

ALASKA LEGISLATURE COMMITTEE FILES 1983 - 1984 8672

2590 HLC HB 705 - HB 716

2390

HB

705



REALTOR[®]

HB
705

ALASKA ASSOCIATION OF REALTORS[®]

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Attached is a summary of a problem area of vital concern to the real estate industry. The ALASKA ASSOCIATION OF REALTORS is suggesting content for a bill which will address the issue. We seek your consideration and support.

History

From its creation in 1964, as reflected in AS 08.88, the Real Estate Commission's primary purpose has been the protection of the public through the examining and licensing of real estate practitioners. Through 1975, the public's guarantee of monetary relief was a required bond in the amount of \$1000/Salesman and \$5000/broker.

Through the early '70's there were few claims against the bonds; however, the industry realized that the bonding level was not adequately protecting the public's interests. Following the example of twelve other states, (Footnote: 1974 NARELLO Report, page 25) the industry together with the Real Estate Commission actively lobbied for the 1974 legislation (Attachment A: 45.85.010-110 & 08.88.281, .071, & .401) to create a surety fund with a two-fold purpose:

1) to provide indemnification up to \$10,000/transaction for judgments awarded by the courts to persons who suffered financial loss because of a licensee's actions that involved fraud, deceit, misrepresentation, or conversion of trust funds, and

2) to provide funding for real estate education of both the public and the licensees from funds collected in excess of the specified \$250,000 minimum balance in the fund.

The 1974 legislation, which was patterned after the California model, required court action and a judgment against a licensee prior to any disbursement of Surety Fund dollars. However, Alaska's enacted version did not require an attempt to collect money from or attach the assets of the named licensee, nor did it provide for any review by the Commission prior to payment from the fund.

Thus from the 1976 license renewal cycle when the first fees were paid into the surety fund, judges were able to order payment directly from the fund to satisfy a judgment.

These conditions were in effect until 1980 when the statute was amended, initiated by the Legislative Audit Committee during the Sunset Review, to charge the Real Estate Commission with the responsibility to both hear cases and award payments, but without ensuring the full protection of due process and judicial precedent (Attachment B).

The use of hearing officers (as allowed by the Administrative Procedures Act) starting in January 1982 and the regulations adopted by the Commission in December 1982 (effective April 1983) have further attempted to work within the current statute (Attachment C).

- Attachments: A) 1974 Surety Fund Statute
B) 1980 Amended Surety Fund Statute
C) 1982 Surety Fund Regulations

Current Situation

The real estate industry in Alaska consists of some 4000 licensees who support sensible legislation to regulate the industry and to protect the public against illegal real estate practices. This sense of professional responsibility has not changed throughout the 20-year historical summary period outlined above.


Currently there are no filing fees or costs if a claim is denied, nor is the claimant required to exhaust other remedies before receiving satisfaction from the Surety Fund. Thus, the "no-risk" and "no-costs incurred" status of claimants simply encourages claims. Further, the state entity, either contracted or appointed, is in the position of being both judge and jury.

It is the consensus of the industry that a concentrated effort must be made immediately to restore the integrity of the surety fund, both in concept and in actual administration.

Points to Achieve

1. Ensure the rights of all parties to due process through the court system with the determination of a claim's validity and resultant damage assessment in the courts.
2. Maintain the Surety Fund as a resource to be drawn upon only when funds are not collectable from the judgment debtor by any other means.
3. Charge the Real Estate Commission with the responsibility of timely license action on the licensee whose action has resulted in a draw from the Fund.
4. Direct the Real Estate Commission to provide quality education programs to licensees and the public as to licensees' responsibilities under the real estate statutes and regulations.

ALASKA ASSOCIATION OF REALTORS


RITA JO SHOULTZ
President

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: April 2, 1984

REQUEST

Bill/Resolution No.: HB 705
Title: An Act relating to the real estate surety fund
Sponsor: Labor, Commerce & Finance
Requestor: Legislature
Date of Request: March 28, 1984

FISCAL DETAIL

Agency Affected: Real Estate Commission
Program Category Affected: Consumer Protection
BRU, Program or Subprogram(s) Affected: Real Estate Commission/Dept. of Comm. & Econ. Dev.

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
100 PERSONAL SERVICES			[67.0]	[70.0]	[75.0]	[75.0]
200 TRAVEL			[3.0]	[5.0]	[5.0]	[6.0]
300 CONTRACTUAL			[1.0]	[1.0]	[1.2]	[1.2]
400 SUPPLIES			[0.4]	[0.5]	[0.5]	[0.7]
500 EQUIPMENT			[1.0]	-0-	-0-	-0-
600 LAND & STRUCTURES			-0-	-0-	-0-	-0-
700 GRANTS, CLAIMS			-0-	-0-	-0-	-0-
800 MISCELLANEOUS			-0-	-0-	-0-	-0-
TOTAL OPERATING			[72.4]	[76.5]	[81.7]	[82.9]
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND			60.0			
FEDERAL FUNDS						
OTHER SURETY			12.4			
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

- NOTE: 1. Fund payments reduced by 30,000 - 70,000 per year.
2. Current case load will be handled in FY '85 under existing law. Savings will result in FY '86.

ANALYSIS: Attach a separate page for analysis

Prepared By: James L. Magowan, Executive Director Phone: 563-2169
Division: Real Estate Commission Date: _____

Approved by Commissioner: Richard A. Lyon Date: 4/2/84
Agency: Commerce and Economic Development

Distribution (by Agency preparing fiscal note):

Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

12/1/83

H B

70%

MEMO:

3 April, '84

TO: John
FROM: Merrill

RE: HB# 706

John, I have written a short analysis of this bill which is attached, Chat Chatterton will be standing by for a conference call this morning, so that he may testify and answer any questions. Industry will also have someone present. Larry Vavra of Union Oil has suggested an amendment changing the words "price determinations" to "well classifications", because this is actually what the commission does and the price is determined by the classification. Everyone has signed off on the change, but when I talked with Chatterton late Monday, he wanted a slightly different wording to conform with federal regs. I wasn't able to contact Vavra, but am sure it can be worked out during the committee meeting this morning.

QUESTIONS:

1.) As more and more gas wells are discovered in Alaska, is this process going to become burdensome to the commission budget wise?

2.) What would the effects of natural gas decontrol have on this process?

3.) Is there any real need to put this in the statutes if you have been operating without any problems since 1979?

a.) FOLLOW UP: If this is not put into the statutes, could the Governor at a future date transfer the authority to another agency?

4.) Is the decision of the Commission final, or does the applicant have any course of appeal, if there is a disagreement as to the classification of the well?

ANALYSIS

HB# 706 by Labor & Commerce
RE: The authority of the Oil & Gas Conservation Commission

This bill was introduced by the committee as a result of testimony at a March 7th hearing by the Labor & Commerce Committee on HB# 680, a bill relating to underground injection wells. At that hearing Mr. Chat Chatterton, Chairman of the Alaska Oil & Gas Commission, suggested several amendments to HB# 680. The Committee adopted one of the amendments to HB# 680, and recommended that a separate bill be introduced to take care of the other issues.

HB# 706 adds a new subsection to AS. 31.05.030 to make the Alaska Oil and Gas Conservation Commission the state jurisdictional agency over applications for natural gas price determinations, for wells that are outside federal jurisdiction.

Since the Oil & Gas Conservation Commission was established Jan. 1, 1979, by the Governor, it has been performing this function. What the Commission actually does is determine the category for the well, and the price of the gas is determined according to the well category. They have been doing this in compliance with federal law that requires the state Oil & Gas regulatory authority to become the jurisdictional agency. This bill simply adds this authority to state statute.

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: HB 706
 Title: Relating to authority of
Oil & Gas Conservation Commission
 Sponsor: H/Labor/Commerce
 Requestor: _____
 Date of Request: _____

FISCAL DETAIL

Agency Affected: Commerce & Economic Development
 Program Category Affected: _____
Public Protection
 BRU, Program or Subprogram(s) Affected:
Alaska Oil & Gas Conservation Commission

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
REVENUE	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
FULL-TIME						
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis

Prepared By: Chat Chatterton Phone: 279-1433
 Division: Alaska Oil & Gas Conservation Commission Date: _____
 Approved by Commissioner: Richard A. Lyon Date: 4/2/84
 Agency: Commerce and Economic Development

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

12/1/83

ANALYSIS

HB# 706 by Labor & Commerce

RE: The authority of the Oil & Gas Conservation Commission

This bill was introduced by the committee as a result of testimony at a March 7th hearing by the Labor & Commerce Committee on HB# 680, a bill relating to underground injection wells. At that hearing Mr. Chat Chatterton, Chairman of the Alaska Oil & Gas Commission, suggested several amendments to HB# 680, the Committee adopted one of the amendments to HB# 680, and recommended that a separate bill be introduced to take care of the other issues.

HB# 706 adds a new subsection to AS. 31.05.030 to make the Alaska Oil and Gas Conservation Commission the state jurisdictional agency over applications for natural gas price determinations, for wells that are outside federal jurisdiction.

Since the Oil & Gas Conservation Commission was established Jan. 1, 1979, by the Governor, it has been performing this function. What the Commission actually does is determine the category for the well, and the price of the gas is determined according to the well category. They have been doing this in compliance with federal law that requires the state Oil & Gas regulatory authority to become the jurisdictional agency. This bill simply adds this authority to state statute.

PROPOSED AMENDMENT No. 2
FOR
CS House Bill No. 680 L & C

Add to the Bill a new Section 2 as follows and renumber subsequent sections accordingly:

* Sec. 2 AS 31.05.030 is amended by adding a new subsection to read:

(i) The commission shall have the authority to act as the jurisdictional agency over applications involving natural gas price determinations on all wells in Alaska not under federal jurisdiction, pursuant to the "Natural Gas Policy Act" of 1978, Public Law 95-621 and applicable regulations.

**Subpart E—Identification of State and Federal
Jurisdictional Agencies**

[¶ 24,451]

Sec. 274.501 Jurisdictional agency.

(a) *Definition.* Except as provided in paragraph (b), "jurisdictional agency" means:

(1) with respect to a well the surface location of which is on the OCS, the Federal or State agency having regulatory jurisdiction with respect to the production of natural gas. The following agencies have notified the Commission of their authority in this regard.

(i) for OCS wells located in the Gulf Coast Region:

Area Oil & Gas Supervisor
Suite 336
3301 N. Causeway Blvd.
Metairie, LA 70010

(ii) for OCS wells located in the Atlantic Region:

Area Oil and Gas Supervisor
Atlantic OCS Operations
Suite 204
1725 K Street, N.W.
Washington, DC 20244

(iii) for OCS wells located offshore Alaska:

Area Oil & Gas Supervisor
P.O. Box 259
Suite 109
800 A Street
Anchorage, AK 99510

(iv) for OCS wells located offshore California:

Area Oil & Gas Supervisor
160 Federal Building
1340 W 6th Street
Los Angeles, CA 90017

(2) with respect to a well the surface location of which is on lands within the boundaries of a State (including Federal lands and offshore State lands), the Federal or State agency having regulatory jurisdiction with respect to the production of natural gas. The following agencies have notified the Commission of their authority in this regard:

Jurisdictional agency for wells on

State in which well is located	Federal lands	Other lands
Alabama	Area Oil & Gas Supervisor, Suite 204, 1725 K St., N.W., Washington, D.C. 20006	Oil & Gas Supervisor, State Oil & Gas Board, Drawer O, University, AL 35486
Alaska	Area Oil & Gas Supervisor, P.O. Box 259, Suite 109, 800 A Street, Anchorage, AK 99510	Oil & Gas Conservation Commission, 3001 Porcupine Drive, Anchorage, AK 99501
Arizona	Area Oil & Gas Supervisor, P.O. Box 26124, 505 Marquette Ave., N.W., Albuquerque, NM 87125	Oil & Gas Conservation Commission, Suite 420, 1645 W. Jefferson, Phoenix, AZ 85007
Arkansas	Area Oil & Gas Supervisor, 6136 E. 32nd Place, Tulsa, OK 74135	Oil & Gas Commission, A Division of the Arkansas Dept. of Commerce, 314 East Oak, El Dorado, AR 71730
California	Area Oil & Gas Supervisor, 160 Federal Building, 1349 West 6th Street, Los Angeles, CA 90017	Department of Conservation, Division of Oil & Gas, 1416 Ninth St., Rm. 1316, Sacramento, CA 95814
Colorado (except for the west ranges of the New Mexico Principal Meridian)	Area Oil & Gas Supervisor, P.O. Box 2859, 2002 Federal Building & Post Office, Casper, WY 82602	Oil & Gas Conservation Commission, 1313 Sherman Street, Rm. 721, Denver, CO 80203
(c)		
Colorado (only the west ranges of the New Mexico Principal Meridian)	Area Oil & Gas Supervisor, P.O. Box 26124, 505 Marquette Ave., N.W., Albuquerque, NM 87125	
Florida	Area Oil & Gas Supervisor, Suite 204, 1725 K Street, N.W., Washington, D.C. 20006	Administrator of Oil & Gas, Bureau of Geology, Department of Natural Resources, 903 W. Tennessee Street, Tallahassee, FL 32304
Georgia	Area Oil & Gas Supervisor, Suite 204, 1725 K St., N.W., Washington, D.C. 20006	Department of Natural Resources, Geologic & Water Resources Division, 19 Martin Luther King Drive, S.W., Atlanta, GA 30334
Idaho	Area Oil & Gas Supervisor, 160 Federal Building, 1349 West 6th Street, Los Angeles, CA 90017	Idaho Public Utilities Commission, Statehouse Mall, Boise ID 83720
Illinois	Area Oil & Gas Supervisor, Suite 204, 1725 K Street, N.W., Washington, D.C. 20006	Department of Mines and Minerals, Oil & Gas Division, 704 Stratton Office Building, 400 S. Spring Street, Springfield, IL 62766
Indiana	Area Oil & Gas Supervisor, Suite 204, 1725 K Street, N.W., Washington, D.C. 20006	Department of Natural Resources, Oil & Gas Division, 606 State Office Bldg., 100 N. Senate Avenue, Indianapolis, IN 46204
Kansas	Area Oil & Gas Supervisor, 6136 East 32nd Place, Tulsa, OK 74135	Corporation Commission, State Office Building, Topeka, KS 66612
Kentucky	Area Oil & Gas Supervisor, Suite 204, 1725 K Street, N.W., Washington, D.C. 20006	Department of Mines and Minerals, Oil & Gas Division, Box 680, Lexington, KY 40501
Louisiana	Area Oil & Gas Supervisor, 6136 East 32nd Place, Tulsa, OK 74135	Office of Conservation, Box 44275, Baton Rouge, LA 70804
Maryland	Area Oil & Gas Supervisor, Suite 204, 1725 K Street, N.W., Washington, D.C. 20006	Energy and Coastal Zone Administration, Department of Natural Resources, Taxes State Office Bldg., Annapolis, MD 21404
Michigan	Area Oil & Gas Supervisor, Suite 204, 1725 K Street, N.W., Washington, D.C. 20006	Department of Natural Resources, Box 30028, Lansing, MI 48909
Mississippi	Area Oil & Gas Supervisor, Suite 204, 1725 K Street, N.W., Washington, D.C. 20006	State Oil & Gas Board, Box 1332, Jackson, MS 39205
Montana	Area Oil & Gas Supervisor, P.O. Box 2859, 2002 Federal Bldg. & Post Office, Casper, WY 82602	Oil & Gas Conservation Division, Department of Natural Resources and Conservation, 2535 St. Johns Ave., Billings MT 59102, or P.O. Box 217, Helena, MT 59601

