

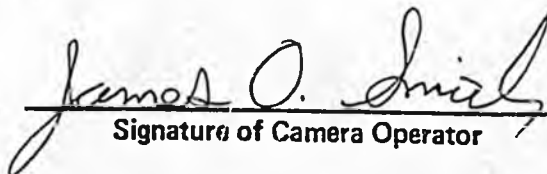
ALASKA LEGISLATURE COMMITTEES 1960-1961
3214.50 HHS SUNSET REV. PHY. THER. - SUNSET REV. NURSING H. ADMIN

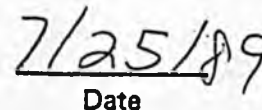


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Signature of Camera Operator


Date

HESS

Sunset Review

Physical

Therapists

MEMORANDUM

TO: HOUSE HESS COMMITTEE MEMBERS
FROM: NANCY BENNETT, COMMITTEE STAFF
RE: BOARD OF PHYSICAL THERAPY
DATE: FEBRUARY 13, 1986

You have before you today the Sunset Review of the Board of Physical Therapy Examiners. The Division of Legislative Audit recommended that the board be continued and made one recommendation:

In order to best serve the public welfare and to guarantee savings in health care costs, the board should support an amendment to their statute to allow them to practice autonomously without supervision or to allow them to be supervised by additional health care professionals.

Dr. Morris Horning, physician member of the Board, will be testifying for the board.

Mr. Hal Egbert and other members of the Physical Therapy Association will also testify from Anchorage concerning the issue of independent practice. Mr. Egbert has submitted information for your packet and will recommend two specific changes to the statute:

1. Amend 08.84.120 (8) as follows:

(8) has treated or attempted to treat ailments of human beings otherwise than by physical therapy[, OR HAS ATTEMPTED TO PRACTICE INDEPENDENT OF THE PRESCRIPTION AND DIRECTION OF A PERSON LICENSED TO PRACTICE MEDICINE, OSTEOPATHY, DENTISTRY OR PODIATRY].

2. Amend 08.84.160 as follows:

[PRACTICE OF LICENSED PHYSICAL THERAPIST. A PERSON LICENSED UNDER THIS CHAPTER MAY NOT TREAT HUMAN AILMENTS BY PHYSICAL THERAPY OR OTHERWISE EXCEPT UNDER THE PRESCRIPTION AND DIRECTION OF A PERSON LICENSED TO PRACTICE MEDICINE, DENTISTRY, OSTEOPATHY OR PODIATRY.] This chapter does not authorize any person to practice medicine, dentistry, osteopathy, chiropractic or other method of healing.

Board or Commission	Appointed	Term
<p>STATE PHYSICAL THERAPY BOARD AS 08.84 - 5 members; 3 year term; shall serve until successors are appointed; by the Governor.</p>		
<p>E. Budd Simpson (public member) One Sealaska Plaza, Suite 301 Juneau, Alaska 99801 (work) 586-2890 (home) 586-6433</p>		September 1, 1988
<p>Morris R. Horning, M.D. 2401 East 42nd Avenue, Ste. 304 Anchorage, Alaska 99508 (work) 561-4935 (home) 276-8776</p>		September 1, 1988
<p>Merle B. Young, Jr. RPT 2005 Bridgewater Drive Fairbanks, Alaska 99701 (work) 474-6801 (home) 456-1789</p>		September 1, 1988
<p>Gail E. Dudley, RPT 1605 Elmendorf Drive Anchorage, Alaska 99504 (work) 745-4822 (home) 333-8323</p>		September 1, 1986
<p>Susan J. Thompson, RPT 4449 Beaver Loop Kenai, Alaska 99611 (work) 262-9665 (home) 283-4141</p>		September 1, 1989

Hess

A PERFORMANCE REPORT ON THE
DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT
STATE PHYSICAL THERAPY BOARD

September 23, 1985

Audit Control Number

08-1225-86-R

Commissioner, Department of
Commerce and Economic Development

Loren H. Lounsbury

Deputy Commissioners, Department of
Commerce and Economic Development

Greg Baker
Terry Elder

Members of the
State Physical Therapy Board

Acting Chairperson
Member
Member
Member

Donna Klokkevold, RPT
Morris R. Horning, MD
E. "Bud" Simpson
Merle B. Young, Jr. RPT

STATE OF ALASKA

AUDIT DIVISION
POUCH W
JUNEAU, ALASKA 99811

THE LEGISLATURE

BUDGET AND AUDIT COMMITTEE

September 23, 1985

Members of the Legislative Budget
and Audit Committee:

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

A PERFORMANCE REPORT ON THE
DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT
STATE PHYSICAL THERAPY BOARD

September 23, 1985

Audit Control Number

08-1225-86-R



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

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PURPOSE OF THE REPORT

In accordance with the intent of Titles 24 and 44 of the Alaska Statutes (sunset legislation), we have reviewed the activities of the State Physical Therapy Board 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 State Physical Therapy Board should be reestablished. The law now specifies that the Board will terminate June 30, 1986, and have one year from that date to conclude its affairs.

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

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

ORGANIZATION AND FUNCTION

The State Physical Therapy Board was established by the 1974 Legislature. This regulatory board consists of five persons; three physical therapists, one medical doctor, and one public member appointed by the Governor. Board members serve staggered terms of four years.

The Board is organized under the Department of Commerce and Economic Development, Division of Occupational Licensing (OL). OL provides the Board with licensing and investigative support. The licensing section processes applications, maintains license files, answers inquiries, and provides other administrative help to the Board.

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 necessary and desirable to enforce statutes.
3. Revoking, annulling, or suspending licenses in accordance with the Administrative Procedures Act when a person has violated physical therapist statutes or regulations.

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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 State Physical Therapy Board 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 examination requirements that provide reasonable assurance that persons licensed are qualified. Also, assurance 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)

FINDING AND RECOMMENDATION

Recommendation No. 1

The Board of Physical Therapy should support the amendment or repeal of statutes that regulate supervision of physical therapists by other medical professionals.

The current statutes that regulate the supervision of physical therapists unduly restrict the public's access to physical therapy services. Alaska Statutes 08.84.120(8) and 08.84.160 allow the practice of physical therapy only under the supervision of licensed medical doctors, osteopaths, dentists, and podiatrists.

The Board should consider supporting an amendment to the current statutes that would allow physical therapists to practice under the direction and supervision of other health care professionals, such as chiropractors. In an April 1984 letter to the president of the Alaska Chiropractic Society, the Department of Law stated that they felt the exclusion of licensed chiropractors from the professionals listed in AS 08.84.120(8) and AS 08.84.160 was "... legally questionable on both antitrust and constitutional grounds." Additionally, exclusions written into the current law could result in increased health care costs to patients of chiropractors requiring physical therapy.

Rather than proposing amending the current statutes to allow greater public access to physical therapy services, the Board should also consider if the public may be better served by repeal. Repeal of the statutes would allow physical therapists to practice more autonomously, therefore greatly increasing the public's access to their services, most likely at a reduced cost. Nationally, the trend has been to ease restrictions of, and increase the access to, physical therapy services. Seven states allow therapists to practice independently, while 27 states allow physical therapy evaluation without referral from other health care professionals.

If the current statutes are repealed or amended as suggested, the public will have more access to physical therapy services at a reduced cost. We believe public protection will not be diminished by improving the availability of physical therapy services and the legal questionability of the statutes would be eliminated. In order to discharge its mandate to recommend statutory changes which are generally of benefit to the public interest, the Board should consider these options; then pursue and support appropriate modifications to their statutes.

