prescribed or dispensed drugs in violation of a law, regardless of whether there has been a criminal action;

(6) intentionally or negligently permitted the performance

1 of patient care by persons under the licensee's supervision that does
2 not conform to minimum professional standards even if the patient was
3 not injured;

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

6 (8) has demonstrated

7 (A) professional incompetence, gross negligence or re-
8 peated negligent conduct;

9 (B) addiction to, severe dependency on, or habitual
10 overuse of alcohol or other drugs which impairs the licensee's
11 ability to practice safely;

12 (C) unfitness because of physical or mental disabil-
13 ity;

14 (9) engaged in unprofessional conduct or in lewd or immoral
15 conduct in connection with the delivery of professional services to
16 patients;

17 (10) has violated AS 18.16.010;

18 (11) has violated any code of ethics adopted by regulation
19 by the board;

20 (12) has denied care or treatment to a patient or person
21 seeking assistance from the physician if the only reason for the
22 denial is the failure or refusal of the patient to agree to arbitrate
23 as provided in AS 09.55.535(a); or

24 (13) has had a license or certificate to practice medicine
25 in another state, territory of the United States or a province or Can-
26 ada suspended or revoked unless the suspension or revocation was
27 caused by the failure of the licensee to pay fees to that state,
territory or province.

29 (b) In a case involving (a)(13) of this section, the final

handwritten notes:
20 how does this
21 relate to the
22 doctor's
23 take
24 to
25 Medicaid
26 Co-pay?
27

1 findings of fact, conclusions of law and order of the authority that
2 suspended or revoked a license or certificate constitutes a prima
3 facie case that the license or certificate was suspended or revoked
4 and the grounds under which the suspension or revocation was granted.

5 * Sec. 15. AS 08.64 is amended by adding a new section to read:

6 Sec. 08.64.331. DISCIPLINARY SANCTIONS. (a) If the board finds
7 that a licensee has committed an act set out in AS 08.64.326(a), the
8 board may

- 9 (1) permanently revoke a license to practice;
10 (2) suspend a license for a determinate period of time;
11 (3) censure a licensee;
12 (4) issue a letter of reprimand;
13 (5) place a licensee on probationary status and require the
14 licensee to

15 (A) report regularly to the board on matters involving
16 the basis of probation;

17 (B) limit practice to those areas prescribed;

18 (C) continue professional education until a satisfac-
19 tory degree of skill has been attained in those areas determined
20 by the board to need improvement;

21 (6) impose limitations or conditions on the practice of a
22 licensee; or

23 (7) impose one or more of the sanctions set out in (1) -
24 (6) of this subsection.

25 (b) The board may end the probation of a licensee if it finds
26 that the deficiencies which required this sanction have been remedied.

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

1 the licensee continues to practice. A person whose license is sus-
2 pended under this section is entitled to a hearing by the board no
3 later than seven days after the effective date of the order and the
4 person may appeal the suspension after a hearing to a court of compe-
5 tent jurisdiction.

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

9 (e) The board may suspend a license upon receipt of a certified
10 copy of evidence that a license to practice medicine in another state
11 or territory of the United States or province of Canada has been
12 suspended or revoked. The suspension remains in effect until a hear-
13 ing can be held by the board.

14 (f) The board shall be consistent in the application of disci-
15 plinary sanctions. A significant departure from earlier decisions of
16 the board involving similar situations must be explained in findings
17 of fact or orders made by the board.

18 * Sec. 16. AS 08.64.336 is repealed and reenacted to read:

19 Sec. 08.64.336. DUTY OF PHYSICIANS AND HOSPITALS TO REPORT. (a)
20 A physician who professionally treats a person licensed to practice
21 medicine and surgery or osteopathy in this state for alcoholism or
22 drug addiction, or for mental, emotional or personality disorders,
23 shall report it to the board if the physician providing treatment
24 feels that the person may constitute a danger to the health and wel-
25 fare of that person's patients or the public if that person continues
26 in practice. The report shall state the name and address of the person
27 and the condition found.

28 (b) A hospital that restricts or refuses to grant hospital
29 privileges to a person licensed to practice medicine and surgery or

1 osteopathy in this state because that person poses a danger to the
2 public shall report to the board the name and address of the person
3 and the reasons for restricting or refusing to grant hospital privi-
4 leges.