¶ 24,451 § 274.501

Federal Energy Guidelines
2/79 00

Jurisdictional agency for wells on		
State in which well is located	Federal lands	Other lands
Nebraska	Area Oil & Gas Supervisor, P.O. Box 2859, 2002 Federal Bldg. & Post Office, Casper, WY 82602.	Oil & Gas Conservation Commission, Box 393, Sidney, NE 68162.
Nevada	Area Oil & Gas Supervisor, 160 Federal Building, 1340 West 6th Street, Los Angeles, CA 90017.	Department of Conservation and Natural Resources, Division of Mineral Resources, Capitol Complex, 201 S. Fall Street, Carson City, NV 89710.
New Mexico	Area Oil & Gas Supervisor, P.O. Box 26124, Marquette Ave., N.W., Albuquerque, NM 87125.	Department of Energy and Minerals, Oil Conservation Division, Box 2088, Santa Fe, NM 87501.
New York	Area Oil & Gas Supervisor, Suite 204, 1725 K Street, N.W., Washington, D.C. 20006.	Department of Environmental Conservation, Bureau of Mineral Resources, 5th Wolf Road, Albany, NY 12231.
North Carolina	Area Oil & Gas Supervisor, Suite 204, 1725 K Street, N.W., Washington, D.C. 20006.	Department of Natural Resources and Community Development, 512 N. Salisbury Street, Raleigh, NC 27611.
North Dakota	Area Oil & Gas Supervisor, P.O. Box 2859, 2002 Federal Bldg. & Post Office, Casper, WY 82602.	Geological Survey, University Station, Grand Forks, ND 58202.
Ohio	Area Oil & Gas Supervisor, Suite 204, 1725 K Street, N.W., Washington, D.C. 20006.	Ohio Department of Natural Resources, 1937 Belcher Drive, Fountain Square, Columbus, OH 43224.
Oklahoma (east of the Osage Reservation)	Area Oil & Gas Supervisor, 6136 East 32nd Place, Tulsa, OK 74135.	Corporation Commission, 220 Thayer Building, Oklahoma City, OK 73105.
(or)		
Oklahoma (Only the Osage Reservation)	Superintendent, Osage Indian Agency, Bureau of Indian Affairs, U.S. Department of the Interior, Pawhuska, OK 74053.	
Oregon	Area Oil & Gas Supervisor, 160 Federal Building, 1340 West 6th Street, Los Angeles, CA 90017.	Department of Geology & Mineral Industries, 1069 State Office Bldg., Portland, OR 97201.
Pennsylvania	Area Oil & Gas Supervisor, Suite 204, 1725 K Street, N.W., Washington, D.C. 20006.	Department of Environmental Resources, Division of Oil & Gas Regulation, 1205 Rossman Bldg., 100 Forbes Avenue, Pittsburgh, PA 15222.
South Carolina	Area Oil & Gas Supervisor, Suite 204, 1725 K Street, N.W., Washington, D.C. 20006.	South Carolina Public Service Commission, P.O. Drawer 11619, Columbia, SC 29211.
South Dakota	Area Oil & Gas Supervisor, P.O. Box 2859, 2002 Federal Bldg. & Post Office, Casper, WY 82602.	Geological Survey, Science Center University, Vermillion, SD 57069.
Tennessee	Area Oil & Gas Supervisor, Suite 204, 1725 K Street, N.W., Washington, D.C. 20006.	State Oil & Gas Board, G-5 State Office Bldg., Nashville, TN 37219.
Texas (East of the 100th Meridian)	Area Oil & Gas Supervisor, 6136 East 32nd Place, Tulsa, OK 74135.	Railroad Commission, Drawer 12367, Austin, TX 78711.
(or)		
Texas (West of the 100th Meridian)	Area Oil & Gas Supervisor, P.O. Box 26124, 505 Marquette Ave., N.W., Albuquerque, NM 87125.	
Utah (except San Juan County)	Area Oil & Gas Supervisor, P.O. Box 2859, 2002 Federal Bldg. & Post Office, Casper, WY 82602.	Division of Oil, Gas and Mining, Utah Department of Natural Resources, 1589 West North Temple, Salt Lake City, UT 84116.
(or)		
Utah (only San Juan County)	Area Oil & Gas Supervisor, P.O. Box 26124, 505 Marquette Ave., N.W., Albuquerque, NM 87125.	
Virginia	Area Oil & Gas Supervisor, Suite 204, 1725 K Street, N.W., Washington, D.C. 20006.	Division of Mines and Quarries, P.O. Drawer V, Big Stone Gap, VA 24219.
Washington	Area Oil & Gas Supervisor, 160 Federal Building, 1340 West 6th Street, Los Angeles, CA 90017.	Oil & Gas Supervisor, Department of Natural Resources, Olympia WA 98504.
West Virginia	Area Oil & Gas Supervisor, Suite 204, 1725 K Street, N.W., Washington, D.C. 20006.	Oil & Gas Division, Department of Mines, State Capitol, Charleston, WV 25305.
Wyoming	Area Oil & Gas Supervisor, P.O. Box 2859, 2002 Federal Bldg. & Post Office, Casper, WY 82602.	Oil & Gas Conservation Commission, Box 2610, Casper, WY 82602.

(b) *Waiver.* In the case of any determination to which a waiver under Subpart C of Part 274 is applicable, "jurisdictional agency" means the Commission.

(c) *Federal lands.* For purposes of this section, "Federal lands" means

(1) all lands leased under:

(i) the Mineral Lands Leasing Act, as amended, 30 U.S.C. § § 181 *et seq.*; and

(ii) the Mineral Leasing Act for Acquired Lands, as amended, 30 U.S.C. § § 351 *et seq.*; and

(2) all Indian lands which are under the supervision of the United States Geological Survey (30 CFR Part 221); and

(3) all Indian lands which are under the supervision of the Osage Indian Agency, Bureau of Indian Affairs, U.S. Department of the Interior.

(d) *Divided-interest leases.* Unless an agreement under paragraph (f) of this section provides otherwise, where a well is located on a divided-interest lease involving Federal (or Indian) and private (or State) ownership:

(1) the Federal jurisdictional agency shall make the determination where the majority lease interest is Federal (or Indian);

(2) the State jurisdictional agency shall make the determination where the majority lease interest is private (or State); and

(3) the State jurisdictional agency shall make the determination where the lease is divided equally.

(e) *Drilling units.* Unless an agreement under paragraph (f) of this section provides otherwise, where a drilling unit is drained by two or more wells, the Federal jurisdictional agency shall make the determination if the completion location of the well in question is located on a Federal (or Indian) lease, and the State jurisdictional agency shall make the determination if the completion location of the well in question is located on a private (or State) lease.

(f) *Agreements.* If the United States Geological Survey and any State jurisdictional agency enter into an agreement authorizing such State agency to make determinations under Subpart A of this part with respect to wells located on Federal lands, or authorizing the U.S. Geological Survey to make such determinations with respect to wells located on State lands, such agreement shall be filed with the Commission. Upon the filing of such an agreement the agency so authorized in the agreement shall be considered the jurisdictional agency with respect to wells on the designated lands to the extent provided in the agreement.

.01 44 F.R. 48664 (August 20, 1979)

.05 *Historical record.*—Section 274.501 originated in 43 F.R. 56448 (12/1/78), effective 12/1/78.

Subsection (a), appearing in 43 F.R. 56448 (12/1/79), effective 12/1/78, read as

follows until its amendment in 44 F.R. 48664 (8/20/79), effective 8/1/79:

(a) *Definition.* Except as provided in paragraph (b), "jurisdictional agency" means:

¶ 24,451 § 274.501

Federal Energy Guidelines
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(1) With respect to a well on the OCS, one of the following offices of the United States Geological Survey:

(i) for OCS wells located in the Gulf Coast Region:

Area Oil & Gas Supervisor
Suite 336
3301 N. Causeway Blvd
Metairie, LA 70010

(ii) for OCS wells located in the Atlantic Region:

Area Oil & Gas Supervisor
Atlantic OCS Operations
Suite 204
1725 K Street, N.W.
Washington, DC 20244

(iii) for OCS wells located offshore Alaska:

Area Oil & Gas Supervisor
P.O. Box 259
Suite 109
800 A Street
Anchorage, AK 99510

(iv) for OCS wells located offshore California:

Area Oil & Gas Supervisor
160 Federal Building
1340 West 6th Street
Los Angeles, CA 90057

(2) With respect to a well the surface location of which is on lands within the boundaries of a State (including Federal lands and offshore State lands), the agency specified in the following table:

[Note: the list of jurisdictional agencies, appearing in 43 F.R. 56448 (12/1/78), effective 12/1/78, is not reproduced.]

Subsection (c), appearing in 43 F.R. 56448 (12/1/78), effective 12/1/78, read as follows until its amendment in 44 F.R. 48664 (8/20/79), effective 8/1/79:

(c) *Federal lands*. For purposes of this section, "Federal lands" means

(1) all lands leased under

(i) the Mineral Lands Leasing Act, as amended, 30 U.S.C. §§ 181 *et seq.*; and

(ii) the Mineral Leasing Act for Acquired Lands, as amended, 30 U.S.C. §§ 351 *et seq.*; and

(2) all Indian lands which are under the supervision of the United States Geological Survey (30 CFR Part 221).

Subsections (d) and (e) newly originated in 44 F.R. 48664 (8/20/79), effective 8/1/79.

Subsection (f) (formerly designated as subsection (d)), appearing in 43 F.R. 56448 (12/1/78), effective 12/1/78, read as follows until its amendment in 44 F.R. 48664 (8/20/79), effective 8/1/79:

(d) *Agreements*. If the United States Geological Survey and any state jurisdictional agency enter into an agreement authorizing such state agency to make determinations under Subpart A with respect to wells located on Federal lands, such agreement shall be filed with the Commission. If such an agreement is filed, then such state agency shall be considered the jurisdictional agency with respect to wells on Federal lands in such state to the extent provided in the agreement.

[Part 275 begins on page 14,541.]

(b) *Waiver.* In the case of any determination to which a waiver under Subpart C of Part 274 is applicable, "jurisdictional agency" means the Commission.

(c) *Federal lands.* For purposes of this section, "Federal lands" means

(1) all lands leased under:

(i) the Mineral Lands Leasing Act, as amended, 30 U.S.C. § 181 *et seq.*; and

(ii) the Mineral Leasing Act for Acquired Lands, as amended, 30 U.S.C. §§ 351 *et seq.*; and

(2) all Indian lands which are under the supervision of the United States Geological Survey (30 CFR Part 221).

(d) *Agreements.* If the United States Geological Survey and any state jurisdictional agency enter into an agreement authorizing such state agency to make determinations under Subpart A with respect to wells located on Federal lands, such agreement shall be filed with the Commission. If such an agreement is filed, then such state agency shall be considered the jurisdictional agency with respect to wells on Federal lands in such state to the extent provided in the agreement.

[Part 275 begins on page 14,541.]

APPLICATION FOR DETERMINATION OF THE MAXIMUM LAWFUL
PRICE UNDER THE NATURAL GAS POLICY ACT (NGPA)
(Sections 102, 103, 107 and 108)

GENERAL INSTRUCTIONS

Complete this form if you are applying for price classification under sections 102, 103, 107 or 108 of the NGPA.

Complete each appropriate item on the reverse side of this page. The code numbers used in items 4 and 6 can be obtained from the Buyer/Seller Code Book. If there is more than one purchaser or contract, identify the additional information in the space below. Also enter any additional remarks in the space below. The data reported on this form are not considered to be confidential and will not be treated as such.

Submit the completed application to the appropriate Jurisdictional Agency as listed in title 18 of the CFR, part 274.501. If there are any questions, call (202) 357-8585.

SPECIFIC INSTRUCTIONS

Use the codes in the table below for type of determination in item 2.