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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 within the scope of our review.

- I. The extent to which the board, commission, or program has operated in the public interest.
 - A. The Board has established regulations governing its duties and licensure requirements.
 - B. The Board has enforced the laws for issuing licenses in a uniform and consistent manner.
 - C. The Board has held meetings and administered examinations in accordance with its statutory requirements.
- 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's budget was reduced from \$5,200 in FY 84 to \$1,700 in FY 85. This resulted in fewer FY 85 board meetings (see Appendix C).
 - B. The Board receives administrative services support from the Division of Occupational Licensing.
- III. The extent to which the board, commission, or agency has recommended statutory changes which are generally of benefit to the public interest.
 - A. Statutory changes were made to allow qualified foreign-trained physical therapists to practice in Alaska.
- 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. The Board publicizes its meetings through public notices placed in Anchorage, Fairbanks, and Juneau newspapers. In order to facilitate public attendance, past meetings have been held at each of these locations.

- B. The Board has sent a "public notice" poster describing the Board's purpose to physical therapy departments statewide.
- 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. The Office of the Ombudsman and the Attorney General's Office has no outstanding consumer complaints regarding the State Physical Therapy Board.
- 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. There are 169 physical therapists and 11 physical therapist assistants licensed in Alaska.
- VIII. The extent to which State personnel practices, including affirmative action requirements, have been complied with by the board, commission, or agency to its own activities and the area of activity of interest.
 - A. No complaints have been filed with the Office of Equal Employment Opportunity regarding the State Physical Therapy Board.
- IX. The extent to which statutory, regulatory, budgeting, or other changes are necessary to enable the agency, board, or commission to better serve the interests of the public and to comply with the factors enumerated in this subsection.

Please refer to the previous section, Finding and Recommendation.

APPENDIXES

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APPENDIX A

STATE PHYSICAL THERAPY BOARD
REVENUES COMPARED WITH EXPENDITURES
For the Fiscal Year Ended June 30, 1985
(UNAUDITED)
(Note 1)

Average Revenues (Note 2)	\$8,129
Expenditures (Note 3)	<u>3,417</u>
Excess of Revenues over Expenditures	<u>\$4,712</u>

Schedule 1
Types of Revenues

<u>Revenues</u>	<u>Amount</u>	<u>Collection Time</u>
Examination Fee	\$ 50	With application form
Reexamination Fee	50	At least 40 days prior to the examination
Licensure by Credential Fee	50	With application form
Renewal Fee	200	Quadrennially
Temporary Permit Fee	20	With application form
Initial Application Fee	50	With application form
Late Fee Fine	10	With late payment
Bad Check Charge	10	With valid payment

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 cause revenues in one year to be much greater than the revenues collected in the next year. Therefore, we calculated and reported an average for the revenues collected in FY 82 through FY 85 in order to obtain a more accurate representation of collected revenues.

Note 3

Expenditures consist of direct costs resulting from Board activities. These include miscellaneous contractual, travel and per diem costs incurred by Board members and the Board's licensing examiner. This amount does not include the indirect administrative expenditures of the Division of Occupational Licensing such as employee salaries nor the expenditures made by other departments such as the Department of Law, which assist the boards and the Division.

APPENDIX B

STATE PHYSICAL THERAPY BOARD
EXAMINATION STATISTICS

Number of Examinations Given in Fiscal Years 1983-1985

<u>Fiscal Year</u>	<u>Passes</u>	<u>Fails</u>	<u>Total</u>
1983	5	1	6
1984	3	0	3
1985	2	0	2

APPENDIX C

STATE PHYSICAL THERAPY BOARD
ADMINISTRATIVE STATISTICS
September 23, 1985

Licensed Physical Therapists	169
Licensed Physical Therapy Assistants	11
<u>Board Meetings in Fiscal Years 1983-1985</u>	
1983	3
1984	3
1985	2

BILL SHEFFIELD, GOVERNOR

**DEPARTMENT OF COMMERCE &
ECONOMIC DEVELOPMENT**

DIVISION OF OCCUPATIONAL LICENSING

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

December 23, 1985

RECEIVED
DEC 24 1985

**LEGISLATIVE
AUDIT**

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

Dear Mr. Wilkerson:

Thank you for the opportunity to comment on your preliminary audit report for the State Physical Therapy Board.

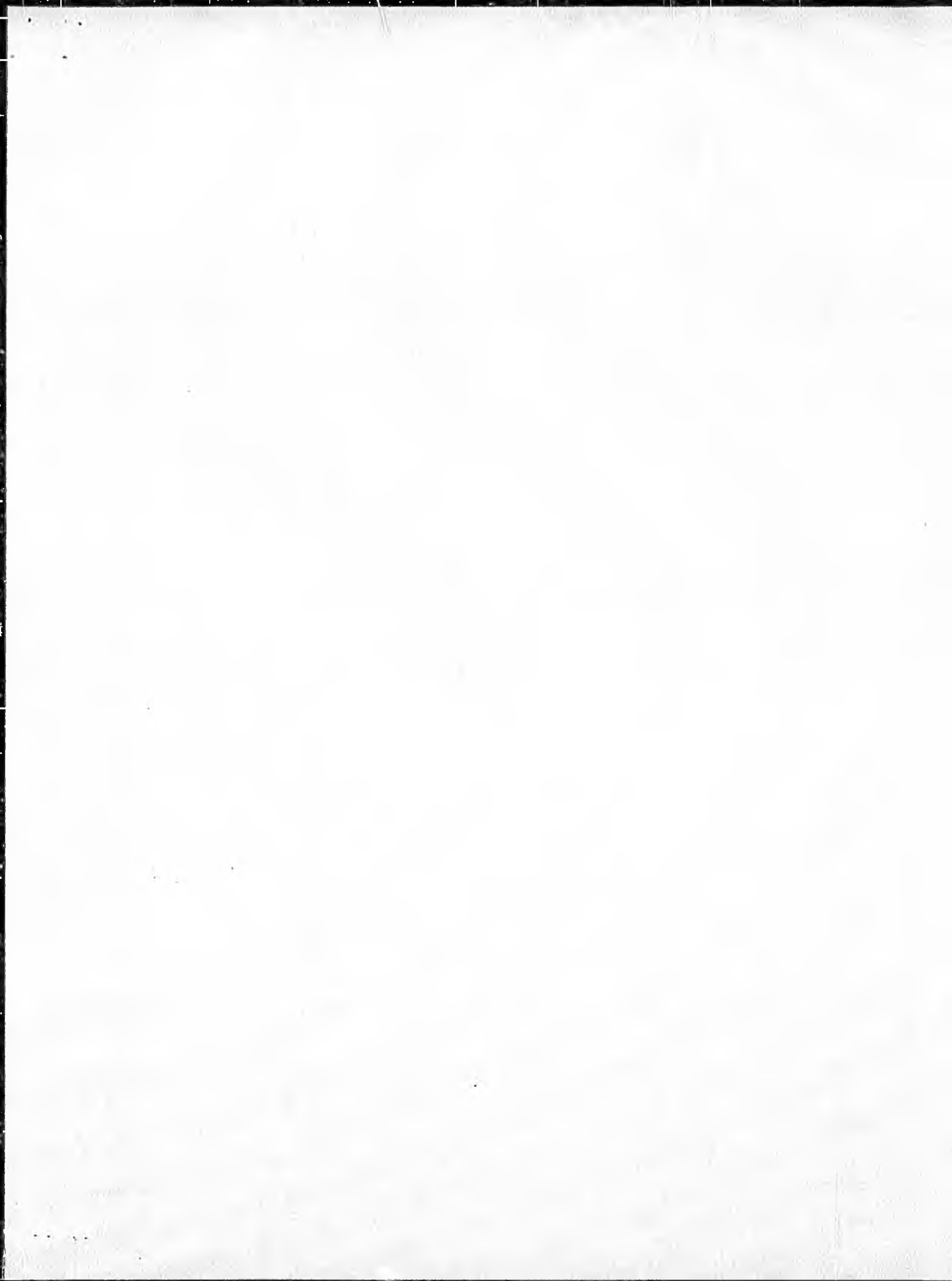
We concur with the report that the State Physical Therapy Board is necessary to protect the public's health, safety and welfare, and submit that the board has operated in the best interest of the public. We, therefore, support the reestablishment of the board.