5 (c) Upon receipt of a report under (a) or (b) of this section,
6 the board shall investigate the matter and, upon a finding of reason-
7 able cause, may appoint a committee of three qualified physicians to
8 examine the licensee and report their findings to the board.

9 (d) If the board finds that the licensee is unable to continue
10 to practice medicine and surgery or osteopathy with reasonable safety
11 to the licensee's patients or the public, it shall initiate action to
12 suspend, revoke, limit or condition the licensee's license to the
13 extent determined necessary for the protection of the public.

14 * Sec. 17. AS 08.64.360 is amended to read:

15 Sec. 08.64.360. PENALTY FOR PRACTICING WITHOUT A LICENSE OR IN
16 VIOLATION OF CHAPTER. Except for a physician assistant, [AND] a
17 physician-trained mobile intensive care paramedic under AS 08.64.170,
18 or a person licensed or authorized under another chapter of this title
19 who engages in practices for which that person is licensed or autho-
20 ri- zed under that chapter, a person practicing medicine or osteopathy
21 in the state without a valid [OBTAINING AND FILING AN APPROPRIATE]
22 license or permit is guilty of a class B misdemeanor [AND UPON CON-
23 VICTION IS PUNISHABLE BY A FINE OF NOT LESS THAN \$50 NOR MORE THAN
24 \$100, OR BY IMPRISONMENT FOR NOT LESS THAN 10 DAYS NOR MORE THAN 90
25 DAYS, OR BY BOTH]. Evidence that the defendant has failed to file a
26 license with the clerk of the court is prima facie evidence that the
27 defendant is not licensed. Each day of illegal practice is a separate
28 offense.

29 * Sec. 18. AS 08.64.380(2) is repealed and reenacted to read:

1 (2) "practice of medicine" or "practice of osteopathy"

2 means:

3 (A) for a fee, donation or other consideration, to
4 diagnose, treat, operate on, prescribe for, or administer to, any
5 human ailment, blemish, deformity, disease, disfigurement, disorder,
6 injury, or other mental or physical condition; or to attempt
7 to perform or represent that a person is authorized to perform
8 any of the acts set out in this subparagraph;

9 (B) to use or publicly display a title in connection
10 with a person's name including "doctor of medicine," "M.D.," or
11 "doctor of osteopathic medicine" or "D.O." or a specialist designation
12 including "surgeon," "dermatologist," or a similar title,
13 or any title which tends to show that the person is willing or
14 qualified to diagnose or treat the sick or injured;

15 * Sec. 19. AS 08.64.030, 08.64.110, 08.64.140, 08.64.200(1), 08.64.325,
16 08.64.330, and 08.64.380(3) are repealed.

STATE OF ALASKA
FISCAL NOTE

Revision Date 4-4, 1983

I. REQUEST

Bill/Resolution No.: SB NO 144
Title: "An Act relating to Medical Practice"
Sponsor: Josephson
Requestor: H.S. & S. S. Committee

II. FISCAL DETAIL

Agency Affected: Commerce & Economic Dev.
Program Category Affected: Public Prot
BRU, Program of Subprogram(s) Affected: Occupational Licensing

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES		48.8	51.4	55.0	58.8	63.0
200 TRAVEL		7.2	7.7	8.2	8.8	9.4
300 CONTRACTUAL		13.0	13.9	14.9	15.9	17.0
400 COMMODITIES		.4	.4	.5	.5	.5
500 EQUIPMENT		3.4	-0-	-0-	-0-	-0-
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING		72.8	73.0	78.6	84.0	89.9
CAPITAL						
REVENUE		549.0	17.6	17.6	17.6	549.0

FUNDING: (Thousands of Dollars)

GENERAL FUND	72.8	73.0	78.6	84.0	89.9
FEDERAL FUNDS					
OTHER (Specify Source)					

POSITIONS:

FULL-TIME	1	1	1	1	1
PART-TIME					
TEMPORARY					

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

Not identified by the sponsor

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Darrell Miller
Division: Occupational Licensing

Phone: 465-2535
Date: April 4, 1983

Approved by Commissioner: Richard A. Lyon
Department: Commerce & Economic Development

Date: 4/6/83

Distribution:

Original to Legislative Finance
Copy to Office of Management and Budget (for Legislature introduced bills)
Copy to Department (for Governor introduced bills)
Copy to Sponsor
Copy to Requestor (if different from Sponsor)

3/8/83

Fiscal impact: Medical Practice Act; Senate Bill No. 164.