Section of NGPA (a)	Category Code (b)	Description (c)
102	1	New OCS lease
102	2	New onshore well (2.5 mile test)
102	3	New onshore well (1000 feet deeper test)
102	4	New onshore reservoir
102	5	New reservoir on old OCS lease
103	-	New onshore production well
107	0	Deep (more than 15,000 feet) high cost gas
107	1	Gas produced from geopressured brine
107	2	Gas produced from coal seams
107	3	Gas produced from Devonian shale
107	5	Production enhancement gas
107	6	New tight formation gas
107	7	Recompletion tight formation gas
108	0	Stripper well
108	1	Stripper well - seasonally affected
108	2	Stripper well - enhanced recovery
108	3	Stripper well - temporary pressure buildup
108	4	Stripper well - protest procedure

Enter the appropriate information regarding other Purchasers/Contracts:

Line No.	Contract Date (Mo, Da, Yr) (a)	Purchaser (b)	Buyer Code (c)
1			
2			
3			
4			
5			
6			

Remarks:

1/ A gas sales contract has not as yet been agreed upon and/or executed. It is anticipated, however, that it will contain pricing provisions that will permit ARCO to collect the maximum lawful price.

**APPLICATION FOR DETERMINATION OF THE MAXIMUM LAWFUL
PRICE UNDER THE NATURAL GAS POLICY ACT (NGPA)**

1.0 API well number: (If not assigned, leave blank. 14 digits.)	50- 029 - 20585				
2.0 Type of determination being sought: (Use the codes found on the front of this form.)	102 Section of NGPA	4 Category No.			
3.0 Depth of the deepest completion location: (Only needed if sections 103 or 107 in 2.0 above.)	_____ feet				
4.0 Name, address and code number of applicant. (35 letters per line maximum. If code number not available, leave blank.)	ARCO Alaska, Inc., a corporation duly organized under the laws of the State of Delaware			000969 Seller Code	
	Name P. O. Box 2819 (22-108 DAB)				
	Street Dallas, Texas 75221				
	City State Zip Code				
5.0 Location of this well: [Complete (a) or (b).] (a) For onshore wells (35 letters maximum for field name.)	Kuparuk River Oil Pool				
	Field Name North Slope Borough Alaska				
	County State				
(b) For OCS wells:	Area Name Block Number				
	Date of Lease: Mo. Day Yr. OCS Lease Number				
(c) Name and identification number of this well: (35 letters and digits maximum.)	Kuparuk River Unit #1C-8				
(d) If code 4 or 5 in 2.0 above, name of the reservoir: (35 letters maximum.)	_____				
6.0 (a) Name and code number of the purchaser: (35 letters and digits maximum. If code number not available, leave blank.)	None Contract Pending				
	Name Buyer Code				
(b) Date of the contract:	N/A				
	Mo. Day Yr.				
(c) Estimated total annual production from the well:	302.8 Million Cubic Feet				
		(a) Base Price as of 2-1-84	(b) Tax Estimated	(c) All Other Prices [Indicate (+) or (-).]	(d) Total of (a), (b) and (c)
7.0 Contract price: (As of filing date. Complete to 3 decimal places.)	S/MMBTU	0.000	0.000	0.000	0.000 1/
8.0 Maximum lawful rate: (As of filing date. Complete to 3 decimal places.)	S/MMBTU	3.609	0.361	0.000	3.970
9.0 Person responsible for this application:	Dottie J. Martinson Director, Gas Regulations				
Agency Use Only	Name Signature Title				
Date Received by Juris. Agency	<i>Dottie J. Martinson</i>				
Date Received by FERC	February 16, 1984 (214) 880-3550				
	Date Application is Completed Phone Number				

HB

711

APRIL 4, 1984

TO: JOHN

FROM: KEN

RE: HB 711 "RELATING TO THE BOARD OF PUBLIC
ACCOUNTANCY"

BY MANDATE OF ALASKA STATUTES 44.60.050 AND 08.03.010 THE HOUSE LABOR AND COMMERCE COMMITTEE MUST CONSIDER FOR SUNSET REVIEW, THE STATE BOARD OF PUBLIC ACCOUNTANCY. HB 711 WOULD EXTEND THAT BOARD THROUGH 1988.

IF THE COMMITTEE MEMBERS HAVE AND A CHANCE TO REVIEW THE PERFORMANCE REPORT OF THE BOARD OF PUBLIC ACCOUNTANCY, YOU WOULD HAVE NOTED UNDER THE RECOMMENDATIONS SECTION, THERE ARE NO RECOMMENDATIONS MADE BY THE REPORT WHICH INDICATE STATUTE CHANGES ARE NECESSARY. SINCE THE BOARD OF PUBLIC ACCOUNTANCY HAS BEEN GIVEN A CLEAN SLATE IN THE PERFORMANCE REPORT, IT IS MY INTENTION TO PASS HB 711 ON TO THE NEXT COMMITTEE OF REFERRAL, WHICH WOULD BE RULES.

ackley
jensen
architects inc.

March 22, 1984

RE: Board of Registration for Architects,
Engineers and Land Surveyors

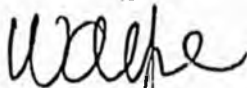
Representative Cowdry, Chairman
Labor and Commerce Committee
Room 209 Behrends Building
Juneau, Alaska

Dear Representative Cowdry:

Thank you for the opportunity to comment on the Committee bill regarding the continuation of the Board of Registration for Architects, Engineers and Land Surveyors. I understand that your committee proposes to continue the board for another four years, to reduce the length of terms to four years, to leave the composition of the board unchanged, and to delete the requirements in CS SB 438 for registrants providing evidence of "continued competence" for renewal of registration.

As President of the board I concur with these positions and feel that the board will also concur. If I can be of further assistance please contact me or any other board member.

Sincerely,



Wayne Jensen

WJ:mec24(2)

HB

716

A PERFORMANCE REPORT
ON THE
BOARD OF PHARMACY

July 1, 1980 to February 28, 1983

Audit Control Number

08-1114-51-83-R

Commissioner, Department of
Commerce and Economic Development

Richard A. Lyon

Deputy Commissioners, Department of
Commerce and Economic Development

Vincent O'Reilly
Terry Elder

Members of the Board of Pharmacy

Chairman
Secretary
Member
Member
Member
Member
Member

Eldon Ulmer
Margaret Soden
Susan Roberts
Robert Snider
James McCorcle
Charles Rush
Sidney Fry

STATE OF ALASKA

AUDIT DIVISION
POUCH W
JUNEAU, ALASKA 99811

THE LEGISLATURE

BUDGET AND AUDIT COMMITTEE

May 17, 1983

Members of the
Legislative Budget and Audit Committee:

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

A PERFORMANCE REPORT ON THE BOARD OF PHARMACY

July 1, 1980 to February 28, 1983



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

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PURPOSE AND SCOPE OF THE REPORT

PURPOSE

In accordance with the intent of Titles 24 and 44 of the Alaska Statutes (sunset legislation), we have reviewed the activities of the Board of Pharmacy for the past three fiscal years. Our examination was conducted to determine if the Board has been operating in an efficient and effective manner.

Legislative intent requires consideration of this report during legislative oversight hearings to determine whether the Board of Pharmacy should be reestablished. The law now specifies that the Board will terminate June 30, 1984, and have one year from that date to conclude its affairs.

SCOPE

The major areas of our examination were the licensing, examination, administration, complaint, and affirmative action functions of the Board. We reviewed and evaluated the following:

1. Applicable statutes and regulations.
2. Interviews with the license examiners.
3. Tests of files and documents of licensees.
4. Complaints filed with the Division of Occupational Licensing, Human Rights Commission, Equal Employment Opportunity Office, Attorney General's Office, and the Ombudsman Office.
5. Discussions with Board members.
6. Minutes of Board meetings and Division correspondence files.
7. Attorney General Opinions applicable to professional boards.

(Intentionally left blank)

ORGANIZATION AND FUNCTION

The Board of Pharmacy is a regulatory board with seven members; two public members having no direct financial interest in the health care industry, and five professional members with three years practical experience and licensed in Alaska. Whenever possible, each judicial district should be represented by a Board member.

The Board regulates five types of licenses; pharmacists, retail pharmacies, wholesale pharmacies, hospital pharmacies and drug rooms. The Board sets the minimum standards to practice in Alaska by:

1. Examining and issuing licenses to qualified applicants.
2. Establishing, amending, or eliminating regulations controlling pharmacy practices.
3. Revoking, annulling or suspending licenses in accordance with the Administrative Procedures Act when a person has violated pharmacy statutes or regulations.

Applicants for registration as a pharmacist are required to pass the National Association of the Boards of Pharmacy Licensing Examination (NABPLEX), and a jurisprudence exam covering Alaska pharmacy law and the Federal Controlled Substance Act.

Pharmacists licensed to practice in another state who apply for licensure in Alaska can be licensed by credentials, except for those applicants from California or Louisiana. These two states require applicants to pass a state exam, not the national exam. Consequently, these applicants must take the national exam when applying in Alaska.

The Board may also issue temporary or emergency permits. Temporary permits allow qualified applicants to practice until the Board can formally license them; emergency permits allow pharmacists licensed in another state to practice in Alaska in an emergency. Both permits are limited in their duration and application.

(Intentionally left blank)

REPORT CONCLUSION

Policy Issues

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

Report Conclusion

In our opinion, the Board of Pharmacy should be reestablished. The regulation and licensing of qualified professionals is necessary to protect the public's health, safety, and welfare. The Board provides this service by establishing minimum educational and experience requirements that provide reasonable assurance that persons licensed are qualified. Also, assurances that those licensed act in a competent manner is provided by active investigation of complaints and revocation or suspension of licenses where appropriate.

However, the following findings describe areas where weaknesses or conflicts exist. We have made recommendations which, if implemented, will improve the efficiency and effectiveness of the Board.

(Intentionally left blank)

FINDINGS AND RECOMMENDATIONS

Recommendation No. 1

The Board of Pharmacy should allow the Division of Occupational Licensing (OL) to perform its administrative duties as described in AS 08.01.050 to improve documentation and file management.

The Secretary of the Board receives license fees and applications, keeps applicant files, sends notification of exam results, and issues temporary permits. Each of these responsibilities has been assigned by the Legislature to the Department of Commerce and Economic Development, Division of Occupational Licensing. The above situation exists because the previous Secretary believed he could be more efficient in maintaining the files and processing the applications. We disagree.

The Division of Occupational Licensing is able to provide continuous, uninterrupted service while Board membership changes causing address changes and file transfers.

Additionally, the Secretary of the Board may not be equipped with the space or security needed to maintain confidentiality of files and to safeguard State assets. Furthermore, applicants become confused about where to send their documents.

Noncompliance with AS 08.01.050 is the major cause of the following problems:

- A. In seven of ten files reviewed for proper permanent licensure, we were unable to assure ourselves the applicant had passed the jurisprudence exam.
- B. In two of the files, we were unable to verify the applicants had satisfied the internship requirement. The Board reviewed these files and was unable to satisfy us that the requirements had been met. One file was missing documentation and the other file had documentation we considered insufficient in relation to that required of other applicants. Most applicants were required to have certified copies of hours worked from supervising pharmacists. In this case, documentation consisted of an internship permit issued by the Board with no evidence any hours had been worked.
- C. Temporary permits are being issued by individual Board members without complete documentation on file in DOL. This procedure has resulted in inconsistent issuances of temporary permits. Furthermore, it allows for the possibility of unqualified individuals being licensed.

Prior to the February 1983 Board meeting, we reviewed each application for permanent licensure scheduled for Board consideration. Each applicant had already been issued a temporary permit. In five of eleven cases, there was insufficient documentation in the applicant's file to show that all requirements for temporary licensure had been met.

By the time of the February 1983 meeting, all necessary documentation to support issuance of temporary permits, except for a jurisprudence exam, had either been received by OL or brought to the meeting by the Secretary of the Board. With the additional documentation, we determined that no temporary permit had been issued to an unqualified applicant. However, the possibility exists for a person to be improperly licensed for a short time.

The Board should ensure all documentation is sent directly to OL. When the file is complete, a member of the Board can either issue the permit or direct OL to issue the permit. This procedure will ensure that all necessary documentation is on file at OL before issuance of temporary permits.

- D. Alaska Statute 08.80.157 requires proof that an applicant for a retail or wholesale pharmacy license has the land, facilities and equipment necessary to carry on business. Also, that the applicant be free of any conviction of a federal or state drug offense and free of any addiction.

We reviewed seven pharmacy files and none of the files contained sufficient documentation to issue a license. We discussed our finding with the Board and determined it was not their policy to include this documentation. They knew who had the facilities and relied on a telephone call from the Drug Enforcement Administration to satisfy the conviction requirement.

We believe the Board should adopt a policy to document satisfaction of the licensing requirements. The procedures need not be elaborate, but should supply sufficient proof that the applicant complies with law.

We recommend the Board ensure that all files, applications, fees and exam results are sent directly to OL. Also, that temporary permits are only issued after all documentation has been received by OL.

Recommendation No. 2

The Board of Pharmacy should reevaluate its regulations governing continuing education.

The following requirements of continuing education should be reviewed.

- A. Regulations require nonacademic programs to have an examination or another method of assuring satisfactory completion of the program before continuing education credit will be given. The Board allowed continuing education credit to be given to an individual when the nonacademic requirement had not been met. The reason given for allowing these credits was that the regulations were too stringent.

If the Board believes its regulations to be arbitrary or unreasonable, those regulations should be changed before accepting nonregulation continuing education credits. Compliance with existing regulations will ensure that all licensees are treated equally and consistently until changes can be made.

- B. The Board has described four instances when they will excuse a licensee from continued competency requirements. These causes are chronic illness, retirement, military service, or hardships as individually determined by the Board.

In our opinion, it is more reasonable to require individuals who have been chronically ill, retired or in the military to demonstrate their continued competency, than those who have not interrupted their practice. We also understand that those persons who have been chronically ill should not be penalized for their illness.

However, the Board has the ability, under the hardship clause, to determine each case individually. They should evaluate the changes in the profession and develop a plan for the individual that would allow him or her to practice while fulfilling the continuing education requirements. This would fulfill the Board's primary purpose to protect the public while not unduly penalizing the professional.