Thank you once again for the opportunity to comment on the preliminary report.

Sincerely,


Loren H. Lounsbury
Commissioner

LHL/mst3049m
120985a



14-1754
Utermohle
2/6/86 ✓

1 IN THE HOUSE

BY THE HEALTH, EDUCATION AND
SOCIAL SERVICES COMMITTEE

2 HOUSE BILL NO.

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act extending the termination date of the State
7 Physical Therapy Board; and providing for an effec-
8 tive date."

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

10 * Section 1. AS 08.03.010(c)(8) is amended to read:

11 (8) State Physical Therapy Board (AS 08.84.010) -- June 30,
12 1990 [1986].

13 * Sec. 2. This Act takes effective immediately in accordance with
14 AS 01.10.070(c).

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February 8, 1986

Hal W. Egbert, L.P.T.
Chairman, Alaska Practice Without
Referral Task Force

Max F. Gruenberg, Jr. , Representative
Chairman, House HESS Committee
Alaska State Legislature
Pouch V (MS 3100)
Juneau, Alaska 99811

Dear Representative Gruenberg,

I am writing to you in regard to Alaska physical therapy and the need to revise our Alaska Physical Therapy practice act to repeal statutes that regulate supervision of physical therapists by other medical professionals.

You may be familiar with the recent performance report submitted by Gerald L. Wilkerson, CPA, who is a legislative auditor working for the Legislative Audit Division. This report was done to determine whether or not our Alaska Physical Therapy Board should be recommended to continue and how to make it work better. In addition to recommending to reestablish the Physical Therapy Board an item of weakness and/or conflict was discovered. The following is part of the performance audit report: (Appendix A)

"...In an April 1984 letter to the president of the Alaska Chiropractic Society, the Department of Law stated that they felt the exclusion of licensed chiropractors from the professionals listed in AS 08.84.120(8) and AS 08.84.160 was "...legally questionable on both antitrust and constitutional grounds." Additionally, exclusions written into the current law could result in increased health care costs to patients of chiropractors requiring physical therapy.

Rather than proposing amending the current statutes to allow greater public access to physical therapy services, the Board should also consider if the public may be better served by repeal. Repeal of the statutes would allow physical therapists to practice more autonomously, therefore greatly increasing the public's access to their services, most likely at a reduced cost. Nationally, the trend has been to ease restrictions of, and increase the access to, physical therapy services. Seven states allow physical therapists to practice independently, while 27 states allow physical therapy evaluation without referral from other health care professionals.

If the current statutes are repealed or amended as suggested, the public will have more access to physical therapy services at a reduced cost. We believe public protection will not be

diminished by improving the availability of physical therapy services and the legal questionability of the statutes would be eliminated. In order to discharge its mandate to recommend statutory changes which are generally of benefit to the public interest, the Board should consider these options; then pursue and support appropriate modifications to their statutes."

Having spoken today to the three physical therapists on the Board, I can report to you that Meryl Young from Fairbanks, Gail Dudley from Anchorage, and Susan Thompson from Soldotna all support the repeal of statutes that regulate supervision of physical therapists by other medical professionals.

As you know, the Alaska Physical Therapy Association has voted that we need to pursue gaining autonomous practice abilities. Reasons that support this desire are listed in Appendix B. We agree strongly with the Legislative Audit report and intend to ask for a revision of our statutes on 2/13/86 at 4:30 PM when you are chairing the House HESS committee considering our practice act.

We have polled all 180 Alaska licensed physical therapists and as of this date have received 71 responses to the question: "Do you support Practice Without Referral for therapists in Alaska?" Sixty-two physical therapists are for the proposed statute change. Eight therapists are against; one therapist is neutral. At present, 88% of the responses are supporting this proposed practice act change. .

There are now 9 states that allow practice without referral and 28 states that permit evaluation without referral. These states are listed in Appendix C. In all of these states, there has been no negative situations reported as a result of the statute changes in their states. A letter from our major malpractice underwriter also supports this "no problem" result of permitting more autonomous practice(see Appendix D).

As chairman of an eight therapist state-wide "Practice Without Referral" Task Force, I have met with Dr. Dave McGuire, president of the Alaska AMA Society and Dr. Myron Schweigert, president of the Alaska Chiropractic Society and discussed this issue and asked for feedback from their Societies. Dr. McGuire was neutral and thought there would be some opposition from general practitioners

and a few orthopods. He wished us good luck in our endeavor. He did not encourage further discussions with his officers. Dr. Schweigert and his executive officers were pleased to see they would not be excluded from referring patients to physical therapists but withheld outright endorsement pending final language of the bill.

Representative Gruenberg, we appreciate your assistance at our meeting this past Fall that Avis Hayden and I had with you. We also appreciate Nancy Bennet's call this past thursday and Friday. We have followed your advice on the poll and to meet with those who would be affected by permitting physical therapists to treat independently. The previously proposed repeal of part of AS 08.24.160 will satisfy the recommendation made by the Legislative Audit performance report. The national trend is in this direction, supporting what the majority of Alaskan therapists desire for their practice. It will allow more timely care to be delivered and probably at a reduced cost to patients. This will also remove a major problem in delivering care to school children needing physical therapy. Eight therapists commenting on the bottom of their poll form were very strongly recommending this change because of their experiences working in the school districts.

Even though there have been no consumer problems or complaints in states with more autonomous practice and the fact that Alaska Legislative Audit foresees no problems from this statute change, we would still recommend to the physical therapy Board to add more regulations (see Appendix E).

We hope that you will support our efforts in this matter on 2/13/86. We can furnish more information at your request. Thank you for your consideration of us last week.

Sincerely yours,

Hal W. Egbert, L.P.T.

Hal W. Egbert, L.P.T., Chairman
Alaska Physical Therapy Practice
Without Referral

S.R. Box 1483
Eagle River, Ak. 99577
Home phone 6944512
Work phone 265-9249 or 9330

Practice Without Referral

Appendix B

Some questions: Why now? Why do physical therapists want or treat patients ^{need to} without a referral? Why will people benefit from this proposed change in our practice act?

Some answers:

More timely care: People with acute pain and dysfunction could be managed earlier due to decreased time spent waiting for an appointment. People having a previously diagnosed dysfunction which requires long-term, intermittent physical therapy management would be spared time and money spent in securing a new referral.

Rural therapists having the problem of coordinating evaluations from practitioner and therapist, paperwork demands, local travel logistics would have the advantage of less restrictions on timely care.

Preventative care: Physical therapy training has increasingly through the years focused on preventative health care, emphasizing early therapeutic exercise, education and facilitation that is frequently self-managed once a program is initiated.

Accessible care: People would have the choice of obtaining physical therapy if they wished it. Practice without referral would allow people to obtain therapy before the dysfunction requires medical intervention.