(Note: 7% inflation factor projected for FY-85 through FY88 for operating costs)

100 PERSONAL SERVICES - FY-83 salary schedule

1 Investigator, Range 18A, Gen. Govt., 12 months,
to be located in Anchorage \$48,755.00

200 TRAVEL

4 Board meeting annually (2 days ea @ \$80.00 per
day per diem = \$160.00 X 4) \$ 640.00
Transportation - Board meetings annually (\$350.00
ea X 4) 1,400.00
Investigative travel - 5 days per month (@ \$80.00
per day per diem X 5 X 12) 4,800.00
Transportation - (1.5 trips per month (@ \$350.00
ea X 12) 4,200.00
\$ 7,240.00

300 CONTRACTUAL

Postage, telephone, printing, publication and
operating cost \$ 3,000.00
Computer terminal use, prorated share (@ \$350.00
per month X 12) 4,200.00
(see 300 CONTRACTUAL supplement)
\$ 7,200.00

400 COMMODITIES

Stationery, Typewriter ribbons, pens, pencils, and
other misc. desk top supplies. \$ 400.00

500 EQUIPMENT (One time cost FY-84 only)

1 desk, double pedestal, 60x30" \$ 427.00
1 chair, exec. swivel w/arms 202.00
1 typewriter, IBM Selectric II 1,129.00
1 typewriter table 94.00
1 chair, side, without arms 104.00
1 desk calculator 332.00
1 recorder, Lanier 705.00
1 book case 138.00
1 file cabinet, 4 drawer, legal w/lock 306.00
\$ 3,437.00

300 CONTRACTUAL - Supplement

1 lease vehicle with maintenance for investigator use
\$385.00 per month x 12 months \$ 4,620.00
Fuel, \$100.00 per month X 12 1,200.00
\$ 5,820.00

One position total: \$72,852.00
=====

Assumptions: Medical Practice Act, Senate Bill No. 164

This bill increases the licensing fees for the medical profession a substantial amount and would impact revenues generated in FY-84 and FY-85 as follows:

FY-84

709 active license renewals, January 1, 1985 @ \$600.00 ea.	\$425,400.00
535 inactive license renewals, January 1, 1985 @ \$200.00 ea.	107,000.00
Average 5 new applications @ \$50.00 ea. (annually)	250.00
Average 3 new licenses by examination @ \$200.00 ea. (annually)	600.00
Average 2 new licenses by re-examination @ \$150.00 ea. (ann.)	300.00
Average 79 Locum Tenens permits (ann.) @ \$50.00 ea.	3,950.00
Average 78 Temporary permits (ann.) @ \$50.00 ea.	3,900.00
Average 43 license by credentials (½ FY-84) @ \$200.00 ea.	<u>8,600.00</u>
Total projected FY-84 revenue from licensing	\$549,000.00

FY-85

Average 5 new applications (ann.) @ \$50.00 ea.	\$ 250.00
Average 3 new licenses by examination (ann.) @ \$200.00 ea.	600.00
Average 2 new licenses by re-examination (ann.) @ \$150.00 ea.	300.00
Average 79 Locum Tenens permits (ann.) @ \$50.00 ea.	3,950.00
Average 78 temporary permits (ann.) @ \$50.00 ea.	3,900.00
Average 43 license by credentials (½ FY-85) @ \$200.00 ea	<u>8,600.00</u>
Total projected FY-85 revenue from licensing	17,600.00

Projected revenue for subsequent years would be impacted as this bill establishes the license renewal from biennial to every four years.