Recommendation No. 3

The Board of Pharmacy and the Division of Occupational Licensing should introduce legislation that will clarify certain statutory requirements.

Alaska Statute 08.01.050(19) places the responsibility for

performing investigations with the Division; Alaska Statute 08.01.070 assigns to the Board the requesting authority. However, AS 08.80.030(3) also gives the Board the authority to conduct investigations. This conflict has caused friction between the Division and the Board.

The Board is concerned that the Division is not informing them of complaints or investigations concerning pharmacy, while the Division is concerned that the Board not become involved in the investigation to such an extent as to prejudice the case. Also, the Board must remain impartial in case they become involved in any disciplinary action against the licensee.

Legislation is necessary to clarify the responsibilities of the Board and the Division so both will be confident they are properly performing their statutory duties.

Recommendation No. 4

The Office of the Governor should ensure that Board members are properly appointed.

In July of 1980, the Legislature limited the number of consecutive terms a Board member could serve to two and reduced the term from five years to four. The intent of AS 08.80.020 as amended, was to make service on the Board accessible to more individuals in the profession.

In discussions with Legislative Affairs' attorneys, it became clear that the intent of the Legislature was to include service prior to July, 1980, in determining the limitation. Three members of the Board of Pharmacy have served longer than is allowed when prior service is applied.

One member has served for sixteen years as of March 31, 1983, thirteen of those years prior to July, 1980. This same member was reappointed after the effective date of AS-08.80.020. At the end of his present term, he will have served nineteen years. Two other members will have served twelve and ten years at the end of their present terms on March 31, 1984 and March 31, 1985, respectively.

Additionally, three members of the Board appointed after the effective date of the legislation, have been appointed for five year terms instead of four.

We recommend the Office of the Governor ensure that Board members are appointed in accordance with statute.

ANALYSIS OF PUBLIC NEED

Limited Analysis

The following analyses indicate both positive and negative factors as they relate to the public need as defined in the "sunset" law. These analyses are not intended to be comprehensive, but to address those areas we were able to cover during our review.

- I. The extent to which the board, commission or program has operated in the public interest.
 - A. The Board has held public meetings three times a year.
 - B. The Board administers the pharmacy test yearly.
 - C. The Board has passed regulations concerning dangerous drugs, continuing education as proof of continued competency, false or misleading advertisement of drugs, and prepackaging of drugs in hospital drug rooms.
 - D. The Board was instrumental in passage of the Controlled Substance Act and the Marijuana Therapeutic Research Program.

- 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 Board adopted continuing education regulations that may be too stringent. The Board is reconsidering these regulations (see Recommendation No. 2).

- 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 actively supported passage of the Controlled Substance Act; it became effective January 1, 1983.
 - B. The Board succeeded in having various obsolete or vague statutory requirements repealed which provided for smoother operation of the Board.

- 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. Board meetings are announced to the public. Comments on regulation changes are solicited by announcement in public newspapers. The Board does not actively solicit comments on its effectiveness.
- 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 announces proposed regulation changes or additions in newspapers according to the Administrative Procedures Act.
- 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. We found no problems in this area.
- VII. The extent to which a board or commission which regulates entry into an occupation or profession has presented qualified applicants to serve the public.
- A. We found no instances where the Board had licensed unqualified practitioners.
- B. The Board has licensed 83 pharmacists in the last three years, all but eight were licensed by credentials.
- 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. Applications for licensure as a pharmacist require information and photographs which the Division of Equal Employment Opportunity (EEO) believes may not be necessary to determine the qualifications of the applicant.

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 factors enumerated in this subsection.

Please refer to the recommendation section of this report.

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APPENDIX A

BOARD OF PHARMACY
REVENUES COMPARED WITH EXPENDITURES
For the Fiscal Year Ended June 30, 1982

(UNAUDITED)
(Note 1)

Average Revenues (Note 2)	\$42,763
Less: Expenditures (Note 3)	<u>46,166</u>
Excess of Expenditures Over Revenues	<u>\$ 3,403</u>

<u>Revenue Type</u>	<u>Amount</u>	<u>Collection Time</u>
Examination Fee	\$ 50	With application
Re-examination Fee	15	With application
Investigation Fee	25	With application
Pharmacist Fee	200	With license issuance
Pharmacist Renewal Fee	200	Every four years
Temporary License Fee	20	With permit issuance
Wholesale Drug Dealer Fee	200	With license issuance
Wholesale Drug Dealer Renewal Fee	200	Every four years
Retail Pharmacy Fee	200	With license renewal
Retail Pharmacy Renewal Fee	200	Every four years
Pharmacy Interim Fee	10	With license issuance
Emergency Permit Fee	10	With permit issuance
Hospital Pharmacy Fee	200	With license issuance
Hospital Pharmacy Renewal Fee	200	Every four years
Hospital Drug Room Fee	100	With license issuance
Hospital Drug Room Renewal Fee	100	Every four years
Nursing Home and Related Facility Fee	100	With license issuance
Nursing Home and Related Facility Renewal Fee	100	Every four years
License Amendments or Renewal Fee	10	When applicable

Note 1

This revenue/expenditure comparison was prepared from available records and discussions with Occupational Licensing personnel. The records were not audited by us and accordingly we do not express an opinion on the Board's Revenues Compared with Expenditures.

Note 2

The majority of the revenues collected are composed of license renewal fees. These fees are collected by most boards once every two or four years and causes 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 1981 and 1982 in order to obtain a more accurate representation of revenues collected.

Note 3

Expenditures include those made by board members, such as travel and per diem, and an allocated percentage (estimated) of total administrative expenses of the Division of Occupational Licensing. They do not include expenditures for efforts of other departments (such as the Department of Law) assisting the boards and the Division.

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STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

**DEPARTMENT OF COMMERCE &
ECONOMIC DEVELOPMENT**

POUCH D
JUNEAU, ALASKA 99811
PHONE: 465-2500

OFFICE OF THE COMMISSIONER

June 28, 1983

RECEIVED
JUL 06 1983
LEGISLATIVE
COUNCIL

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

Dear Mr. Wilkerson:

Re: Board of Pharmacy -
Performance Report

Thank you for the opportunity to respond to the performance audit of the Board of Pharmacy and the Division of Occupational Licensing which is dated July 1, 1980 to February 28, 1983.

We concur with your evaluation that the Board of Pharmacy should continue to exist in interest of the public's health and safety. Your suggestions will be evaluated for implementation. Those determined to improve the efficiency and effectiveness of the division and the board will be strongly supported and recommended. We have reviewed each of your recommendations and will provide you with this agency's position if we do not agree.

RECOMMENDATION #1.

The board of Pharmacy should allow the Division of Occupational Licensing (DOL) to perform its administrative duties as described in AS 08.01.050 to improve documentation and file management.

We concur in this recommendation, and cooperative efforts have recently improved. As mandated by legislation, and in the interest of efficiency, DOL is committed to assisting the Board of Pharmacy in all areas.

RECOMMENDATION #2.

The Board of Pharmacy should reevaluate its regulations governing continuing education.

June 28, 1983

This agency is continuing a review on requirement of continuing education by licensing agencies (boards). We do not agree that continued education ensures continued competency. As a licensing agency we determine that competency is the most important. Competency ensures the safety of the consumer. We also take the position that initial licensing is based on minimum qualifications; retesting on the entrance level may serve the purpose of ensuring continued competency. Continued education would, or should, be viewed as the professional association's responsibility to ensure knowledgeable professionals. This would also be in keeping with less government regulations and letting industry regulate itself.

RECOMMENDATION #3.

The Board of Pharmacy and the Division of Occupational Licensing should introduce legislation that will clarify certain statutory requirements.

We concur with this recommendation. This agency has been working with the Legislative Code Revision Committee in rewriting Title 8. This would have deleted the fragmentation throughout Title 8 and the various chapters. This effort was resisted by the board as an effort to diminish its authority. We will seek to have legislation submitted to clarify the issue of conflict within the statutes.

RECOMMENDATION #4.

The Office of the Governor should ensure that board members are properly appointed.

We would assure the auditors this has been addressed by the Governor's Office and by the Department of Law.

Again, thank you for the opportunity to respond to your report. Please feel free to contact this agency or the Division of Occupational Licensing if additional information or clarification is needed. Be assured, we determine your comments and findings to be fair and in the best interest of Alaskan consumers and professional pharmacist.

Sincerely,



Richard A. Lyon
Commissioner

RAL/cw#23DD1
628838

Ulmer



DOWNTOWN REXALL DRUG
415 West 5th - P.O. Box 1420
Anchorage, Alaska 99510 • (907) 277-2567

ANCHORAGE PROFESSIONAL PHARMACY
2841 DeBarr Rd., Suite #225 • Box 1420
Anchorage, Alaska 99510 • (907) 264-1650

ULMER REXALL & TRUE VALUE HARDWARE
Lakeside Mall • Box 520
Anchorage, Alaska 99503 • (907) 235-8594



23 March 1984

Honorable Joe L. Hayes
SPEAKER OF THE HOUSE
of Representatives
Pouch V
Juneau , Alaska 99811

Dear Joe,

Many thanks for your letter of March 17. It is gratifying to me to know that you , Representative Cowdery, and Senator Eliason are taking a hard look at what is happening regarding implementation of Alaska's Controlled Substance Act and particularly AS 17.30 of that Act.

The Board of Pharmacy was handed the ball by the Legislature, along with funding to hire an Executive Secretary and Investigator. Unfortunately these titles were not included as specific wording in the law , although these positions were repeatedly mentioned when the legislation was being considered and passed.

Board requests for an Executive Secretary , have repeatedly been ignored by the Governor, the Commissioner of Commerce , and the Director of Occupational Licensing (DOL). I believe all of them have a misconception of the intent , the importance , and the timely implementation of the Law.

Federal statistics, on file with the Alaska Department of Law , show that controlled substance from the legitimate industry account for some 60 % of deaths of patients brought to hospital emergency rooms with drug related problems (nation wide). Statistics also show , over 60% of drug related problems of patients being treated in hospital emergency rooms, come from drugs from the legitimate industry. These drugs are obtained by armed robbery, by after hour breakins, by prescriptions from unscrupulous practitioners, by forgery of prescriptions, or by sale by unscrupulous pharmacists.....but all from the legitimate industry.

The federal Drug Enforcement Administration (DEA) and state and local drug enforcement units have their hands full dealing with the "street traffic" illegitimate entrance of and use of controlled substances in all states . They rely on state laws, such as Alaska's AS 17.30 to deal with the legitimate industry. Most states effectively do this through their Boards of Pharmacy. No big bureaucracy is needed . Wyoming does it quietly, and cost effectively with one Executive Secretary and one Investigator, under the direction of its Board of Pharmacy. Alaska would do well to emulate this program and the Board planned just that.

ulmer



DOWNTOWN REXALL DRUG
415 West 5th - P.O. Box 1420
Anchorage, Alaska 99510 • (907) 277-2567

ANCHORAGE PROFESSIONAL PHARMACY
2841 DeBarr Rd., Suite #225 • Box 1420
Anchorage, Alaska 99510 • (907) 264-1650

ULMER REXALL & TRUE VALUE HARDWARE
Lakeside Mall • Box 520
Homer, Alaska 99603 • (907) 235-9504



23 March 1984

Honorable Joe L. Hayes
page 2.

You and Representative Cowdery and Senator Eliason all have documented evidence of the valient effort by the Board of Pharmacy to carry out the intent of the Legislature. I will not repeat all of that here, but it is important for you to know that I did spend many long hours drafting bothproposed regulations and job qualifications and a job description for the Executive Secretary. The later may be of value to you when you propose legislation to mandate creation of the position.

Again thanks for your letter , your interest , and your help in drafting and passing legislation that will clarify legislative intent . If I can be of assistance in this effort , please call me.

Since the Governor removed me from the Board, and refused to reappoint the member from Sitka and has indicated that he will not reappoint the present experienced Secretary of the Board, the Board will be down to one professional and one lay member with any real experience . The new inexperienced Board will desperately need the Executive Secretary .

Sincerely,

Eldon R. Ulmer, R.Ph

Copy: Representative John Cowdery
Senator Dick Eliason
Charles Rush , R.PH. Secretary Board of Pharmacy

STATE OF ALASKA

DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

DIVISION C: OCCUPATIONAL LICENSING

BILL SHEFFIELD, GOVERNOR

POUCH D
JUNEAU, ALASKA 99811
PHONE: (507) 465-2534

July 29, 1983



Eldon Ulmer, R.Ph.
Chairman
Board of Pharmacy
P.O. Box 101420
Anchorage, Alaska 99510

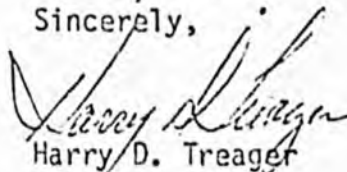
Dear Mr. Ulmer:

Re: Executive Officer Position

This correspondence is to advise you that efforts of Mr. Jim Lawson, personnel officer, Department of Commerce and Economic Development, were to no avail in changing the position of the investigator to an executive officer.

We should proceed immediately to fill the position as mandated by legislation.

Sincerely,



Harry D. Treager
Director

HDT/cw#2707
72983A
cc: Dick Long

William Sheffield,
~~XXXXXXXXXX~~ Governor

**DEPARTMENT OF COMMERCE &
ECONOMIC DEVELOPMENT**

DIVISION OF OCCUPATIONAL LICENSING

POUCH D
JUNEAU, ALASKA 99811

5 March 1983

Eldon R. Ulmer , R.Ph.
President, Board of Pharmacy
P.O. Box 101420
Anchorage, Alaska 99510

Mr. Harry Treager
Director
Division of Occupational Licensing
Pouch "D"
Juneau , Alaska 99811

Dear Mr. Treager:

Please consider this letter and supportive information attached , as an official request for action by you , from the Board of Pharmacy .

