

ALASKA LEGISLATURE COMMITTEE FILES 1985-1986 86/2

3963 SHEETS SB 456 - SB 457

898



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.

James O. Smith
Signature of Camera Operator

10/31/89
Date

S B

4 5 6

Senate Health, Education and Social Services Committee

Legislation Checklist

Bill number: SB 456

Sponsor:

Date referred to committee:

Synopsis completed:

Fiscal note:

Further referrals:

CONTACTS:

Nancy Dunn
Jerry Snitler

2534

Offered: 2/28/86
Referred: Labor & Commerce and
Finance

Original sponsor: Health, Education and
Social Services Committee

1 IN THE HOUSE

BY THE HEALTH, EDUCATION AND
SOCIAL SERVICES COMMITTEE

2

CS FOR HOUSE BILL NO. 634 (HESS)

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - SECOND SESSION

5

A FILL

6

For an Act entitled: "An Act relating to the Board of Nursing Home Admini-

7

strators; and providing for an effective date."

8

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

9

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

10

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

11

June 30, 1990 [1986].

12

* Sec. 2. AS 08.70.020(a) is amended to read:

13

(a) The board consists of three [FIVE] members: one [TWO] nurs-

14

ing home administrator [ADMINISTRATORS] licensed under this chapter

15

and practicing in the state, a registered nurse licensed in the state

16

and having no direct financial interest in any nursing home, and one

17

person [TWO PERSONS] from the general public.

18

* Sec. 3. AS 08.70.155 is amended to read:

19

Sec. 08.70.155. GROUNDS FOR IMPOSITION OF DISCIPLINARY SANC-

20

TIONS. After a hearing the board may impose disciplinary sanctions

21

when it finds that a licensee

22

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

23

misrepresentation;

24

(2) engaged in deceit, fraud, or intentional misrepresenta-

25

tion in the course of providing professional services or engaging in

26

professional activities;

27

(3) advertised professional services in a false or mislead-

28

ing manner;

29

(4) intentionally or negligently engaged in or permitted

1 the performance of patient care by persons under the licensee's super-
2 vision which does not conform to minimum professional standards re-
3 gardless of whether actual injury to the patient occurred;

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

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

7 [(A)] professional incompetence, [;

8 (B)] addiction or severe dependency on alcohol or
9 other drugs which impairs the licensee's ability to practice
10 safely, or [;

11 (C)] physical or mental disability and the licensee
12 has not been rehabilitated to the satisfaction of the board;

13 (7) sold or furnished a license to another;

14 (8) practiced as a nursing home administrator or used a
15 designation tending to imply that the licensee is a nursing home
16 administrator without a license issued under this chapter unless
17 exempted from licensure requirements under AS 08.70.080.

18 * Sec. 4. TRANSITION. Notwithstanding the provisions of AS 08.70.-
19 020(a) as amended by sec. 2 of this Act, the members of the Board of Nurs-
20 ing Home Administrators on the effective date of this Act shall remain on
21 the board until their terms expire or the positions otherwise become va-
22 cant.

23 * Sec. 5. This Act takes effect immediately in accordance with AS 01.-
24 10.070(c).

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

September 30, 1985

Audit Control Number

JS-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

TABLE OF CONTENTS

	<u>Page</u>
Purpose of the Report	1
Organization and Function	3
Report Conclusion	5
Finding and Recommendation.	7
Analysis of Public Need	9
Appendixes:	
A. Board of Nursing Home Administrators Revenues Compared with Expenditures	15
B. Board of Nursing Home Administrators Examination Statistics.	17
C. Board of Nursing Home Administrators Administrative Statistics	18
Agency Response:	
Department of Commerce and Economic Development	19

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).

(Intentionally left blank)

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.

(Intentionally left blank)

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).

(Intentionally left blank)

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.

(Intentionally left blank)

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 or 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 notices 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.

(Intentionally left blank)

APPENDIXES

(Intentionally left blank)

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><u>\$(1,204)</u></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</u> <u>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
<u>Board Meetings in Fiscal Years 1983-1985</u>	
1983	0
1984	2
1985	1

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 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

LHL/me1282M
122385b

COMMITTEE REPORT
SENATE

FURTHER: FINANCE

2/21/86

Date 3-19-86

Mr. President

The Committee on HESS considered SB 456
relating to the Board of Nursing Home Administrators; efd.