1.	POSITION TITLE Investigator III				RANGE/STEP 18A	BARG. UNIT G	FORM 12 PAGE/LINE	GOV.	APPROV.	DISAPP.
2.	TYPE OF POSITION PFT	STAFF MONTHS 12	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION EBA	ELECTION DISTRICT All	LEG.		
3.	CONTINUATION LEVEL				ADDITION		JUSTIFICATION			
4.	TYPE OF EXPENDITURE			AMOUNT			<p>This position is required under Senate Bill No. 164, "An Act relating to professional licensing and to the regulation of the practice of medicine. (Section 1, AS 08.01.050(c) to conduct investigations into alleged violation; of AS 08.84, and into alleged violations of regulations and orders of the State Medical Board)</p>			
	1	2	3							
	PERSONAL SERVICES									
5.	Salary	34.1								
6.	Benefits	5.3								
7.	Supplemental Benefits	2.1								
8.	Fixed Benefits	2.9								
9.	TOTAL PERSONAL SERVICES	01	44.4							
10.	Travel	02	7.2							
11.	Contractual	03	13.0							
12.	Commodities	04	0.4							
13.	Equipment	05	3.4							
14.	Other		---							
15.	TOTAL COST		68.4							
	RECEIPT CODE	FUNDING SOURCE								
16.		Federal Receipts 1002								
17.		G.F. Match 1003								
18.		General Funds 1004		68.4						
19.		I-A Receipts 1005								
20.		Program Receipts 1028								
21.		Other								
<div style="border: 1px solid black; padding: 5px; width: fit-content;"> <p>FOR B&M USE ONLY 4A KEY NUMBER _____</p> </div>										

13 REQUEST FOR
NEW POSITION

AGENCY Commerce and Economic Development
PROGRAM Consumer Protection
BRU Occupational Licensing
COMPONENT Investigations

Page _____ of _____
Revised Date _____

FY 84

A PERFORMANCE REVIEW OF THE
ALASKA STATE MEDICAL BOARD

July 30, 1982

Audit Control Number
08-112-0082-R

Commissioner, Department
of Commerce and Economic
Development

Charles R. Webber

Deputy Commissioner,
Department of Commerce and
Economic Development

Edward Eboch

Members of the
Alaska State Medical Board

Chairman
Secretary
Member
Member
Member
Member

Jeffrey A. Partnow, M.D.
Donald R. Rooney, M.D.
Aug - Hugh Gellert
George R. Brenneman, M.D.
Aug - Thomas Kinsella
George E. Rhyneer, M.D.
T.L. Conley, M.D.

STATE OF ALASKA

AUDIT DIVISION
POUCH W
JUNEAU, ALASKA 99811

THE LEGISLATURE

BUDGET AND AUDIT COMMITTEE

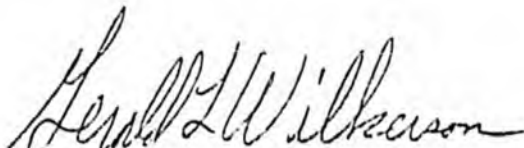
August 18, 1982

Members of the
Legislative Budget and Audit Committee:

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

A PERFORMANCE REVIEW OF THE ALASKA STATE MEDICAL BOARD

July 30, 1982



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

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Department of Commerce and Economic Development.17

PURPOSE AND SCOPE OF THE REVIEW

Purpose

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

As required by legislative intent, this report shall be considered during the legislative oversight function in determining whether the Alaska State Medical Board should be reestablished. The law currently specifies that this Board will terminate on June 30, 1983, but will continue until June 30, 1984, for the purpose of concluding its affairs.

Scope

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

1. Applicable statutes and Board regulations;
2. tests of records and documents of the Board and the Division of Occupational Licensing (OL), Department of Commerce and Economic Development;
3. interviews with OL employees;
4. complaints filed with OL, the Ombudsman's Office, and the Equal Employment Opportunity Office; and,
5. interviews with Board members.

ORGANIZATION AND FUNCTION

The State Medical Board is a regulatory board with 7 members: 5 licensed physicians, and 2 public members with no direct financial interest in the health care industry. It is preferable that the licensed physicians reside in as many separate Alaska judicial districts as possible.

The function of the Board is to determine the minimum quality of medical care by:

1. Examining and issuing licenses to qualified applicants.
2. Establishing or amending rules and regulations necessary and desirable to enforce the statutes of the State.
3. Holding hearings in order to revoke, annul, or suspend the license of a person violating the medical statutes and regulations.

The Board regulates the following groups engaged in medical practice in Alaska: physicians, osteopaths, physician assistants (PA's), podiatrists, and acupuncturists. Most licensing requirements are established by statute. However, statutes have granted power to waive some requirements in favor of conditions concerning special licenses--those by endorsement, those for temporary licensure up to 8 months or until the Board meets to consider the application, whichever occurs first, and a temporary locum tenens permit which is valid for 120 consecutive days.

An applicant for registration as a medical practitioner must have passed an examination given by the National Board of Medical Examiners or the Federation of State Medical Boards of the United States. An oral interview is also administered by a member of the Board. Foreign medical graduates who are graduated from medical colleges not recognized by the American Medical Association or one of its agencies must be certified by the Educational Council of Foreign Medical Graduates or be licensed by examination in another state or territory of the United States or a province in Canada.