When you met with the Board in Juneau on February 25, 1983, you requested that I write to you asking your help in obtaining changes in the "designation of personnel" portion of the budgeted line items for implementation of AS 17.30 and AS 17.35 by the Board of Pharmacy.

You also asked for a job description for the Boards designation of "EXECUTIVE-SECRETARY-INSPECTOR" . In the five pages, attached, stating purpose , and including narrative , conclusion , and an addendum, I have attempted to do that . It is complex , to say the least, but I do believe it conveys the intent of the legislature and a means of implementing that intent.

Please expedite your request for the line item change so we may proceed at once. We are already two months into 1983 , and need to go at full speed in the next month or two .

Let me know as soon as you have hired the regulation specialist that you promised to hire and base in Anchorage. I have five pages of suggested regulations covering not only AS 17.30, but also AS 17.35 . I have a commitment from all four of the physicians to serve in the various categories on the Patient Qualification Review Committee and need the specialist to aid in getting my proposed applications for those positions . into printed form, so letters of appointment may be sent.

Sincerely,


Eldon R. Ulmer, R.Ph.

William Sheffield,
Governor

**DEPARTMENT OF COMMERCE &
ECONOMIC DEVELOPMENT**

DIVISION OF OCCUPATIONAL LICENSING

5 March 1983

POUCH D

JUNEAU, ALASKA 99811

Eldon R. Ulmer , R.Ph.
President, Board of Pharmacy
P.O. Box 101420
Anchorage, Alaska 99510

Mr. Harry Treager
Director, Division of Occupational Licensing.....

Enclosure: Five pages of supportive material.

COPY TO: Honorable William Sheffield,
Governor, State of Alaska
Pouch "A" State Capitol Building
Juneau , Alaska 99811

Richard A. Lyon, Commissioner Commerce & Econ. Dev.
Pouch "D"
Juneau , Alaska 99811

Honorable Joe Hayes, Speaker of House of Representatives
Pouch "V"
Juneau , Alaska 99811

Honorable Jalmar Korttula, President of the Senate
Pouch "V"
Juneau , Alaska 99811

Norman Gorsuch, Attorney General
Department of Law
Pouch "K"
Juneau , Alaska 99811

Dan Hickey, Chief Prosecutor,
Department of Law
Pouch "K"
Juneau , Alaska 99811

ALL MEMBERS OF ALASKA BOARD OF PHARMACY

Gerald Wilkerson, CPA
Legislative Auditor
Pouch "W"
Juneau, Alaska 99811

ALASKA STATE BOARD OF PHARMACY

IMPLEMENTATION

CONTROLLED SUBSTANCE STATUTE AS.17.30
AND

MARIJUANA THERAPEUTIC RESEARCH
PROGRAM STATUTE AS.17.35

The Legislature passed the CONTROLLED SUBSTANCE STATUTE AS 17.30 AND THE MARIJUANA THERAPEUTIC RESEARCH PROGRAM STATUTE AS 17.35 IN 1982 with an effective date of January 1, 1983.

Much of the responsibility for the implementation of these two statutes rests with the Board of Pharmacy. The legislation did not specifically address the funding for the implementation, nor the number or type of personnel that would be needed for implementation.

The Board of Pharmacy has been planning, since 1981, for the responsibilities that many believed would be vested with the Board, but could make no definite plans until enactment was accomplished and an effective date established.

The Board is now faced with problems of selecting and funding personnel to insure a timely implementation of its responsibility.

NARRATIVE:

Under Sec 17.30.010 Regulations must be promulgated.

Under Sec 17.30.020, (a), (b), (c), (d), (e) & (f) Registration requirements must be met.

Under Sec 17.30.030 (a), (b), & (c) Registration must be accomplished.

Under Sec 17.35 Marijuana Therapeutic Research, a program must be established, physicians interviewed and appointed to the Patient Qualification Review Committee and regulations must be adopted to assure this program is administered at a state level that is compatible with Federal Statutes.

All of above can not be accomplished in three meetings of two days each presently budgeted for the Board.

Competent, qualified and experienced personnel must be hired, and fast, to accomplish the mandate of the legislature.

With this in mind the Board as early as June 1981, started setting up a proposed budget and establishing goals and objectives, even though no law was on the books at that time.

At two of its three meetings in 1982, after the enactment of the legislation, but still prior to the effective date, the Board again established goals and an accompanying proposed budget. This fact may be verified by the minutes of all of the above cited meetings and the attached goals and objectives to those minutes.

Throughout the meetings, evidence of the Board's intent can be clearly identified. Never did the Board waver from its intent to hire a "Executive-Secretary" type person to come on board in a full time position. Various budget figures were submitted in the range of \$ 85,000.00 for the period January 1, 1983 through June 30, 1983 (a half year) to fit the fiscal budget time frame from effective date of January 1, 1983.

N A R R A T I V E : (continued)

The Board does not enjoy budget-bypass priveledges and must submit a budget through the Division of Occupational Licensing . It is the Boards understanding that this budget is then submitted through the Division of Commerce and Economic Developemnt and on to the House and Senate Budget Committees .

The Board DID submit a budget , both for the fiscal year 1983 and again for the half-fiscal year 1983(January 1,1983 through June 30 , 1983. The 1983-84 Fiscal year budget was submitted to the Division of Occupational Licensing also, and it is presently in the process.

With each budget request , a breakdown was also submitted. In every request there is an audit trail established in the minutes of meetings and in letters. The Board always included expenses for a position that was labeled various ways , but either was called " Executive-Secretary" or a combined position of "Exec utive-Secretary-Investigator-Examiner.

The Board realized that a regulation specialist would be needed to promulgate all of the regulations mandated by statute and budgeted for that position also . The Board also ralized that , although it has always been assigned an inspector , by the DOL , that a full time inspector would aslo be needed , in addition to sharing the one used in the past . This would then amount to an investigator and a half (the half one being shared with other boards) and the full time one being used in the extensive investigatory work anticipated in the drug enforcement area .

Somewhere, in the translation from Board minutes and vocal requests, made by the Board to the Director of Occupational Licensing , MUCH WAS LOST. The Board recently was made aware that line item budget items were requested OR AT LEAST GRANTED in the budget , TIED to specific personnel. This personnel is defined, according to the DOL for two regulation specialists and two investigators . These people are in addition to the regular licensing examiner that is assigned to each board and usually shared by at least one other board. The regulation specialists and the two investigators were to be the people that would aid the Board in emplementing its work.

This will just NOT WORK. The Board needs an Executive-Secretary type person , comparable to those in the employee of other states , such as Washington, Oregon, and Wyoming, where state pharmacy boards have full responsibility for their states controlled substance statutes. The Board has in mind at least three people , two of which would be excellent, and who have indicated a desire to come to Alaska . These people have been employed for at least five years as executive-secretaries, and also have investigate exeperience , and have been involved in the administration of both controlled substance legislation and marijuana research programs . Just the type of person with just the type of experience needed in the initial

NARRATIVE : (continued)

stage of the program in Alaska . Unfortunately ,no such position is specifically listed in the job classification program of the state, directly identified with the Pharmacy Board . Similiar positions do exist with the Board of Nursing and others, but not Pharmacy.

The Board of Pharmacy does not need, in the initial organization , two investigators . The Board does desperately need an experienced executive-secretary type, on a day-by-day basis to get the programs initiated and then properly administrated .

The Director of the Division of Occupational Licensing has agreed to submit the Boards desires as to changing the budget line item identification from two regulation specialists and two investigators to the personnel that could do the job , as long as the Board stays within the budgeted dollars. The Board has been informed that it has , budgeted dollars covering the four people mentioned above, in the amount of \$ 75,000.00 for the period January 1, 1983 through June 30 , 1983 . The Board has asked the director of DOL to make the following request:

-Investigator/	
Executive-Secretary-Inspector	range of \$45,000.00/yr
Estimated 30 % of salary for office etc	13,500.00/yr
One full time regulation specialist	33,000.00/yr
Estimated 30% of salary for office	9,900.00/yr
Licensing Examiner(or secretary type)	28,000.00/yr
Estimated 30 % for office etc.	8,400.00/yr
<u>TOTAL FOR ONE YEAR</u>	<u>\$ 137.800.00/yr</u>

This would break down to \$ 68,900.00 for the remainder of fiscal year 1983(half year Jan 1 through June 30 , 1983).and well under the \$75,000.00 Budgeted . The figures above may be slightly off , but should be fairly close and definitely on the conservative side considering the licensing examiner budgeted above for full time Pharamcy Board work , when she would probably be used part time with another board.

The Director of The Division of Occupational Licensing has , asked that the President of The Board Of Pharmacy write him a letter asking for his cooperation in requesting the change and in addition attempt to write a job experience qualification requirements and a job description for the position of Executive-Secretary-Investigator .

The letter has been written and will be sent to the Director along with this narrative and a conclusion statement. Copies of all material will also be sent to The Governor, The Commissioner of Commerce & Econom'c Development, The Speaker of the House of Representatives, The President of the Alaska State Senate. all Board of Pharmacy Members, and Legislative Sunset Review Committee, and The Attorney General , and Department of Law.

C O N C L U S I O N :

EXECUTIVE-SECRETARY-INVESTIGATOR FOR BOARD OF PHARMACY:

Qualifications:

1. Five years experience with another Board of Pharmacy, of which three years must be in the position of executive-secretary and the remainder in the position of investigator.
2. Experienced in administering controlled substance law of a state, under direction and supervision of a pharmacy board.
3. Experience in administering a marijuana therapeutic research program under the direction and supervision of a board of pharmacy.
4. Experience maintaining files and registration and licensing of pharmacists and controlled substance registrants at the direction and under the supervision of a board of pharmacy.
5. Be a registered pharmacist in a state recognized by the National Association of Boards of Pharmacy and be required to become registered as a pharmacist in the State of Alaska within six months of being hired as Executive-Secretary-Investigator by the State of Alaska.

J O B D E S C R I P T I O N :

UNDER THE SUPERVISION AND AT THE DIRECTION OF THE BOARD OF PHARMACY AND UNDER THE MANDATES OF AS.08.01., CENTRALIZED licensing statute and AS 08.80 PHARMACY ACT.:

1. Assist Board in process of registration of all Drug enforcement registrants under the Federal Law under the AS 17.30 Alaska State Statute, including design of application form and license.
2. Maintain record of registration and licensure under AS 17.30 with such records properly maintained at the Division of Occupational Licensing.
3. INVESTIGATE violations of any state or federal law under the jurisdiction of the Board of Pharmacy and at the direction of the Board of Pharmacy and the Division of Occupational Licensing.
4. Aid Board in the administration of the Marijuana Therapeutic Research Program AS.17.35, including maintaining records at the Division of Occupational Licensing, and aiding the Patient Qualification Review Committee in processing applicants under that program.
5. Cooperate with all state and federal law enforcement agencies at direction of Board of Pharmacy.

C O N C L U S I O N . : (continued)

6. Follow direction of DOL in maintaining records, issuing licenses , receiving fees, and any other job requirements assigned to licensing examiners , including:
 - (a) Collecting fees & issuing receipts;
 - (b) Maintaining records and files ;
 - (c) Issuing & receiving application forms;
 - (d) Notifying applicants of acceptance or rejection of applicants as determined by Board;
 - (e) At direction of DOL & Board, notifying applicants for any licensure under AS 08.80 or AS 17.30 of examination dates or license renewal dates.
 - (f) Arrange space for holding examinations
 - (g) Notify applicants of results of examinations;
 - (h) Issue licenses & certificates or temporary licenses or certificates as authorized by Board
 - (i) Answer routine inquires ;
 - (j) Maintain a current registry of all licenses issued under AS 08.80 & AS 17.30
 - (k) Perform other services as requested by board consistant with requirements of AS 08.80 & AS -7.30 & As 17.35.

7. Perform the following job description duties as mandated by and established by investigative procedures of DOL & Board.
 - (a) (b) (c) etc.....to be inserted by DOL & consistant with job description duties of INVESTIGATORS .

NOTE: It is the intent of the Board of Pharmacy that the above person be employed, under state employment laws , by the Division of Occupational Licensing ., The Director would, in effect , be the person's boss , and would direct the duties and performance of the person, at the request and with direct input , from the Board of Pharmacy. The person would reside in the Anchorage area , working out of the Division of Occupational License office in Anchorage.

ADDENDUM:

The above job decription, narrative, and conclusion solves the problem temporarily., however the problem may ultimately have to be addressed by the legislature . The Board of Pharmacy in offering the solution , listed here, is attempting to carry out the wishes of the Legislature, so the important programs may be started at once and carried out to the best of the ability of all involved.

Ulmer



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Lakeside Mall • Box 520
Anchorage, Alaska 99603 • (907) 235-11594



J. J. COWDERY
PHARMACY
FILE

John J. Cowdery
Chairman, Labor & Commerce Committee, House
Alaska State Legislature

Richard I. Eliason
Chairman, Labor & Commerce Committee, Senate
Alaska State Legislature

Pouch V (MS 310)
Juneau, Alaska 99811

Dear Chairmen Cowdery and Eliason:

Your Committees will be considering legislation as to the Sunset of the Board of Pharmacy, and in the process (should the Board be continued) passing legislation that would modify or change the laws that mandate how the Board will operate in the future.

The Legislature in 1982 passed the Controlled Substance Act. The portions of that act that deal with the legitimate industry are AS 17.30 and AS 17.35. The Legislature placed the responsibility of administering these sections with the Board of Pharmacy. These sections, AS 17.30 and AS 17.35 went into effect on January 1, 1983.

You have copies of the Board's REPORT TO THE LEGISLATURE FY'83. The report is voluminous and will not be repeated here, other than to state the fact that the Board has been frustrated by lack of support from the administration and from the Division of Occupational Licensing, in its dedicated effort to implement the intent of the Legislature.

The key to the successful implementation of the law lies in the request made by the Board involving the personnel being hired to aid the Board in doing the job.