Referred care: There will be a number of people seen by a physical therapist that will be referred to a medical practitioner for management. These patients will be receiving needed care that may otherwise not be delivered if they had selected a more accessible fitness center, chiropractor, etc., for their needs.

Youth care: Will allow screening of children, athletes and others who desire screening and therapeutic advice or treatment on either an existing dysfunction or for the prevention of dysfunction. At present, a physician's referral is needed for the above and for long-term management, an annual evaluation.

Safe care: The majority of States now allow evaluation without referral and there are many allowing treatment without referral. National APTA supports this trend. There has not been increasing mal-practice insurance for those therapists engaging in this practice. This is in every way, a positive change for both our profession and the consumers.

Appendix B C

STATES WHICH PERMIT PHYSICAL THERAPY EVALUATION
WITHOUT PHYSICIAN REFERRAL

- Arizona
- California
- Connecticut
- Georgia
- Illinois
- Iowa
- Kansas
- Kentucky
- Louisiana
- Maine
- Maryland
- Massachusetts
- Minnesota
- Mississippi
- Montana
- Nebraska
- Nevada
- New Mexico
- New York
- North Dakota
- Oklahoma
- Pennsylvania
- South Dakota
- Texas
- Utah
- Vermont
- Washington
- West Virginia

21 others

STATES WHICH PERMIT PHYSICAL THERAPY TREATMENT
WITHOUT PHYSICIAN REFERRAL

- Arizona
- California
- Maryland
- Massachusetts
- Nebraska
- Nevada
- Utah
- West Virginia
- North Carolina

Appendix D

MAGINNIS AND ASSOCIATES

DONALD F. LANG
PRESIDENT

PROFESSIONAL INSURANCE ADJUSTERS

March 14, 1985

Mr. Harvey Shapira
Rancho Physical Therapists
820 Rancho Lane
Suite 860
Las Vegas, Nevada 89106

Dear Mr. Shapira:

Our office as a major insurer in the physical therapy area has been monitoring claims in those jurisdictions where practice without referral is allowed. As of this writing, we have no evidence that practice without referral has had a negative impact on professional liability claims handled by our office. We have not seen any significant increases in claims in such situations.

A number of states have allowed practice without referral for some time. It would be normal from an underwriter's approach to expect that when the therapist is practicing independent of the physician, claim experience should be less favorable than that where a physician is involved. As this is not the case at the present time, I can only suggest to you that the professional therapist utilizes every viable tool available to him to provide his patient with the best care possible. I would suggest that in those areas where practice without referral has been allowed, the truth of the matter is that the professional therapist counsels with the physician should there be any question whatever as to what might be proper in the handling of the patient. The less professional therapist is going to be more subject to losses with or without the restriction of requiring physician referral.

Serving our clients professionally for over 30 years

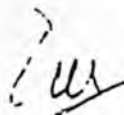
Dear Mr. Shapria:

March 14, 1985

We will continue to monitor our therapy program and should we notice any significant change, you may be assured that we will be in contact with your national office in Alexandria.

I hope this communication will be of help to you.

Sincerely,



Donald F. Lang

DFL/cc

CC: Mr. Skip Calvert ✓
Associate Executive Director -
Administration
and
Mr. Robert A. Teckemeyer
Deputy Executive Director
AMERICAN PHYSICAL THERAPY ASSOCIATION

1100
Appendix E

The Alaska Chapter of the American Physical Therapy Association, Inc., (APTA) is a regional chapter of the voluntary, non-profit national organization for physical therapists. One of our main purposes is to foster the development and improvement of physical therapy service and physical therapy education through the coordinated action of physical therapists, allied professional groups, citizens, agencies, and schools to the end that the physical therapy needs of the people will be met. One important function of the Chapter is to develop, oversee, and maintain those high standards that a therapist must attain, to serve the public. Our objective is to promote interest in and understanding of physical therapy in Alaska and, towards this end, to comment upon and propose legislation which affects the practice of physical therapy.

The Alaska Chapter of the American Physical Therapy Association, Inc., with unanimous approval of the Executive Committee, wishes physical therapists to practice independently; that is, without physician referral as is now required.

The proposed amendments are presented after a careful review of the needs of both the public sector and the physical therapy profession. We feel that Alaskan physical therapists would be able to provide additional and better service to the public, and still maintain our current high standards of service.

We believe that adoption of these changes will result in professional growth for physical therapists in Alaska and corresponding increase in quality and availability of services to Alaskans. Your careful consideration of our proposal, and your support for its enactment into law, would be appreciated. If we may answer any questions, or provide you with any further information, please do not hesitate to contact Hal Egbert (_____ home or 279-6561 work). Thank you for your attention.

Patricia McAdoo, LPT
President, Alaska Chapter
American Physical Therapy Association

The American Physical Therapy Association, which represents over 35,000 physical therapists, has declared after a significant period of study and deliberation that it is ethical for physical therapists to practice without a physician's referral in a jurisdiction in which it is legal to do so. Elimination of the requirement of referral allows individuals who might not otherwise be able to afford a physician's fee to be treated directly by a qualified physical therapist. Thus, we believe that the amendments we propose will result in decreased health care costs to the public, with no decrease in the quality of care. Research performed by the United States Army and the United States Public Health Service, both of which already utilize therapists in this independent capacity, has demonstrated the effectiveness and cost-efficient nature of using physical therapists as initial health care providers.

Today's physical therapists are well qualified, by both education and clinical training, to evaluate a patient's condition, assess his/her physical therapy needs and, if appropriate, safely and effectively treat the patient. The physical therapist is also well qualified to recognize when a patient demonstrates conditions, signs, and symptoms that should be evaluated by another health care professional before physical therapy is instituted, and knows when to refer patients to other professionals for consultation.

Different types of treatment possible for patient care are rapidly expanding due to advances in all aspects of medicine. Physical therapy meets this need by emphasizing recognition of signs and symptoms of medical problems. The physical therapist assesses a problem and then makes a decision as to whether or not treatment will be beneficial based on this training. It is important to realize that with this knowledge the physical therapist determines which patients can benefit from physical therapy treatment and which should see another medical specialist.

Six states (California, Arizona, Nebraska, Maryland, Massachusetts, West Virginia) and the United States Army already permit independent practice. Twenty-one other states allow initial evaluation without referral. In reviewing the bills of the six states, it was felt that Arizona's statute most closely meets the needs of Alaska, and it has been used as the model in our proposed legislation.

To our knowledge, there has been no problem in those states where similar legislation has been enacted. As it is now, referring practitioners often rely very heavily upon the physical therapist's evaluation and judgement in determining the most appropriate treatment for the patient. We do not desire to exclude physician contact or physician referrals, but we feel that physical therapists, as professionals, should be able to and are fully qualified to function independently as well.

In order to strengthen our commitment to safe, high quality care, we feel that it is appropriate to add into our Practice Act the additions proposed as Section 03.24.120 (11) and (12). This section offers additional protection to the public, and is an appropriate means to regulate the profession to ensure a high standard of care is maintained.

PHYSICAL THERAPIST EDUCATION/LICENSURE :

The basic education of a physical therapist includes eight semester hours of gross human anatomy with total human cadaver dissection, five semester hours of systems physiology, three semester hours of neuro-science which includes neuro-anatomy with human brain dissection, four semester hours of patho-physiology, and three semester hours of functional anatomy which includes pathokinesiology. In addition to these basic science courses, the student receives extensive education in the clinical sciences. The professional program is 26 months in length which includes six months of rotating internships in facilities which offer orthopedic, neurological and long term care physical therapy. Prior to admittance to the professional program a student must complete 67 semester hours of pre-requisite college work which includes chemistry, physics, microbiology, college algebra and trigonometry, psychology, humanities, social sciences and the fine arts. The student graduates from a physical therapy education program with approximately 163 semester hours. A comprehensive professional examination must be taken and passed before a physical therapist can be licensed to practice.