Licensure by a temporary permit allows a practitioner the opportunity to practice medicine when all other requirements are met. It is renewable only once.

REPORT CONCLUSIONS

In our opinion, the State Medical Board should be reestablished. The practices of medicine, osteopathy, and acupuncture by physicians, osteopaths, physician assistants, paramedics, and podiatrists is regulated by the Alaska State Medical Board. Because these occupations affect the public's health, safety, and welfare, in our opinion they should be subject to regulations and controls. Establishing minimum educational and experience requirements provided reasonable assurance to the public that licensees are qualified. In addition, active investigation of complaints from the public and other practitioners ensures that licensees continue to practice in a competent manner.

In our opinion, these functions are needed for the protection of the public. Although we believe the Medical Board has effectively accomplished these functions, we are making a recommendation which we believe is needed in order for the State Medical Board to more effectively serve the Alaska public.

We recommend legislative consideration be given to statutory change which would (1) define unprofessional conduct or practices, (2) require hospitals to notify the Medical Board when a practitioner is deemed a potential danger to the public, and (3) change the composition of the Board to represent all persons regulated (see Recommendation No. 1).

FINDINGS AND RECOMMENDATIONS

Recommendation No. 1

Legislative consideration should be given to regulatory changes concerning the disciplinary process and the composition of the Board.

The 1978 audit recommended the establishment of regulations to ensure consumer complaints receive an impartial examination on the basis of merit. CSSB 237 delineated the grounds for imposition of disciplinary sanctions and disciplinary actions to be imposed. These grounds included unprofessional business practices as well as malpractice. This bill did not pass, and we recommend that it be reintroduced to the Legislature.

In addition, we believe statutory changes in the following areas would benefit the public:

- A. Hospitals should be required to notify the State Medical Board when a practitioner's hospital privileges are refused or restricted because that person is a real or potential danger to the public. If hospitals were to report such actions, the Medical Board could initiate an investigation to determine if a questionable practitioner should retain his or her license.
- B. The Board should adequately represent those persons it regulates. The Board regulates 689 physicians, 73 physician assistants, 53 paramedics, and 10 podiatrists. The Board is currently composed of 5 physicians and 2 public members. Allowing participation of all occupations regulated by the Board would ensure that one occupational group does not promote its interests over the interests of an unrepresented occupational group.

AUDITOR'S COMMENTS

The illness of one of the Division's three full-time investigators resulted in minimal investigative effort for the State Medical Board during the last year as the Division could not replace him until his resignation of June 2, 1982. The Division hired an investigator to fill this position as of June 28, 1982.

As a result of this situation, investigative effort was not sufficient to provide adequate public protection.

Once the unit is fully operational, we believe a management analysis would be in order to determine if additional resources are needed to help reduce the backlog of 44 cases, 17 of which are priority I (life threatening).

ANALYSIS OF PUBLIC NEED

Limited Analysis

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

- I. The extent to which the board, commission or program has operated in the public interest.
 - A. The following demonstrate the Board's performance in the public's best interest:
 1. The board has held an average of 4 meetings a year in various locations in Alaska.
 2. The Board provided an examination twice a year for candidates.
 3. Since 1978, the Board has established regulations for continuing Medical Education, Physician Assistants, and Paramedics.
 - B. The following conditions and activities existed which could not be demonstrated to be in the public's best interest:
 1. There has been no examination of complaints by consumers because AS 08.64.380 does not specify unethical economic or business practices as unprofessional conduct (see Recommendation No. 1).
- II. The extent to which the operation of the board, commission, or agency program has been impeded or enhanced by existing statutes, procedures, and practices which it has adopted, and any other matter, including budgetary, resource and personnel matters.
 - A. The following enhanced the performance of the Medical Board.
 1. The Board received funding and support from OL in the amount of \$108,704 (see Appendix A).
 2. The Board received assistance in drafting legislation and regulatory changes from OL.

3. The Board receives legal assistance from the Attorney General's Office.
 4. The Board receives cooperation from the Department of Health and Social Services in licensing paramedics as a result of a Memorandum of Agreement between the two agencies.
- B. The following practices have impeded the Board's performance:
1. The Division of Occupational Licensing (OL) has not been able to provide the necessary investigative effort required by AS 08.01.050(19); and the Board has not been able to provide regulations covering unethical or improper actions on the part of licensees (see Auditor's Comments).