The Board requested, within the budget, that an executive director be hired. The Board President wrote both a job description for this position and the qualifications for the job. Special exemption implementation was requested so this position could be added to the appropriate personnel section of the department of personnel.

Ulmer



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7 March 1984

Cowdery/Eliason
page 2.

No action was taken by either the Administration or the Division of Occupational Licensing Result....the implementation floundered. All of the legitimate industry that is allowed by Federal Law to be involved with controlled substances , and that is licensed by the Federal Drug Enforcement Agency (DEA) should have been licensed by the State of Alaska during calendar year 1983 . They were not . This inspite of a valient effort by the Board of Pharmacy. This situation must be changed, either by the special exemption route or by legislation establishing an executive secretary position for the Board of Pharmacy.

Federal studies obtained by the Department of Law, show that in excess of 60 % of drug related deaths that involve emergency rooms of hospitals are caused by drugs secured through the legitimate industry . These drugs were obtained by a number of ways and include armed robbery of drug stores, break ins after hours of drug stores or other places legitimately handling controlled substances, unscrupulous writing of prescriptions by practitioners, forged prescriptions , dishonest pharmacists , physicians, nurses , warehousemen, or employees of establishments legally handling controlled substances.

The Board of Pharmacy has been promised copies of all controlled substance order forms that are processed from Alaska, IF AND WHEN the Board licenses the practitioners. This information will allow Alaska to determine where the controlled substances are going and at what volume. Practitioners using large quantities can then be cost effectively investigated and possible illegal transactions uncovered and stopped . The Federal DEA is not now doing this. They will cooperate with any state to aid the state BUT DEA FUNCTION IS LARGELY WITH THE ILLEGITIMATE DISTRIBUTION , AND SO CALLED STREET TRAFFIC AND AIRPORT TRAFFIC OF DRUGS. Each state is expected to police its own legitimate industry, and the DEA will supply any information that will aid the state , providing a licensing procedure is established.

In closing , may I suggest that the legislature write the necessary legislation establishing an executive secretary to function under the direction of the Board of Pharmacy

Ulmer



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7 March 1984

Cowdery, Eliason
page 3

so the original intent of the 1982 Legislature can be effectively carried out.

As a former Board of Pharmacy member of some seventeen years and as President of the Board for much of that time, I am concerned that AS 17.30 & AS 17.35 be implemented as rapidly and as cost effectively as possible.

The Administration has removed one experienced member from the Board, and has told the Board through his staff, that no members will be reappointed at the expiration of their terms, whether partial or complete terms. The make up of the future Board, when the present Secretary is replaced in a few months, will be mostly new inexperienced people. No matter how dedicated these people may be, it will take time for them to be effective members. They will desperately need an experienced and qualified executive secretary. Several very qualified and experienced people who have been functioning as executive secretaries of Boards of Pharmacy for some of the Western States, have indicated an interest to come to Alaska and accept such a position here. Their experience in all areas of controlled substance law administration covers some eight to ten years. Once the position is mandated by legislation one of these people should be brought on board at the earliest date.

Thank you for considering my remarks and suggestions, If I may be of further service or of any help, I will be glad to travel to Juneau at my own expense to offer testimony.

Sincerely,

Eldon R. Ulmer, R.Ph.

COPY: Charles Rush, R.Ph. Secretary - Board of Pharmacy
Joe L. Hayes, Speaker - Alaska State House of Representatives
Jalmar K. Kerttula, President - Alaska State Senate
William Sheffield, Governor - State of Alaska
Dick Lyon, Commissioner Dept Commerce & Economic Development

Ulmer



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7 March 1984

John J. Cowdery
Chairman, Labor & Commerce Committee, House
Alaska State Legislature

Richard I. Eliason
Chairman, Labor & Commerce Committee, Senate
Alaska State Legislature

Pouch 7 (MS 3100)
Juneau, Alaska 99811

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The key to the successful implementation of the law lies in the request made by the Board involving the personnel being hired to aid the Board in doing the job.

The Board requested, within the budget, that an executive director be hired. The Board President wrote both a job description for this position and the qualifications for the job. Special exemption implementation was requested so this position could be added to the appropriate personnel section of the department of personnel.

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7 March 1984

Cowdery/Eliason
page 2.

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7 March 1984



Cowdery/ Eliason
page 3

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Eldon R. Ulmer
Eldon R. Ulmer, R.Ph.

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Ulmer



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2 March 1984

Honorable John J. Cowdery
RepresentativeDistrict 8
Alaska State Legislature
Pouch V (MS 3100)
Juneau , Alaska 99811

Dear John:

I am enclosing the REPORT TO THE LEGISLATURE for
FY 83 by the Board of Pharmacy. Except for part
2 and 3 , I prepared the whole thing.

The report, along with the Addendums, will give you
the story.

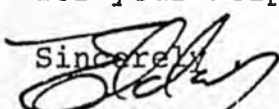
I am off the board , as I told you . Fired by the
Governor on a trumped up excuse that I had been
appointed illegally by Hammond. I am just as interested
now , as when I was on the board , in making sure the
intent of the Legislature is carried out and that the
Controlled Substance Act AS 17.30 and companion
act AS 17.35 is implemented. The present administration
has done almost nothing to help the Board of
Pharmacy get this important piece of legislation
in place and functioning.

I would like to testify on behalf of myself, as to
the need to continue the Board of Pharmacy and to
the urgency of an early implementation of AS 17.30 and
AS 17.35 , by the Board as was intended by the
enactment of the legislation.

Please let me know when you plan hearings and where
they will be held. The word I have now is that you
will be addressing the Sunset of the Board on
March 8 , 1984 , in Juneau. If this date and place
is correct , please let me know time of day and
place in Juneau, or where ever , that the hearings
will be held.

Good talking to you in Anchorage last week end. Thanks
for your help.

Sincerely,


Eldon R. Ulmer, R.Ph

ENCL: Report to Legislature

BOARD OF PHARMACY

Report to the Legislature FY ' 83.

Submitted August 11 , 1983

CONTENTS:

1. Cover Letter .	ULMER
2. Narrative Statement.	SODEN
3. Statistical Overview .	BRANSON
4. Review of prior years objectives .	ULMER
5. Goals and Objectives for FY ' 84	ULMER
6. Budget Recommendations .	ULMER

Addendum # 1 :	Ulmer letter to Treager	5 March 1983
Addendum # 2 :	Governor's letter to Ulmer	28 March 1983
Addendum # 3 :	Lawson letter to Treager	13 April 1983
	(cover letter Treager to Ulmer)	15 June 1983
Addendum # 4 :	Treager letter to Ulmer	29 July 1983
* Addendum # 5 :	Notice of Proposed Regulation changes	13 July 1983

* This is a FY '84 action item , but shown here as these regulations were reviewed in FY ' 83 & passed at a FY '83 board meeting.

STATE OF ALASKA

DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

DIVISION OF OCCUPATIONAL LICENSING

August 11 , 1983

BILL SHEFFIELD, GOVERNOR

Board of Pharmacy
POUCH D
JUNEAU, ALASKA 99811
PHONE: (907) 465-2534

Mr. Harry D. Treager
Director
Division of Occupational
Licensing
Department of Commerce and
Economic Development
Pouch D
Juneau , Alaska 99811

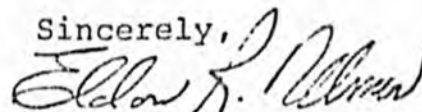
Dear Mr. Treager:

In compliance with AS 37 and AS 08 and on behalf of the Board of Pharmacy , I am submitting the enclosed Annual Report concerning the board's activities and accomplishments for Fiscal Year 1983.

In compliance with AS 37 and specifically with AS 08.80.040 (4) , and on behalf of the Board of Pharmacy , please submit this report to the Legislature.

Should there be any questions concerning this report, please feel free to contact me . Thank you.

Sincerely,



Eldon R. Ulmer, R.Ph.
President
Board of Pharmacy

Enclosure A six part report with the inclusion of five addendums.

Part 2.

Narrative Statement prepared and submitted by
Margaret Soden , R.Ph., Secretary of the Board
for FY '83

FY '83 was a significant year for the Alaska Board of Pharmacy. Not only did we have our usual number of requests for information, applicants for licensure, and general Board business to conduct at each meeting, but the Alaska Controlled Substances Act became effective on January 1, 1983. The Act impacts our Board to a great extent in that we are the responsible administrator of Title 17, Chapter 30, Regulation of Manufacture, Distribution, Prescription and Dispensing of Controlled Substances and Title 17, Chapter 35, Marijuana Therapeutic Research Program.

Because Title 17 did not become effective until January 1, 1983, we could not actually begin working on our duties as outlined in the two Sections cited above. We did, however, do much preliminary work in ascertaining how best we could handle state registration of Federal Drug Enforcement Administration (DEA) registrants (estimated to be 1000-2000 in number), the procedure for obtaining therapeutic marijuana for the research program, seeking out physicians to serve on the Patient Qualification Review Committee established in Section 35, and a number of miscellaneous administrative details.

In April 1983 the Regulations Specialist budgeted to work with the Board was hired. At our June 1983 meeting she presented regulations for the state registration of all Alaskan DEA license holders and for the Marijuana Therapeutic Research Program's Patient Qualification Review Committee. With some changes, the regulations were approved and are now in the "notice and hearing" phase. We are hopeful they will be adopted before November or December so we can begin registration and officially appoint the four physicians who have agreed to serve on the Patient Qualification Review Committee.

In general business of the Board this year we:

1. Completed inspection of all pharmacies, drug room, hospital pharmacies and nursing home drug rooms with the exception of those in Seward, Glenallen and Seldovia. We also followed up on violations observed in prior inspections such as security in two retail pharmacies and general physical conditions in one Anchorage pharmacy.

2. Observed non-compliance with prescription advertising regulations in a Fairbanks pharmacy, corresponded with the outlet in question and the problem was resolved.

3. Rewrote several questions on our Jurisprudence exam to include the Controlled Substances Statute and Marijuana Program.

4. Approved a form for the reporting of Continuing Education that will be required of pharmacists with their June 1984 renewals.

5. Asked that updated statute books be sent to all licensees. This required two printings so is in progress.

6. Sought and had preliminary approval for the Board to participate in the National Association of Boards of Pharmacy (NABP) Foundation's newsletter program. This newsletter is published quarterly with two pages of Federal regulations news and two pages of state news. It is a very worthwhile and timely publication. The DOL felt it would be more cost effective to publish a newsletter locally so withdrew approval. However no state publication has been done since Fall 1981 with the exception of a very short several paragraph letter sent to licensees in early 1982. Although \$1000 was budgeted for FY'83, no newsletter type communication from the DOL or Board of Pharmacy was sent to licensees.

7. Held a joint meeting with the Medical and Nursing Boards in February 1983 in which we discussed matters of common interest. One matter of particular concern was the emergency room dispensing of controlled substances on weekends, evenings or at other times when the pharmacist or pharmacist/consultant is not available. This is a

This is a special problem throughout Alaska. DEA had a proposed rule change which would have allowed emergency controlled substances to be allowed in such situations, but nationally it met with a great deal of opposition. We were the "cry in the wilderness" in favor. DEA has now dropped the whole idea. The Alaska Board of Pharmacy cannot write regulations counter to Federal law so the problem will remain.

8. Reviewed several requests from individuals and groups for approval of Continuing Education programs not strictly meeting the requirements of our regulations.

9. Received a favorable opinion from Attorney General, Wilson Condon, covering our Board's desired policy regarding investigations handled by DOL.

10. Attempted to come to some understanding with the Alaska Dental Society and the Board of Dental Examiners relating to the practice by some dentists of writing prescriptions outside their area of expertise. Many pharmacists were refusing to fill prescriptions for non-dental related conditions and some tension was the result.

11. Acted on proposals or legislation of interest either as a Board or individually. Some of them were:

- a. Alaska Code Revision-did not support as currently written.
- b. HB 10 Imitation Controlled Substances-supported with qualification.
- c. HB 225 Use of Drugs by Optometrists-did not support as written.
- d. Proposed change in regulations regarding "keys to a pharmacy."
- e. Repealed several CE regulations-a "housekeeping" measure.

12. Began preparing for Sunset Review in 1984. Carol Carroll, Legislative Audit, attended our February 1983 meeting and we discussed several activities and questions she had with regard to Pharmacy Board policy or procedure. We individually received and responded to "Interim Letter No. 1" from the Committee.

Our primary continuing concern is with the need to proceed with implementation of Title 17, Sections 30 and 35 with all due haste. Over seven months have passed and little concrete progress appears to have been made. We are particularly concerned with the staff budgeted to put Title 17, Sections 30 and 35 into effect. The Board was budgeted for two Regulations Specialists and two Investigators. We feel very strongly that two Regulations Specialists are not needed nor are two Investigators needed to do the work our portion of Title 17 requires. We have requested on several occasions that the one Regulations Specialist and one Investigator positions budgeted (but unfilled to this date) be somehow changed to encompass an "executive secretary/inspector" (various titles may be used) type person who would directly attend to the administrative duties we are now required to handle. Our licensing examiner cannot be expected to fulfill these functions along with her other duties. It is important that this position be filled by someone familiar with pharmacy nomenclature, pharmacy procedures, the administration of a Controlled Substances Act and Marijuana Program, and be able to handle and review the registration of 1000 to 2000 Alaska Controlled Substances licensees as a year long, on going process. This person could also serve as an inspector since that activity will increase with the implementation of Title 17. This

would also release the Pharmacy Board members from an inspection function which they do as personal time and funds allow. For a more complete discussion, see the attached letter and review of the Board's position written by Mr. Eldon Ulmer, Chairman.

The second major concern is for some sort of timely publication to be sent to all licensees. Since we are currently implementing a whole new section of regulations that very directly impact the practice of the pharmacy profession in this state, some means of communication is vital. The Board would prefer participation in the NAEP program since it encompasses both Federal and state activities. Since many other states participate in the program, the cost of publication is shared. Timely communication to licensees is the key to our concern and in FY '83 there was none. We are hopeful the \$1000 we included in Budget FY '84 for a newsletter will be used to achieve this goal.