PROPOSED PRACTICE ACT CHANGES:

Sec. 08.84.120

Refusal, revocation and suspension of license.
The board may refuse to license an applicant, may refuse to renew the license of a person, and may suspend or revoke the license of a person who

- (1) same
- (2) same
- (3) same
- (4) same
- (5) same
- (6) same
- (7) same
- (8) has treated or attempted to treat ailments

of human beings otherwise than by physical therapy, or has attempted to practice independent of the prescription and direction of a person licensed to practice medicine, osteopathy, dentistry, or podiatry.

Delete

2/13/80

- (9) same
- (10) same

(ADD)

To Board in Regs →

(11) FAILS TO REFER A PATIENT TO ANOTHER QUALIFIED PROFESSIONAL A PATIENT WHOSE CONDITION IS BEYOND THE TRAINING OR ABILITY OF THE PHYSICAL THERAPIST.

(ADD)

TO BOARD IN REGS →

(12) DEMONSTRATES ANY CONDUCT OR PRACTICE CONTRARY TO RECOGNIZED STANDARDS OF ETHICS OF THE PHYSICAL THERAPY PROFESSION OR ANY CONDUCT OR PRACTICE WHICH DOES OR MIGHT CONSTITUTE A DANGER TO THE HEALTH, WELFARE, OR SAFETY OF THE PATIENT OR THE PUBLIC, OR ANY CONDUCT, PRACTICE OR CONDITION WHICH DOES OR MIGHT IMPAIR THE ABILITY SAFELY AND SKILLFULLY TO PRACTICE PHYSICAL THERAPY.

Sec. 08.84.160

Delete

Practice of licensed physical therapist.

A person licensed under this chapter may not treat human ailments by physical therapy or otherwise except under the prescription and direction of a person licensed to practice medicine, dentistry, osteopathy, or podiatry. This chapter does not authorize any person to practice medicine, dentistry, osteopathy, chiropractic, or other method of healing.

(ADD)

To Board in Regs

THERAPISTS TREATING PATIENTS WITHOUT A PRESCRIPTION OF A PERSON LICENSED TO PRACTICE MEDICINE, DENTISTRY, OSTEOPATHY, OR PODIATRY MUST COMPLY WITH THE REGULATIONS SET BY THE STATE PHYSICAL THERAPY BOARD. (THERAPISTS INTENDING TO TREAT PATIENTS WITHOUT PRACTITIONER'S REFERRAL MUST SEND A LETTER OF INTENTION ALONG WITH THEIR RESUME TO THE BOARD)

Sec. 08.84.160

(ADD)

TERAPISTIS ARE ALLOWED TO SCREEN ANY PERSON
OR SUPERVISE PREVENTATIVE HEALTH PROGRAMS WITHOUT
PRACTITIONER REFERRAL.

Sec. 08.84.185

Add to Board
ness

(ADD)

Limits or conditions on license; discipline.

(a) In addition to action under AS 08.84.180, upon finding that by reason of demonstrated problems of confidence, experience, education or health the authority to practice physical therapy should be limited or conditioned or the practitioner disciplined, the board may reprimand, censure, place on probation, restrict practice by speciality, procedure or facility, require additional education or training, or revoke or suspend a registration. FAILING TO REFER TO ANOTHER QUALIFIED PROFESSIONAL A PATIENT WHOSE CONDITION IS BEYOND THE TRAINING OR ABILITY OF THE PHYSICAL THERAPIST WILL REQUIRE THE BOARD TO SUSPEND THAT THERAPIST'S PRIVILEGE TO TREAT PATIENTS WITHOUT REFERRAL.

The Alaska Chapter of the American Physical Therapy Association, Inc., (APTA) is a regional chapter of the voluntary, non-profit national organization for physical therapists. One of our main purposes is to foster the development and improvement of physical therapy service and physical therapy education through the coordinated action of physical therapists, allied professional groups, citizens, agencies, and schools to the end that the physical therapy needs of the people will be met. One important function of the Chapter is to develop, oversee, and maintain those high standards that a therapist must attain, to serve the public. Our objective is to promote interest in and understanding of physical therapy in Alaska and, towards this end, to comment upon and propose legislation which affects the practice of physical therapy.

The Alaska Chapter of the American Physical Therapy Association, Inc., with unanimous approval of the Executive Committee, wishes physical therapists to practice independently; that is, without physician referral as is now required.

The proposed amendments are presented after a careful review of the needs of both the public sector and the physical therapy profession. We feel that Alaskan physical therapists would be able to provide additional and better service to the public, and still maintain our current high standards of service.

We believe that adoption of these changes will result in professional growth for physical therapists in Alaska and corresponding increase in quality and availability of services to Alaskans. Your careful consideration of our proposal, and your support for its enactment into law, would be appreciated. If we may answer any questions, or provide you with any further information, please do not hesitate to contact Hal Egbert (_____ home or 279-6661 work). Thank you for your attention.

Patricia McAdoo, LPT
President, Alaska Chapter
American Physical Therapy Association

BACKGROUND AND JUSTIFICATION:

The American Physical Therapy Association, which represents over 35,000 physical therapists, has declared after a significant period of study and deliberation that it is ethical for physical therapists to practice without a physician's referral in a jurisdiction in which it is legal to do so. Elimination of the requirement of referral allows individuals who might not otherwise be able to afford a physician's fee to be treated directly by a qualified physical therapist. Thus, we believe that the amendments we propose will result in decreased health care costs to the public, with no decrease in the quality of care. Research performed by the United States Army and the United States Public Health Service, both of which already utilize therapists in this independent capacity, has demonstrated the effectiveness and cost-efficient nature of using physical therapists as initial health care providers.

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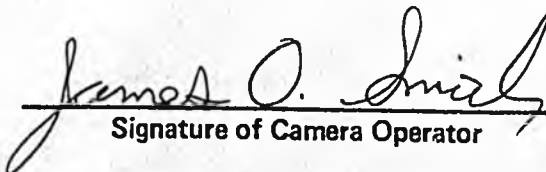
PHYSICAL THERAPIST EDUCATION/LICENSURE:

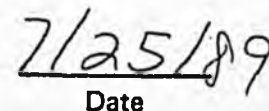
The basic education of a physical therapist includes eight semester hours of gross human anatomy with total human cadaver dissection, five semester hours of systems physiology, three semester hours of neuroscience which includes neuro-anatomy with human brain dissection, four semester hours of patho-physiology, and three semester hours of functional anatomy which includes pathokinesiology. In addition to these basic science courses, the student receives extensive education in the clinical sciences. The professional program is 26 months in length which includes six months of rotating internships in facilities which offer orthopedic, neurological and long term care physical therapy. Prior to admittance to the professional program a student must complete 67 semester hours of pre-requisite college work which includes chemistry, physics, microbiology, college algebra and trigonometry, psychology, humanities, social sciences and the fine arts. The student graduates from a physical therapy education program with approximately 163 semester hours. A comprehensive professional examination must be taken and passed before a physical therapist can be licensed to practice.



RECORDS CERTIFICATION

I, the undersigned, an employee of the State of Alaska, do hereby certify that the microfilm images on this microform are accurate reproductions of the original records of the State of Alaska as accumulated during the regular course of business, and that it is the established policy and practice of this State to microfilm its records and to dispose of the original records after microfilm reproductions have been made.