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

- A. The following statutory changes were recommended by the Board:
1. The Board has recommended and strongly supported passage of CSSB 237 delineating grounds for imposition of disciplinary sanctions and sanctions to be imposed among other changes to the Medical Practices Act.

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

- A. Encouragement of persons to report to the Board is demonstrated by the following:
1. The placement of advertisements requesting input on proposed regulation changes.

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

- A. The Board's meetings and examinations are advertised in newspapers by OI to encourage public

participation. In one case, OL had not placed an advertisement for an examination.

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

- A. The Office of the Ombudsman and the Attorney General's Office has no consumer complaints regarding the Alaska State Medical Board.
- B. There is no provision for consumer complaints in AS 08.64 (see Recommendation No. 1).

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

- A. The following demonstrate the Board's performance in presenting qualified applicants, and ensuring their continued competence:
 - 1. The Board has issued 349 licenses, temporary permits, locum tenens permits, physician assistant authorizations, and paramedic authorizations since July 1981.
 - 2. The Board has demonstrated a liberal policy of licensing by endorsing physicians from other states.
 - 3. The Board requires foreign Medical Graduates to have qualifications equivalent to other applicants. This is evidenced by the requirement of the FLEX exam and of completed internship or residency. Note that the requirement of an internship or residency makes it impossible for any medical school graduate to come directly to Alaska upon graduation, since there are no internship or residency programs in Alaska.

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

- A. According to the State Equal Employment Opportunity Office, applications require

unnecessary information such as an applicant's date and place of birth, weight, height, social security number, and sex. However, the Board believes this information is needed to facilitate its background investigations for licensure.

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

A. The Division of Legislative Audit has recommended a review of the following statutes for possible revision:

1. A statutory change for AS 08.64.010 should be considered to allow all occupations regulated by the Board to be represented on the Board (see Recommendation No. 1).
2. A statutory change for AS 08.64.336 should be considered to require hospitals to report to the Medical Board when a practitioner's hospital privileges are refused or restricted because that person poses a danger to the public (see Recommendation No. 1).

B. The Division of Legislative Audit has recommended that the Medical Board consider regulations to protect the public in the following areas:

1. Regulations are needed to make actions on the part of licensed persons, which are unethical, improper, and not in the best interest of the welfare of the public violations of the licensing act (see Recommendation No. 1).

APPENDIXES

APPENDIX A

ALASKA STATE MEDICAL BOARD
REVENUES COMPARED WITH EXPENDITURES
For the Fiscal Year Ended June 30, 1981
(UNAUDITED)

Average Revenue (Schedule 1 and Note 1)	\$ 49,502
Expenditures (Note 2)	
Direct Expenditures	\$14,050
Indirect Expenditures	<u>94,654</u>
Total Expenditures	<u>108,704</u>
<u>Excess of Revenues Over Expenditures</u>	<u>\$(59,202)</u>

Schedule 1
Types of Revenues

<u>Revenues</u>	<u>Amount</u>	<u>Collection Time</u>
Application Fee	\$ 25	With Application
Examination Fee	125	With Application
Endorsement Fee	100	With Application
Temporary Permits	25	With Application
Locum Tenens Permits .	25	With Application
Renewal, Active	100	Biennially
Renewal, Inactive	25	Biennially
Reexamination Fee:		
Part I	\$15	With Application
Part II	20	With Reapplication
Part III	<u>40</u>	75 With Reapplication
Parts I and II by Individual Subject	10	With Reapplication
Physician Assistant:		
Authorization Fee	25	With Application
Renewal Fee	25	Biennially
Paramedic:		
Authorization Fee	50	With Application
Renewal Fee	50	Biennially

Note 1

Most of the medical revenues are composed of renewal registration fees. These fees are collected once every two years and cause revenues in one year to be much greater than the revenues collected in the next year. Therefore, we calculated and reported an average of the revenues collected in fiscal years 1980 and 1981 in order to obtain an accurate representation of collected revenues.

Note 2

Direct expenditures include Board travel and those expenditures shown for the Board in the Division's accounts. Indirect expenditures are an allocated percentage of the administrative expenses of OL and an allocated percentage of the investigative expenses of DL. They do not include expenditures for efforts of other departments, such as the Department of Law, that may be assisting the Board and OL.