Part 3

BOARD OF PHARMACY
FISCAL YEAR 1983
STATISTICAL REPORT

EXPENDITURES

Travel & Per Diem.....\$9,196.25
Contractual.....\$1,600.11

RECEIPTS

Application & License Fees.....\$8,128.00

LICENSES ISSUED

Pharmacists.....26
Retail Dealers.....4
Wholesale Dealers.....0
Hospital Pharmacies.....1
Hospital Drug Rooms.....0
Nursign Home Drug Rooms.....0
License Renewals.....1

EXAMINATIONS

June 28-29, 1983 NABPLEX EXAM, Anchorage, Alaska

Three Candidates - PASS: 3 FAIL: 0

BOARD MEETINGS

October 7-8, 1982 Fairbanks, AK
February 24-25, 1983 Juneau, AK
June 28-29, 1983 Anchorage, AK

Part 3.

Statistical Overview prepared and submitted by
Licensing Examiner Barbara Branson for FY '83.

Part 4: Review of Prior Year Objectives

The Board of Pharmacy enumerated eight objectives for FY '83. Several of these have been discussed previously in the "Narrative Statement" but will be repeated here to comply with the requested format. The eight objectives were:

1. Inspect all pharmacies licensed under the Board of Pharmacy Jurisdiction. The board's activity as to inspections was limited due to lack of funds and time. The board realized that the implementation of its responsibilities under AS 30 and AS 35 would make it impossible to inspect all pharmacies. The board decided to follow up in problem areas that were revealed in the massive inspections conducted in FY '81 and FY '82. Almost all pharmacies had been inspected in those two years. This would delay the next statewide inspection of pharmacies until FY '84, rather than to spend funds that might jeopardize the board's fiscal ability to conduct the three board meetings programmed for FY '83. The problem area follow up revealed that the installation of a sink in one pharmacy had been accomplished, that adequate security of those pharmacies (who closed their prescriptions departments when other areas of the store were open) had been accomplished, and that house keeping measures had been improved in those areas where adequate cleanliness had been found to be below approved standards.
2. Establish continuing education method of reporting and auditing for licensure requirements for 1984. The board adopted the reporting and auditing system developed by Sid Fry, R.Ph., professional member of the board from Sitka. A form was approved, to be mailed with the license renewal statement. Pharmacists will be required to submit the completed form, showing they have completed the required number of continuing education hours, with the understanding that a spot check system of those hours will be conducted.
3. Meet the requirements of the Controlled Substance Act AS 30 and The Marijuana Therapeutic Research Program Statute AS 35. These two statutes, although passed by the legislature in 1982, did not go into effect until January 1, 1983. There were no funds available for half of FY '83 for the implementation of the statutes. This crammed all effort by the board into the six month period from January 1, 1983 until June 30, 1983. The board was aware of this and spent many hours individually, and collectively, prior to the first meeting of the board in February of 1983, preparing proposed regulations so that a running start could be made at the February meeting. Pages of these proposals were prepared by the president of the board and brought to the February meeting. The board had requested that a representative from the Attorney General's office and a representative from the Special Prosecutor's Office be in attendance at the February meeting. This request was granted and these two professionals were very helpful in the area of regulations.

3. (continued)

The many pages of proposed regulations presented by the president of the board, were considered in depth by the board. It was agreed that this was a starting point, but that many more pages would be necessary before all subjects and requirements were met. Several facts were made available to the board at the February meeting, that here-to-fore were not known by the board. The board started as early as FY'81 (as substantiated by minutes of meetings in Fy 81 and FY '82) planning for action under the then proposed controlled substance act that was being considered by the legislature. The board realized (again substantiated by minutes of meetings of FY'81 and FY'82) that the board would need certain personnel, within the Division of Occupational Licensing (DOL) to effectively administer a controlled substance act, if the board was given the responsibility of administering the act. The board placed high priority on the hiring of an executive-secretary type person, on a full time basis, who would work within the jurisdiction of the DOL, but at the direction and guidance of the board. The board realized that it would need a full time regulation specialist and after the regulations had been adopted, and a licensing system had been established, possible the service of an investigative person. Some of these requests were provided for when the DOL submitted the board's budget to the budget process for FY'83. The most needed position request was completely ignored by the DOL when the line items were submitted to the legislature via the budget process. The position of executive-secretary had been left out and instead, the budgeted dollars for personnel that were allowed with enactment of the Controlled Substance Act and AS 35, were submitted requesting two investigators. The board was frustrated by this action of the DOL, since the board had not been made aware of the line item requests made by the DOL. An investigator will be needed in FY 85 or FY'86. Investigators are not needed until the licensing process is established so there are licenses to investigate, if problems occur. The hiring of investigators will accomplish nothing in the early stages of implementation of AS 30 and AS 35. Dollars will be wasted. Investigators specifically hired (not under the intent of the legislature when enacting AS 30 and AS 35) will sit on their hands, or be used by the director of DOL in other areas outside the budget of the board of pharmacy and in violation of the intent of the legislation. The board knows that the Controlled Substance Acts of Washington, Oregon, and Wyoming were all put in place effectively, with the aid of an executive secretary type person. These three states have established programs and have been effectively operating them for from five to seven years. They do so with the help of a full time executive secretary type person. The board has knowledge that there are a number of people who have been working in the programs of those three states, both as executive secretaries and investigators, who are interested in coming to Alaska in a like position. The board does not know of any person presently with the DOL or available in Alaska who could qualify for this highly technical and specialized position.

3. (continued)

When the director of DOL advised the board that the budget line items could not be changed and that his plan was to hire the two investigators, the board was in shock. An immediate evaluation of what would happen under such a plan revealed the fact that the program would be in jeopardy and indeed probably completely delayed until the action by the director of the DOL could be changed or altered. The director then advised the board that the only remedy was to submit a request to the department of personnel that a "special exemption" status be enacted and that an executive-secretary position be created under the special exemption process. The other alternative is to seek legislative action. Since time is already a prime factor, a delay until legislative action can be taken in January or February of 1984, would seriously delay placing the provisions of AS 30 and AS 35 on stream. The board requested that the director of DOL apply for a special exemption status and proceed full speed with the request. The director asked the president of the board to write him a letter, requesting that this action be taken. He also requested that the president of the board write a job description for the executive-secretary position and provide the qualifications for the job. The president of the board spent many hours drafting the qualifications and the job description and sent them with a cover letter to the director of DOL with copies to the Governor, the Legislative Audit Committee, and the Speaker of the House and President of the Senate as well as to the Attorney General and the Commissioner of Commerce & Economic Development. A copy of that letter and the qualification paper and job description are attached to this report as Addendum # 1. A copy of the letter from the Governor, in reply to the receipt of all the material that went to the director of DOL, is attached to this report as Addendum # 2. The request, through the personnel officer of the DOL to the personnel office of the state, was garbled. This is evident from the letter of reply written to the request. The letter rejecting the request states that an exchange of the "positions" of investigators to the "positions" of executive type personnel was denied. The board did not ask that the two investigator positions be exchanged for two secretary type positions. It asked that the two positions of investigators be changed to ONE POSITION OF EXECUTIVE-SECRETARY. This exchange would result in one less person being hired and would be cost effective due to the elimination of one position. Not only would the exchange benefit the board in implementation of AS 30 and AS 35, BUT DOLLARS WOULD BE SAVED. A copy of the memorandum of April 13, 1983 to the director of DOL from the personnel officer of DOL, Jim Lawson, is attached as Addendum # 3. The board meeting in June of 1983, again asked the director of DOL to appeal the decision of the personnel director, and to specifically state that only one person was being asked for instead of two. The director apparently did appeal and a copy of the letter of July 29, 1983 written by the director of DOL to the president of the board, advising of the failure of the appeal, is attached as Addendum # 4.

3. (continued)

The board has spent much valuable time in FY'83 trying to convince the director of DOL, the Commissioner of Commerce & Economic Development, and the Governor that the board believes the intent of the legislature in the enactment of AS 30 and AS 35 was to get the job done. The board believes that the pressure by-pass special exemption method of securing the necessary qualified personnel in the DOL to aid the board in implementing AS 30 and AS 35 should and could be used, if it were presented properly. The progress of the board in implementing the statutes has been greatly impeded by the lack of the qualified personnel. The director of DOL finally hired a regulation specialist, who came on board in mid April 1983. This regulation specialist has been of great help and with the help of a regular regulation specialist in the Juneau office of DOL, prepared regulations that were patterned after those written by the president of the board. These proposed regulations were presented to the board at the June 1983 meeting. Changes were made and the proposed regulations were asked to be put in final form and promulgated as soon as possible. An outline copy of these regulations is attached as Addendum #5. Irregardles to all the road blocks that have impeded implementation of AS 30 and AS 35, the following has been accomplished:

- A. The board president contacted, first by phone, and then where needed, by letter....the following:
- Federal Drug Administration (FDA)
 - The National Institute of Drug Abuse (NIDA)
 - The Drug Enforcement Administration (DEA)
(State level, Regional level, National level.)
 - The National Eye Institute (NEI)
 - The National Cancer Institute (NCI)

The FDA sent copies of the Group Guidelines for the use of Delta-9-Tetrahydrocannabinol (THC) NSC 134454 along with registration forms, order forms, and information on obtaining marijuana for use when implementing AS 35. The DEA sent a complete print out of all DEA registrations in Alaska (some 1000), when the board president wrote them and explained that the list was imperative to the program in Alaska. The board president further asked and received a letter from DEA allowing limited distribution of this list to pharmacies (as the only people other than the board and its extensions) who have a need for this list. The NIDA, the federal agency authorized to issue THC, promised to co-operate with the board when regulations are implemented, so we have a source of THC (marijuana derivative) for the research program.

- B. The president of the board contacted many ophthalmologists, radiologists, psychiatrists and members of the Medical Board, in an effort to stimulate as much interest as possible with those professionals so they would apply for appointment to the Patient Qualification Review Committee (As 17 35). Copies of the law were handed out at a meeting of the psychiatry Association meeting,

3. (continued)

resulting in the application from a psychiatrist, a radiologist, a ophthalmologist and a response from a member (professional member) of the medical board. The president of the board, with the help of the regulation specialist, designed an application form to be used by these professionals. The professionals filled the forms out and sent them to the president of the board, who presented them at the June meeting. All were approved for appointment and the president of the board (attested to by the secretary) mailed official letters of appointment to the four physicians. As soon as promulgations are finalized, this Patient Qualification Review Committee will meet and the program will be initiated.

C. The board is still persuing with vigor the attempt to bring an executive -secretary on board at DOL.

D. Controlled substance license forms are being designed with the help of the regulation specialist. The concept, if not the actual form, was approved at the June meeting. This form will speed up the licensure of those that are required to be licensed under AS 30, as soon as all regulations are promulgated, hopefully early FY '84.

E. The president of the board did write a qualification paper for an executive secretary and also a job description (see Addendum #1).

F. Regulations as evidenced by Addendum # 5 are being promulgated, after approval at June meeting of the board.

G. In summary, a great deal has been done and a great deal of it by individual action by dedicated board members. A great deal more could have been accomplished with the help of qualified personnel.

4. Promulgate regular regulations (other than those mandated by AS 30 & AS 35). The board at a regular meeting voted on the need for regulations that would specifically allow the secretary of the board to keep "copies" of applications for registration and back up material copies to aid all board members in the issuing of temporary permits. A board member assumes a great responsibility when he/she issues one of these permits. The board member needs to be able to verify that all material submitted is factual and all necessary requirements are met. The personnel at DOL have demonstrated a lack of knowledge to look at documents and verify facts. A board member, assuming the responsibility for the qualifications of an applicant, when a temporary permit is issued, would be remiss indeed if all material is not checked by a professional member of the board. This person should be the secretary, who should have copies of all documents, so the proper information can be transmitted to the issuing board member. The board member is responsible, not a member of DOL staff, who might interpret information wrong and result in a license being issued without proper qualification. The director of DOL told the regulation specialist to put that regulation "on the back burner" and not do anything about it. Result.....no regulation, even though voted on

5. News letter in cooperation with the National Association of Boards of Pharmacy (NABP). The NABP in cooperation with most of the 50 states, prints a news letter and mails it to pharmacists within the states. The NABP, uses 50 % of the space in the news letter for national news, and the boards of pharmacy of participating states send in state news, thus supplying the other 50 % of the news letter. The NABP puts this together and mails each state the news letter pertaining to their individual states. This usually is mailed from the NABP after approval of the participating state. The board in regular session unanimously approved participation in this program. The secretary was instructed to obtain all the details and if it could be done within the budget, to proceed with the letter. The director of DOL had a ten or fifteen minute telephone conversation with a member of the attorney general's office, and as a result nixed the letter. ResultNo news letter, although it is greatly needed to make regulators aware of ANP and PA licensure as well as regulation changes and board actions. Most states, if they have the financial means (board's budget prived funds) participate in this very worth while project. Alaska does not and the board wonders why, when it was passed in regular session and funds budgeted for it.
6. Department news letter. (DOL). The board was told that the DOL was planning a department news letter that could and would contain news items from all boards that are associated with DOL. The board (or boards) were to submit news items when this publication was to go to press. To the boards knowledge no such letter was published in FY '83 and if it was, no news was solicited from the pharmacy board.
7. Conduct three regular board meetings during FY '83. The board did conduct three meetings during FY'83. The dates and location of these meetings was: October 7 & 8, 1982 in Fairbanks; February 24 & 25, 1983 in Juneau; June 28 & 29, 1983 in Anchorage. Most material covered in those meetings is reported in the "Narrative Report", so will not be repeated here other than to note that the goal of holding three meetings was met.
8. Board response to sunset. The members of the board of pharmacy were made aware of the provisions of sunset legislation by the receipt of a letter written February 24, 1983, from the Legislative Audit Committee. The letter asked that the board respond to a questionnaire. The board did. The next communication from the Legislative Audit Committee was in the form of "Interim Letter No. 1" that was written April 12, 1983 and addressed to each board member. Most board members answered this letter. Documents, letters, and facts were submitted by some board members. The board stands ready, willing, and able to testify, within the budget, or board members individual means, when so asked by the Legislative Audit Committee. The board welcomes the opportunity to present it's argument as to why the board should stay in existance.