Signature of Camera Operator


Date

HESS

Sunset Review

Nursing Home

Administrators

MEMORANDUM

TO: HOUSE HESS COMMITTEE MEMBERS
FROM: NANCY BENNETT, COMMITTEE STAFF
RE: TODAY'S MEETING
DATE: FEBRUARY 12, 1985

BEFORE US TODAY IS THE SUNSET REVIEW OF TWO BOARDS: THE BOARD OF DENTAL EXAMINERS AND THE BOARD OF NURSING HOME ADMINISTRATORS. ATTACHED TO THIS MEMO IS A COPY OF THE STATUTORY REQUIREMENTS FOR A SUNSET REVIEW HEARING AS 44.66.050.

THE BOARD OF DENTAL EXAMINERS

The Division of Legislative Audit recommends that this board be continued.

RECOMMENDATIONS

1. the board should adopt continuing competency regulations as required by 08.36.070
2. the board should adopt policies for licensure by credentials.

Dr. Buxton, chairman of the board, will be with us by teleconference at 4:30 and has submitted a letter in response to the audit recommendations which is in your folder.

THE BOARD OF NURSING HOME ADMINISTRATORS

The Division of Legislative Audit recommended that the board be discontinued and the functions be placed under the state Medical Board. However, Medicaid regulations require that administrators be licensed by a board and will not allow the function to be placed under the Medical Board.

Ruth Roth, Chairperson of the board, will be testifying at 5:15 from Sitka and Kim Busch of the Division of Medical Assistance will be here in Juneau to explain the Medicaid regulations.

The second 1981 amendment substituted "1983" for "1981" in subsection (a)(1).

The third 1981 amendment added paragraph (10) of subsection (a).

The fourth 1981 amendment added paragraph (11) of subsection (a).

The fifth 1981 amendment repealed paragraph (5) of subsection (a) which provided a termination date for the Alaska Pipeline Commission.

The sixth 1981 amendment substituted "AS 44.21.241" for "AS 44.19.181" in paragraph (6) of subsection (a).

The first 1982 amendment substituted "1985" for "1982" in paragraph (8) of subsection (a).

The second 1982 amendment deleted "Renewable" preceding "Resources Corporation" and substituted "June 30, 1992" for "June 30, 1982" in paragraph (7) of subsection (a).

Sec. 44.66.020. Agency programs. (a) Agency programs and activities listed in this subsection which are specifically designated as provided in AS 44.66.030 are subject to termination during the regular legislative session convening in the month and year set out after each:

- (1) programs in the budget categories of general government, public protection, and administration of justice — January, 1980;
- (2) programs in the budget categories of education and the University of Alaska — January, 1981;
- (3) programs in the budget categories of health and social services — January, 1982;
- (4) programs in the budget categories of natural resources management, development and transportation — January, 1983.

(b) An agency program or activity designated in (a) of this section shall be subject to termination during the regular legislative session convening four years after the preceding review and may be subject to termination at any time upon the recommendation of the Legislative Budget and Audit Committee and the concurrence of the legislature as if under AS 44.66.030. (§ 3 ch 149 SLA 1977)

Sec. 44.66.030. Program identification. During the legislative session preceding each of the years set out in AS 44.66.020, the Legislative Budget and Audit Committee shall designate, not later than March 1 of those years, the programs and activities within each program category which shall be subject to termination in the next fiscal year. The recommendations of the Legislative Budget and Audit Committee shall be submitted to the respective houses of the legislature in the form of a bill which, if enacted into law, would terminate those designated programs and activities on or before July 1 of the following year. (§ 3 ch 149 SLA 1977)

The first 1983 amendment, substituted "1985" for "1982" in paragraph (a)(3).

The second 1983 amendment, added paragraph (12).

The third 1983 amendment, substituted "1985" for "1983" in paragraph (a)(2).

The fourth 1983 amendment, substituted "1984" for "1983" in paragraph (a)(1).

The first 1984 amendment repealed paragraph (a)(7), which provided a termination date for the Alaska Resources Corporation.

The second 1984 amendment substituted "1986" for "1984" in paragraph (1) of subsection (a).

Legislative history reports. — For adoption of letter of intent relating to ch. 74, SLA 1983, extending the termination date of the Alaska Transportation Commission, see 1983 Senate Journal, p. 1424, and 1983 House Journal, p. 1939.

Sec. 44.66.050. Legislative oversight. (a) Before the termination, dissolution, continuation or reestablishment of a board or commission under AS 08.03.010 or AS 44.66.010, or of an agency program under AS 44.66.020 and 44.66.030, a committee of reference of each house, which shall be the standing committee of legislative jurisdiction as provided in the Uniform Rules of the Legislature, shall hold one or more hearings to receive testimony from the public, the commissioner of the department having administrative responsibility for each named board, commission, or agency program, and the members of the board or commission involved. The hearings may be joint hearings. The committee shall also consider the proposed budget of the board, commission, or agency program, prepared in accordance with AS 37.07.050(f), and the performance audit of the activities of the board, commission, or agency program, prepared by the legislative audit division as prescribed in AS 24.20.271(1). The committee may consider any other report of the activities of the board, commission or program, including but not limited to annual reports, summaries prepared by the Legislative Affairs Agency, and any evaluation or general report of the manner of conduct of activities of the board, commission, or agency program prepared by the office of the ombudsman.

(b) During a public hearing, the board, commission or agency shall have the burden of demonstrating a public need for its continued existence or the continuation of the program, and the extent to which any change in the manner of exercise of its functions or activities may increase efficiency of administration or operation consistent with the public interest.

(c) A determination as to whether a board or commission or agency program has demonstrated a public need for its continued existence shall take into consideration the following factors:

(1) the extent to which the board, commission or program has operated in the public interest;

(2) 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;

(3) the extent to which the board, commission or agency has recommended statutory changes which are generally of benefit to the public interest;

(4) 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;

(5) the extent to which the board, commission or agency has encouraged public participation in the making of its regulations and decisions;

(6) 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;

(7) the extent to which a board or commission which regulates entry into an occupation or profession has presented qualified applicants to serve the public;

(8) 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; and

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

(d) ~~As to each board, commission, or agency program assigned to it for purposes of review, the committee of reference shall, no later than the 60th day of the legislative session, submit a report to the presiding officer of the house. The report shall contain a summary of the findings of the committee as to the compliance of the board, commission or program with the factors enumerated in (c) of this section, together with a summary or recommendations of the committee as to each of the following:~~

(1) an identification of the problems or the needs that the programs and activities of the board, commission or agency are intended to address;

(2) a statement, to the extent practicable, of the objectives of the program of the board, commission, or agency program, and its anticipated accomplishments;

(3) an identification of any other programs having similar, conflicting or duplicate objectives;

(4) an assessment of alternative methods of achieving the purposes of the program;

(5) an assessment of the consequences of eliminating the board, commission or program and consolidating its activities with another program, or of funding it at a lower level;

(6) a justification for the recommended continuation or extension of the board, commission or program, and an explanation of the manner in which it avoids duplication of or conflict with other efforts; and

(7) any other information which, in the opinion of the committee, would improve the performance of the board, commission or agency with respect to its representation of and responsiveness to the public interest.