FAIRBANKS INTERNAL MEDICINE

and

DIAGNOSTIC CENTER, INC.

1919 LATHROP STREET
FAIRBANKS, ALASKA 99701

(907) 452-4769

INTERNAL MEDICINE

WILLIAM H. DOOLITTLE, M.D. F.A.C.P.
JEFFREY A. PARTNOW, M.D.

INTERNAL MEDICINE, HEMATOLOGY & ONCOLOGY

J. MICHAEL CARROLL, M.D.

INTERNAL MEDICINE & AVIATION MEDICINE

DAVID S. GRAUMAN, M.D.

September 29, 1982

RECEIVED

OCT 01 1982

LEGISLATIVE
AUDIT

Gerald Wilkerson, CPA
Legislative Auditor
Division of Legislative Audit
Pouch W
Juneau, AK 99811

RE: Performance Review of
the Alaska State Medical
Board, July 31, 1982

Dear Mr. Wilkerson:

Thank you for your recent letter, as well as the copy of the "Preliminary Audit Report". In accordance with a telephone report from Patricia Harms of your Division, I have had copies made and forwarded them to the other Board members as well as to the Division of Occupational Licensure. I have informed those who will be receiving copies that the report is confidential and not for public release.

My comments are as follows (please refer to the cited page of the audit):

Page 2: The Board also regulates mobile intensive care paramedics in addition to those professions listed. This omission is obviously an oversight since the audit recognizes (page 7, pgh 4) the Memorandum of Agreement between the Board and Department of Health and Social Services dealing with this group.

Page 4: Recommendation #1 - I agree wholeheartedly with the recommendation as stated. As I have previously indicated to the Auditors, I have some reservations relating to adequate representation of those persons it regulates. In order to obtain proportional representation, the size of the Board would have to be large, clearly resulting in "large group inefficiencies". I would be absolutely opposed to any legislation depriving us of our public members or any dilution of the medical expertise which the Board needs in dealing with disciplinary and licensing matters. In principle, I would like to see "non-M.D. professional representation" on the Board provided that the Board does not become large and unwieldy, and I would suggest that the best way to accomplish this would be a statutory change adding one additional position to the Board to be chosen from amongst the other regulated groups in whatever manner the governor deems appropriate. I do not feel that the Board has short-shrifted any of the non-physician groups which it currently regulates, however, and such a change may be simply solving a problem which does not exist. Currently, the Board makes use of the Alaskan Academy of Physician Assistants, as well as representatives of the Paramedics and Podiatrists in dealing with licensure and regulation of these groups.

Page 2

RE: Performance Review of
the Alaska State Medical
Board, July 31, 1982

continuation Page 4 -

I am personally unaware of any changes in regulations or licensing which the Board has made over the past four years, in the absence of consultation and advice of the affected group.

As regarding the remainder of the recommendation, I enthusiastically applaud the Auditor's endorsement of CSSB 237. The Board has requested that this be reintroduced into the next legislative session (Board resolution September 10, 1982 at a meeting in Nome), and this has been done. In addition to the features of the Bill which are mentioned, the Bill also creates a position of Executive Officer for the Board (certainly not a precedent - the Board of Nursing, Real Estate Examiners, etc. already have Executive Officers). The Board feels this will "keep the ball rolling" between meetings, improve the efficiency of staff support, and allow for better tracking of our various legislative concerns. Further, by establishing the position of an investigator responsible primarily to the Board, we feel that the investigative deficiencies to which the Audit refers (page 5) can be abolished.

Finally, the Board members feel that statutory change to require hospitals to notify the Board in case of serious credentialing action which would help the Board become aware of potential problems before they become actual problems.

Page 7, pgh B. The Board has not been able to provide regulations covering unethical or improper actions on the part of licensees, feeling that this is essentially an impossible task. A number of national professional groups have attempted to formulate a formal code of ethics in the past, most notably the American Medical Association, but these have been almost universally abandoned. Although the Legislature has apparently granted to the Board the power to adopt in regulation a code of ethics, AS08.64.380.G, I suspect that it would prove difficult if not impossible to formulate a comprehensive ethical code.

In summary, I feel that the "Preliminary Audit Report" is fair and accurate. With the reservations expressed above, I agree with the recommendation enclosed in the report. I feel that the report accurately reflects the public spirited efforts of the Board and its various members, and I feel that Ms. Harms and Mr. Busch have done a commendable job in identifying the problems against which the Board has to struggle in order to accomplish its goals and objectives.