1. Inspections:

Inspections of pharmacies was at a minimum during FY '83 due to the pressing demand on the board's time and funds. It is believed that a full scale state wide inspection of pharmacies will be initiated in FY '84. The two professional board members from South Eastern Alaska will team up to cover all of South Eastern. These board members will take advantage of super saver fares when possible and will schedule their inspection so the entire area is covered on one trip . Ideally the board likes to have a professional member team with a non-professional, but there is no non-professional in South Eastern Alaska. This mandates that two professionals conduct that portion of the state wide inspections. Central and North Western Alaska can be covered by having the non-professional member from Anchor Point travel to Fairbanks and team with the professional member there. The two can then inspect all of the Fairbanks area, fly on to Nome and other areas in Central and cover all pharmacies in those areas. The two professional members in the Anchorage area can team with the non-professional member in Anchorage and cover all of the Anchorage area as well as the Matanuska Valley , and areas along the highway . The non-professional member from Anchor Point will be met on the Kenai by one of the professional members from Anchorage to cover all of the Kenai Peninsula . One of the professional members from Anchorage will join with the non-professional from Anchorage and inspect Cordova, Valdez and Kodiak. This plan should effectively cover the state in FY '84, and within the budgeted amount of \$ 5,000.00 (requested).

2. Continuing Education Requirements for Licensure in 1984 and the Future. All regulons will be coming up for re-licensure during 1984 . The board has adopted a program that will allow continuing education credits to be used to satisfy the requirements for competency under AS 08.80.140(8). The board has adopted regulation that will be in force during the registration and re-registration of regulons in 1984 and following years. The board will follow these regulations in 1984 and re-register all applicants who submit the required hours of continuing education and pay the fee. A system for spot checking requirements is established and will be in effect utilizing personnel from the DOL and board members .

3. Establish, by Regulation , the Procedure for Administration of the Controlled Substance Act AS 17 35 and the Marijuana Therapeutic Research Program, AS 17 35 and Proceed to Administer the Acts: The Federal Controlled Substance Act of 1970 as ammended was put in place in 1970. From that time until January 1 , 1983 , Alaska did not have a workable state controlled substance act. All other 49 states did pass controlled substance acts . Alaska was the last. When the legislature was considering a controlled substance act in the many years between 1970 and 1983 , they always ran into problems and for one reason or another always aborted the efforts . The legitimate industry must have an Alaskan State Controlled Substance Act to exist in harmony with

3. (continued)

Federal Statutes. During 1982 a serious effort by the legislature resulted in the passage of an Alaskan Controlled Substance Act AS 17.30 and a companion act The Marijuana Therapeutic Research Program, AS .35. The board of pharmacy attended hearings with the legislative committees and contributed information and expert testimony. In doing so they worked, with the help of those in state government who desired the passage of the act, to write the legitimate industry portion of the act. This portion is known as AS 17 30. The legislature was in doubt as to what board or commission or department should administer the act. During the hearings the board of pharmacy demonstrated knowledge, both in writing the legitimate industry portion, and in an understanding of how it would relate and function with the Federal Act. The question was asked "Does the Board of Pharmacy have the ability and knowledge to administer AS 17 30 and AS 17 35?". The answer given by board members who testified was a resounding "YES", but a qualified "YES". The board has knowledge as to how Washington, Oregon and Wyoming administer their controlled substance acts and the board knew that it could do the samegiven the proper tools and funds. One of the qualifications was that qualified personnel, be hired within the DOI, to assist the board. This qualified personnel should be in the form of an executive-secretary, who should be a pharmacist, and if not registered in the state, be required to become registered in the state. With this qualified and experienced help, the board would be able to properly and promptly put in place all the requirements of AS 17 30 & AS 17 35. The board believed that this would take place, and investigated the availability of qualified people and found at least three people who qualified. These people had many years (from 5 to 8 years) of experience with pharmacy boards from our neighboring states to the south. The board planned to bring one of these people on line at an early date. The board, as outlined in Section 4 of this report, ran into difficulties, not of their doing, but brought on by the erroneous submission of the request for two investigators, instead of the one executive-secretary that the board, in documented minutes, requested. It is the board's goal for FY '84, to have the executive-secretary position placed in the personnel division of the state, so this position may be filled. It can be done by special exception, and done rather rapidly, or it can be done by legislative action early in 1984. It must be done to assure proper implementation of AS 17 30 & AS 17 35 and at the earliest date possible. The board has submitted FY '84 budget as part 6 of this report and has budgeted \$ 35,000.00 for what remains of FY '84, and \$ 52,000.00 in FY '85 and \$ 56,000.00 in FY '86. These budget requests are reasonable and are necessary to get the job done. One person does the job in Washington, in Oregon and in Wyoming. Two investigators are not needed. The board has submitted a budget of \$15,000.00 per year for each of the years FY'84, FY '85 and FY '86, as a travel expense item for the executive-secretary. The executive-secretary, in future years, could take over

3 (continued)

much of the inspection of pharmacies , in conjunction with board members in the various geographic areas of the state. The executive-secretary could also do most of the investigation work , with the help of investigators now employed by the DOL, without hiring additional investigators. This is how the program works in the three states referred to previously in this report. It is effective and it is cost effective. The board has requested \$ 35,000.00 for a regulation specialist for the FY '84 and reduced this to \$ 33,000.00 in FY '85 and to zero in FY'86. Most of the regulations needed should be in place by the end of FY '85. The board has requested that no money be spent or put in the board's budget for investigators for FY 84. The licenses must be issued and in place prior to being able to investigate license violations . The board has requested \$ 45,000.00 a year for investigator hire in FY 85 and again in FY' 86 , as by that time investigations will be in order and indeed needed. The board has requested \$15,000.00 for licensing reglons in each year of FY'84, FY '85 and FY '86., and this amount of money represents the board's share of the expense for a licensing examniner that is shared by other boards. The board has submitted the amount of \$ 1,000.00 per year for each of FY '84, FY '85 and FY '86 for the production of anew's letter. It is one of the board goals that this be done in conjunction with the NABP news letter . The board has requested the sum of \$18,000.00 to conduct three board meetings in FY '84 and the sum of \$ 20,000.00 for FY '85 and the sum of \$22,000.00 for FY '86 . The board has requested the sum of \$ 5,000.00 to help defray the cost of board members being represented at hearings during sunset . In 1979 board members paid their own way to these hearings at a considerable out of pocket expense that should not be a responsibility of board members. Total budget requests for FY '84 is \$158,400.00, for FY '85 it is \$ 194,000.00 and for Fy '86 it is \$163,000.00

4. Promulgate Regulations to Carry Out the Purpose of AS 80, That Have Not Been Previously Considered Due to Work Loads
The board 's projecting an expense (budget request) of \$3,000.00 for each year, FY '84, FY '85, and FY '86. This amount should cover actual costs ,not including salary for the regulation specials ,that is submitted elsewhere in budget request.

5. News Letter:

Although the board has been temporarily stopped by action of the director of DOL , from a cooperative effort with the NABP in the production of a news letter, the board has as a goal in FY '84 the establishment of the news letter. The board has asked the attorney general representative , who gave an unofficial negative response to the request the first time, to take an indepth look at the legal problems that are imagined ,to determine that they really do not exist. Most other states have this program with no problems. Alaska should also benefit from the cooperation of NABP in supplying a good news letter to all regulons.

6. The Board Plans Three Regularly Scheduled Meetings for FY' 84 and is Projecting a Like Amount for Each year FY'85 & FY'8
The board will continue to hold at least one meeting a year in Juneau and for FY '84 , has scheduled the fall 1983 meeting in Juneau on October 27 & 28 , 1983. There will probably also be a meeting in Juneau in February 1984 and the June meeting will be held (at an undecided location) and at the time the NABPLEX (national) examination is scheduled nation wide . The board may also hold telephone teleconferences , in FY '84 , in an attempt to expedite implimentation of AS 30 & AS 35 and as a necessity due to limited funds and time. Projected costs are FY'83-'84 &'85 is \$18,20, and \$22,000.0
7. The Board Will Respond to Legislative audit Under "Sunset" Legislation to Justufv the Existance of the Board.
The board strongly feels that the board system is the best method of administering pharmacy laws and regulations, and to this end will present testimony to the legislative audit committee and the various committes of the legislature, when this is necessary . The pharmacy board was given a vote of confidence , when the Controlled Substance Act was implemented . The legislature felt at that time that the pharmacy board cound administer the Act in a knowledgable and cost effective way. The board in reacting to that confidence is attempting to do just that and to conduct the duties of the board in a responsive and effective manner. Costs are projected as \$ 5,000.00 for FY'84 and no costs for FY '85 & FY' 86 as the two later years are non-sunset years.

Part 6. Budget Recommendations FY '84 With Estimates Budget
Recommendations for FY '85 and FY'86:

ITEM	BUDGET FY '84	BUDGET FY'85	BUDGET FY '86'
1. Inspections	\$5,000.00	\$ 5,500.00	\$ 6,000.00
2. Continuing Education	5,000.00	-0-	-0-
3. Controlled Substance Act. AS 30 & AS .35			
A. Executive Secretary	\$35,000.00	\$52,000.00	\$56,000.00
B. Travel for Ex-Sect.	\$15,000.00	\$15,000.00	\$15,000.00
C. Regulation Specialist	\$35,000.00	\$33,000.00	-0-
D. Investigator	-0-	\$45,000.00	\$45,000.00
E. Licensing Examiner (Shared expense)	\$15,000.00	\$15,000.00	\$15,000.00
4. Registration Of Regulators	\$ 3,000.00	\$ 3,000.00	\$ 3,000.00
5. News Letter	\$ 1,000.00	\$ 1,000.00	\$ 1,000.00
6. Board Meetings (3 a year)	\$18,000.00	\$20,000.00	\$22,000.00
7. Response to Sunset	\$ 5,000.00	-0-	-0-
TOTALS	\$158,400.00	\$194,000.00	\$163,000.00

William Sheffield,

~~XXXXXXXXXXXX~~, Governor

DEPARTMENT OF COMMERCE &
ECONOMIC DEVELOPMENT

DIVISION OF OCCUPATIONAL LICENSING

POUCH D

JUNEAU, ALASKA 99811

5 March 1983

Eldon R. Ulmer, R.Ph.
President, Board of Pharmacy
P.O. Box 101420
Anchorage, Alaska 99510

Mr. Harry Treager
Director
Division of Occupational Licensing
Pouch "D"
Juneau, Alaska 99811

Dear Mr. Treager:

Please consider this letter and supportive information attached, as an official request for action by you, from the Board of Pharmacy.

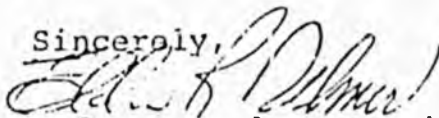
When you met with the Board in Juneau on February 25, 1983, you requested that I write to you asking your help in obtaining changes in the "designation of personnel" portion of the budgeted line items for implementation of AS 17.30 and AS 17.35 by the Board of Pharmacy.

You also asked for a job description for the Boards designation of "EXECUTIVE-SECRETARY-INSPECTOR". In the five pages, attached, stating purpose, and including narrative, conclusion, and an addendum, I have attempted to do that. It is complex, to say the least, but I do believe it conveys the intent of the legislature and a means of implementing that intent.

Please expedite your request for the line item change so we may proceed at once. We are already two months into 1983, and need to go at full speed in the next month or two.

Let me know as soon as you have hired the regulation specialist that you promised to hire and base in Anchorage. I have five pages of suggested regulations covering not only AS 17.30, but also AS 17.35. I have a commitment from all four of the physicians to serve in the various categories on the Patient Qualification Review Committee and need the specialist to aid in getting my proposed applications for those positions into printed form, so letters of appointment may be sent.

Sincerely,



Eldon R. Ulmer, R.Ph.
President, Board of Pharmacy

William Sheffield,
~~GOVERNOR~~ Governor

DEPARTMENT OF COMMERCE &
ECONOMIC DEVELOPMENT

DIVISION OF OCCUPATIONAL LICENSING

POUCH D

JUNEAU, ALASKA 99811

5 March 1983

Eldon R. Ulmer, R.Ph.
President, Board of Pharmacy
P.O. Box 101420
Anchorage, Alaska 99510

Mr. Harry Treager
Director, Division of Occupational Licensing.....

Enclosure: Five pages of supportive material.

COPY TO: Honorable William Sheffield,
Governor, State of Alaska
Pouch "A" State Capitol Building
Juneau, Alaska 99811

Richard A. Lyon, Commissioner Commerce & Econ. Dev.
Pouch "D"
Juneau, Alaska 99811

Honorable Joe Hayes, Speaker of House of Representative
Pouch "V"
Juneau, Alaska 99811

Honorable Jalmar Kerttula, President of the Senate
Pouch "V"
Juneau, Alaska 99811

Norman Gorsuch, Attorney General
Department of Law
Pouch "K"
Juneau, Alaska 99811

Dan Hickey, Chief Prosecutor,
Department of Law
Pouch "K"
Juneau, Alaska 99811

ALL MEMBERS OF ALASKA BOARD OF PHARMACY

Gerald Wilkerson, CPA
Legislative Auditor
Pouch "W"
Juneau, Alaska 99811

ALASKA STATE BOARD OF PHARMACY

IMPLEMENTATION

CONTROLLED SUBSTANCE STATUTE AS.17.30

AND

MARIJUANA THERAPEUTIC RESEARCH

PROGRAM STATUTE AS.17.35