(e) The committee of reference may introduce a bill providing for the reorganization or continuation of the board, commission or agency

program. No more than one board, commission, or agency program shall be continued or reestablished in any legislative bill, and the board, commission, or agency program shall be mentioned in the title of the bill. (§ 3 ch 149 SLA 1977)

Sec. 44.66.060. Existing claims. This chapter shall not cause the termination or dismissal of a claim or right of a citizen against a board, commission or program of an agency terminated under this chapter which is subject to litigation. Claims and rights shall be assumed by the department to which the board or commission terminated under this chapter was attached for administrative purposes. (§ 3 ch 149 SLA 1977)

Part 6. State Property.

Chapter

68. State-Owned Vehicles (§§ 44.68.010 — 44.68.040)

71. Surplus Property (§§ 44.71.010 — 44.71.040)

74. Management and Disposition (§§ 44.74.010 — 44.74.090)

Chapter 68. State-Owned Vehicles.

Section	Section
10. Use of state-owned vehicles	30. Exemptions
20. Regulations regarding the use of state-owned vehicles	40. Violations

Sec. 44.68.010. Use of state-owned vehicles. State-owned vehicles may be used only in the conduct of state business. A state officer or employee may not use or permit the use of a state-owned vehicle except in the conduct of state business. (§ 1 ch 178 SLA 1959)

Collateral references. — 72 Am. Jur. 2d States, Territories and Dependencies, § 66.

Applicability to public officials or employees of motor vehicle regulations, 19 ALR 459; 23 ALR 418.

Responsibility of public officer for negligence of subordinate in operation of vehicle, 3 ALR 1149.

Sec. 44.68.020. Regulations regarding the use of state-owned vehicles. The Department of Transportation and Public Facilities shall adopt regulations that

(1) define what is the use of state-owned automotive and mechanical vehicles in the conduct of state business and distinguish this use from misappropriation for private use;

(2) prescribe use governing the storage of state-owned vehicles in those locations where storage space, under the jurisdiction of the Department of Transportation and Public Facilities, is available for storage of state-owned vehicles;

STATE OF ALASKA

THE LEGISLATURE

BUDGET AND AUDIT COMMITTEE

AUDIT DIVISION
POUCH W
JUNEAU, ALASKA 99811

JAN 21 1986

January 21, 1986

The Honorable Ben Grussendorf
Speaker of the House
P.O. Box V
Juneau, AK 99811-3100

Dear Representative Grussendorf:

The Legislative Budget and Audit Committee released to the public the sunset audit reports of regulatory boards and commissions that are scheduled for termination June 30, 1986. I am forwarding these reports to you so that they may be distributed to the appropriate standing committees you will designate to perform the legislative oversight function.

The entities are:

1. Alcoholic Beverage Control Board (AS 04.06.010)
2. Guide Licensing and Control Board (AS 08.54.010)
3. Board of Dental Examiners (AS 08.31.010)
4. Board of Electrical Examiners (AS 08.40.010)
5. Board of Nursing Home Administrators (AS 08.70.010)
6. Board of Pharmacy (AS 08.80.010)
7. State Physical Therapy Board (AS 08.84.010)
8. Real Estate Commission (AS 08.88.011)
9. Alaska Public Utilities Commission (AS 42.05.010)

Please note that AS 08.03.020(a) and AS 44.66.010 provide that upon termination, each board or commission continues in existence until June 30 of the next succeeding year for the purpose of concluding its affairs. This provision does not apply to the Board of Pharmacy which is already in its "wind-up" period.

Sincerely,



Gerald L. Wilkerson
Legislative Auditor
Division of Legislative Audit

Enclosures

Board or Commission	Appointed	Term
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BOARD OF NURSING HOME ADMINISTRATORS

AS 08.70 - 5 members; 3 year term; serve at the pleasure of the Governor.

Ruth Roth, R.N. (Chairperson) Box 479 Sitka, Alaska 99835 (work) 747-3213 (home) 747-8043	October 1, 1988
Eloise E. Deater (public member) 3100 Ward Place #2 Anchorage, Alaska 99517 (home) 248-9578	October 1, 1989
Jane Sabes (N. H. Administrator) P.O. Box 966 Nome, Alaska 99762 (work) 443-5411 (home) 443-5609	October 1, 1988
Thomas E. Boling (N. H. Administrator) 3661 Spinaker Drive Anchorage, Alaska 99516 (work) 562-2281 (home) 345-5870	October 1, 1986
Raymond A. Davidson (Public member) 9360 Del Rey Road Juneau, Alaska 99801 (home) 789-7474	October 1, 1988

14-1753
Utermohle
2/6/86 ✓

1 IN THE HOUSE

BY THE HEALTH, EDUCATION AND
SOCIAL SERVICES COMMITTEE

2 HOUSE BILL NO.

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act extending the termination date of the Board
7 of Nursing Home Administrators; and providing for an
8 effective date."

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

10 * Section 1. AS 08.03.010(c)(9) is amended to read:

11 (9) Board of Nursing Home Administrators (AS 08.70.010) --

12 June 30, 1990 [1986].

13 * Sec. 2. This Act takes effect immediately in accordance with AS 01.-
14 10.070(c).

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Hess

A PERFORMANCE REPORT ON THE
DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT
BOARD OF NURSING HOME ADMINISTRATORS

September 30, 1985

Audit Control Number

08-1222-86-R

Commissioner, Department of
Commerce and Economic Development

Loren H. Lounsbury

Deputy Commissioners, Department of
Commerce and Economic Development

Greg Baker
Terry Elder

Members of the
Board of Nursing Home Administrators

Acting Chairperson
Member
Member
Member
Member

Ruth Roth, RN
Jane Sabes, NHA
Thomas E. Boling, NHA
Raymond A. Davidson
Eloise E. Deater

STATE OF ALASKA

AUDIT DIVISION
POUCH W
JUNEAU, ALASKA 99811

THE LEGISLATURE

BUDGET AND AUDIT COMMITTEE

September 30, 1985

Members of the Legislative Budget
and Audit Committee:

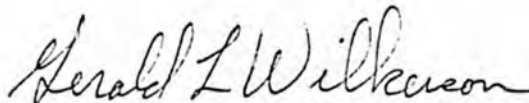
In accordance with the provisions of Titles 24 and 44 of the
Alaska Statutes (sunset legislation), the attached report is
submitted for your review.

A PERFORMANCE REPORT ON THE
DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT
BOARD OF NURSING HOME ADMINISTRATORS

September 30, 1985

Audit Control Number

08-1222-86-R



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

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PURPOSE OF THE REPORT

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 Nursing Home Administrators for the past four fiscal years 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 Nursing Home Administrators should be reestablished. The law now specifies that the Board will terminate June 30, 1986, and have one year from that date to conclude its affairs.

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

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

ORGANIZATION AND FUNCTION

Federal law [U.S. Code, Title 42, Sect. 1396a(29)] requires a state to license nursing home administrators in order for that state to receive Medicaid assistance from the Federal government. Thus, to receive Medicaid funding, a nursing home must be administered by a licensed nursing home administrator.

In response to this requirement, the Board of Nursing Home Administrators was created by the Alaska Legislature in 1975. The Board is comprised of five members; two nursing home administrators, one registered nurse, and two public members. The purpose of the Board is to ensure that nursing home administrators have the knowledge and experience necessary to be competent administrators.

The major duties of the Board are to issue initial licenses to qualified applicants and to monitor the renewal of licenses. The Board is assisted in these duties by the Department of Commerce and Economic Development, Division of Occupational Licensing (OL). OL processes applications, maintains licensing files, answers correspondence dealing with the Board, and provides other administrative support as needed by the Board. In addition, OL investigates any complaints involving nursing home administrators.