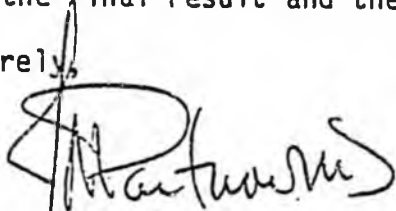
As only one of two "leftovers" from the first audit of the Board several years ago, I am personally appreciative of the time and consideration which the auditors spent in order to provide a fair and accurate assessment of the Board's status.

Page 3

RE: Performance Review of
the Alaska State Medical
Board, July 31, 1982

As Chairman, I feel that I speak for the Board in saying that I appreciate both the final result and the effort which went into the report.

Sincerely,

A handwritten signature in black ink, appearing to read "Jeffrey A. Partnow". The signature is written in a cursive style with a large, prominent initial "J".

Jeffrey A. Partnow, M.D., Chairman
Alaska State Medical Board

JAP/co

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

OFFICE OF THE COMMISSIONER

POUCH D

JUNEAU, ALASKA 99811

Phone: 465-2500

October 13, 1982

RECEIVED
OCT 14 1982
LEGISLATIVE
AUDIT

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

Dear Mr. Wilkerson:

Thank you for the opportunity to comment on your preliminary Performance Review of the Alaska State Medical Board. The Department of Commerce and Economic Development agrees with your finding that the Medical Board has been operating in the public interest and should be continued.

The department concurs with your recommendations that an equivalent to the former CSSB 237 be introduced in the 1983 legislative session and that hospitals be required to notify the Medical Board when a practitioner's hospital privileges have been refused or restricted due to the practitioner's actual or potential danger to the public.

The department does not feel that the composition of the board should be changed at this time. Liability for the authorization of physician assistants and paramedics to practice lies solely with their collaborating physicians. There are only ten podiatrists licensed by the board, of which only four presently reside in Alaska. A member from this profession on the board does not appear to be necessary.

Lastly, we are in basic agreement with the auditor's comments on page 5 of the report. The investigative unit is presently fully staffed, and complaints are being handled in an expeditious manner. As of June 30, 1982, 21 cases were reported as pending. During a recent board meeting (September 9-10, 1982) 15 were closed. There are presently six active cases, none are priority one. In this regard, we would like to comment on the choice of the word "backlog" to describe those cases which are presently under investigation. We believe that the term "backlog" may be misleading to the extent that it implies that no investigative action has been taken on a case. All complaints presently filed with the Division of Occupational Licensing are being actively investigated and their status is more correctly described as "active." A single case may remain open for an extended period of time and receive substantial attention because of its complexity and would be considered an "active" case rather than a "backlog" case in our terminology.

Mr. Gerald L. Wilkerson, CPA

-2-

October 13, 1982

The above comments notwithstanding, the department concurs with the basic recommendation that closer management analysis is appropriate here to determine whether additional investigative support is necessary.

Thank you again for the opportunity to comment on your findings.

Sincerely,

A handwritten signature in cursive script, appearing to read "Charles R. Webber", with a long horizontal line extending to the right.

Charles R. Webber
Commissioner

CRW/mc1/8

MSG 83-00006741 PRTY 1 04/08/83 12:46:23 ORIG: LA01 IN= 0003 OUT= 0054
FROM: SHIRLEE ANC LIO TO: POMS JUNEAU INFO
TARGET: LJHL SUBJ: POM

4/8/83, SHIRLEE ANC LIO, 6741

TO: SENATOR JOSEPHSON

FROM: HUGH GELLERT, 406 G STREET, ANCHORAGE 99501
(RES: 12831 TRACY WAY) H 345-1290 W 277-2663

MANY THANKS FOR INTRODUCING SB 164 REGARDING THE STATE MEDICAL BOARD. WE WOULD ALSO LIKE TO SEE AN EXECUTIVE DIRECTOR, BUT APPRECIATE THE INCLUSION OF AN INVESTIGATOR. IF YOU NEED ANY BOARD TESTIMONY, PLEASE LET ME KNOW.

/S/ HUGH GELLERT, CHAIRMAN
STATE MEDICAL BOARD

RECEIVED

APR 11 1983

Josephson,