Qualifications for licensure include work experience and educational requirements. Additionally, a passing score of 75% or better must be obtained on the exam given by the National Association of Boards of Nursing Home Administrators.

License renewal is required biennially. Renewal requires the licensee to complete a license renewal application, an affidavit of good moral character, and to submit a 50 dollar license fee.

There are currently 21 facilities in the State which are required to have licensed administrators.

REPORT CONCLUSION

Policy Issues

This report contains policy issues raised as a result of our evaluation of Board practices. The final policy decisions affecting these practices are not within the scope of this 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

We found no evidence the continuation of the Board of Nursing Home Administrators (BNHA) will benefit the public's safety or welfare. However, the Board needs to be reestablished in order to comply with Federal law governing the licensing of nursing home administrators. These laws require nursing homes to be administered by licensed administrators if the nursing homes are to be eligible to receive Federal Medicaid financial assistance. Therefore, we are recommending that BNHA pursue ways to reduce the cost of regulating nursing home administrators without jeopardizing the State's eligibility to receive Federal Medicaid funding (see Recommendation No. 1).

FINDING AND RECOMMENDATION

Recommendation No. 1

The Board of Nursing Home Administrators (BNHA) should consider, evaluate, and pursue ways to reduce the cost of regulating nursing home administrators without jeopardizing the State's eligibility to receive Federal Medicaid funding.

The existence of BNHA is not required to ensure the public's welfare. Public protection is provided through State and Federal nursing home license and certification reviews. With the exception of the five State-operated Pioneers' Homes, all of the 21 facilities in Alaska that are required to have licensed administrators are subject to these reviews.

The primary justification for continuing BNHA is to maintain the State's eligibility to receive Federal Medicaid funding. U.S. Code, Title 42, requires the State to have either a licensing board or an agency of the State responsible for licensing under the Healing Arts Act of the State. Since Alaska does not have a Healing Arts Act, the State is required to have a licensing board in order to be eligible for Medicaid funding.

Alaska Statutes 08.70.020-.040 require a five member board to meet twice annually. BNHA is relatively inactive. Board activity is largely limited to the approval of applicants for licensure, of which there are only 50 active licensees in the State. The number of board members and meetings required by the statutes is greater than is warranted by the Board's workload.

From FY 82 through September 30, 1985, only four formal meetings had been held. Due to a lack of business, two of the more recent meetings lasted less than two and one-half hours each. Additionally, during the last five years, unfilled board member vacancies caused the Board to operate at less than full membership.

For these reasons BNHA should determine and support a less expensive method of licensing administrators. In June 1985, the U.S. Department of Health and Human Services indicated that they would possibly approve a scheme by which licensing of administrators could be done by the Medical Board. This would allow the elimination of the BNHA without jeopardizing the State's eligibility for Federal Medicaid funding. We believe the Medical Board could accomplish the limited duties of the BNHA in the course of its regular activities and meetings with little or no increase in its workload. To best serve the public, we recommend that the BNHA study and support implementation of a cost-effective alternative to the current Board that will preserve the State's eligibility for Medicaid funding.

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. We have determined that no public need for the Board has been demonstrated. The Board was created to comply with Federal law (see Recommendation No. 1).
 - B. The Board has initiated statutory changes which have benefited the public (see criteria III).
- 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. Federal law requires the State to have either a Board of Nursing Home Administrators or an agency of the State responsible for licensing under the Healing Arts Act of the State. Since Alaska does not have a Healing Arts Act, the State is mandated to have a licensing board.
- 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 statutes were amended to replace annual licensing renewal requirements with biennial requirements.
 - B. Statutes were established by which licenses can be revoked from persons who do not uphold the standards established by 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. It is the policy of the Division of Occupational Licensing (OL) to publish in Anchorage, Fairbanks, and Juneau newspapers public meeting notices 30 days prior to scheduled meeting dates in order to allow persons wishing to attend a meeting time to prepare for it. There have been four board meetings held since FY 82. For two meetings, inadequate time was allowed between publication and actual meeting dates. No publication of public notice was made for a third meeting.
- 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 the newspaper, 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 process and resolved.
- A. In the past several years, only one complaint involving nursing home administrators has been filed with the Investigations Unit within OL. The complaint was dismissed as lacking merit and required no board action.
- B. The Office of the Ombudsman and the Attorney General's Office has no outstanding consumer complaints regarding the Board of Nursing Home Administrators.
- VII. The extent to which a board or commission which regulated entry into an occupation or profession has presented qualified applicants to serve the public.
- A. We found no instances where the Board had licensed unqualified practitioners.
- B. There are 50 persons licensed as nursing home administrators in Alaska.
- VIII. The extent to which state personnel practices, including affirmative action requirements, have been complied with by the board, commission, or agency to its own activities and the area of activity or interest.
- A. No complaints have been filed with the Office of Equal Employment Opportunity regarding the Board of Nursing Home Administrators.

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

Please refer to the previous section, Finding and Recommendation.

APPENDIXES

APPENDIX A

BOARD OF NURSING HOME ADMINISTRATORS
REVENUES COMPARED WITH EXPENDITURES
For Fiscal Year 1985
(UNAUDITED)
(Note 1)

Average Revenues (Note 2)	\$ 1,818
Expenditures (Note 3)	<u>3,022</u>
Excess of Expenditures over Revenues	<u>\$(1,204)</u>

Schedule 1
Types of Revenues

<u>Revenues</u>	<u>Amount</u>	<u>Collection Time</u>
Examination Fee	\$25	With application form
Reexamination Fee	25	With application form
Investigation Fee	25	With application form
Biennial License Fee	50	Prior to initial license issuance and biennially
Late Fee Fine	10	With late payment
Bad Check Charge	10	With valid payment

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 cause revenues in one year to be much greater than the revenues collected in the next year. Therefore, we calculated and reported an average for the revenues collected in Fiscal Years 1984 and 1985 in order to obtain a more accurate representation of collected revenues.

Note 3

Expenditures consist of direct costs resulting from Board activities. These include miscellaneous contractual, travel, and per diem costs incurred by Board members and the Board's licensing examiner. This amount does not include the administrative expenditures of the Division of Occupational Licensing such as employee salaries or the expenditures made to other departments such as the Department of Law, which assist the boards and the Division.

APPENDIX B

BOARD OF NURSING HOME ADMINISTRATORS
EXAMINATION STATISTICS

Number of Examinations Given in Fiscal Years 1983-85

<u>Fiscal Year</u>	<u>Passes</u>	<u>Fails</u>	<u>Total</u>
1983	4	0	4
1984	2	1	3
1985	7	2	9

APPENDIX C

BOARD OF NURSING HOME ADMINISTRATORS
ADMINISTRATIVE STATISTICS
September 30, 1985

Licensed Nursing Home Administrators 50

Board Meetings in Fiscal Years 1983-1985

1983	0
1984	2
1985	1

BILL SHEFFIELD, GOVERNOR

**DEPARTMENT OF COMMERCE &
ECONOMIC DEVELOPMENT**

DIVISION OF OCCUPATIONAL LICENSING

December 23, 1985

POUCH D
JUNEAU, ALASKA 99811
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RECEIVED
DEC 24 1985

**LEGISLATIVE
AUDIT**

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


Dear Mr. Wilkerson:

Thank you for the opportunity to comment on your preliminary audit report for the Board of Nursing Home Administrators.

We concur with your findings and recommendations and agree that a less expensive method to administer licensing should be sought while preserving the State's eligibility to obtain Medicaid funding.

Thank you once again for the opportunity to comment on your audit.

Sincerely,


Loren H. Lounsbury
Commissioner

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