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

- do pass
- do pass with attached amendment(s)
- replace with/or adopt CS for _____
- new title
- same title and recommends _____
- and attached a "LETTER OF INTENT" NEW FISCAL NOTE
- reports it back without recommendation
- recommends referral to _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS

Joe G... ..

E. L.

Dittus Fabrenkamp
Chairman

Chairman recommendation

STATE OF ALASKA 1986 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: SB 456
 Title: An Act relating to the Board of Nursing Home Administrators;
 Sponsor: Senate HESS
 Requester: Senate HESS
 Date of Request: 3/14/86

FISCAL DETAIL

Agency Affected: Commerce & Economic Dev.
 BRU: Occupational Licensing
 Components: _____

EXPENDITURES / REVENUES : (Thousands of Dollars)

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES		-0-	-0-	-0-	-0-	-0-
TRAVEL		-0-	-0-	-0-	[.5]	[.5]
CONTRACTUAL		[1.2]	[1.2]	[1.2]	[1.2]	[1.2]
SUPPLIES		-0-	-0-	-0-	-0-	-0-
EQUIPMENT		-0-	-0-	-0-	-0-	-0-
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		[1.2]	[1.2]	[1.2]	[1.7]	[1.7]

CAPITAL						
---------	--	--	--	--	--	--

REVENUE		**				
---------	--	----	--	--	--	--

FUNDING: (Thousands of dollars)

GENERAL FUND		[1.2]	[1.2]	[1.2]	[1.7]	[1.7]
FEDERAL FUNDS						
OTHER						
TOTAL		[1.2]	[1.2]	[1.2]	[1.7]	[1.7]

POSITIONS:

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

ANALYSIS: Attach a separate page if necessary.

The bill provides for continuation of the Board of Nursing Home Administrators and reduces the number of board members from five to three by attrition. The bill also reduces the required number of meetings from semiannually to annually. The board usually conducts one face-to-face meeting and one teleconference each year.

(see attached for continuation)

Prepared by: Jennifer Strickler, Management Analyst
 Division: Occupational Licensing

Phone: 465-2144
 Date: 3-14-86

Approved by Commissioner: _____
 Agency: Commerce and Economic Development

Date: 3-14-86

Distribution (by Agency preparing fiscal note):

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

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. SB 456

The reduction in contractual expenditures is a result of eliminating the teleconference meeting.

Reduction in travel is a result of members being reduced by attrition. One Anchorage member would attend only one meeting in FY 87, therefore, per diem cost of \$80 would be eliminated for FY 88 - 91. This cost is not reflected as it is under \$100 annually.

The reduction of travel cost in FY 90 and FY 91 reflects the elimination of one Juneau member whose term expires October 1, 1988. This member would attend the face to face meeting in FY 89 but travel and per diem cost of \$512.00 in FY 90 and FY 91 would be eliminated.

SB 456

Alaska State Legislature

BETTYE FAHRENKAMP, Chairman
ARLISS STURGULEWSKI, Vice Chairman
JOE JOSEPHSON
PAUL FISCHER
EDNA ARMSTRONG-DE VRIES



P. O. BOX V
STATE CAPITOL
JUNEAU, ALASKA 99811
(907) 465-3834
(907) 465-3782

Senate Committee on Health, Education and Social Services

LETTER OF INTENT FOR SB 456, AN ACT RELATING TO THE BOARD OF NURSING HOME ADMINISTRATORS.

During fiscal year 1985, operating costs of the Board of Nursing Home Administrators exceeded \$3,000. These costs were partially offset by the \$1,818 collected in license fees. SB 456 is intended to reduce the board's operating costs through reducing the membership of the board from 5 to 3 and reducing the minimum number of board meetings to one a year.

In addition, AS 08.70.150 and AS 08.01.065 authorize the Department of Commerce to establish license fees administratively with the concurrence of the board, and require that the fees reflect to the extent possible the actual costs to the Department of the board.

It is the intent of the Senate Committee on Health, Education and Social Services that the Department set fees for the Board of Nursing Home Administrators that are sufficient to cover the costs of its operations, and do so in a timely manner.

For FY 85

Board of Nursing Home Administrators

revenues	\$1,818
expenditures	<u>\$3,022</u>
	(\$1,204)

license fee \$25/yr.

(fees vary for exams, license by credentials, etc.)

Board of Dental Examiners

revenues	\$41,536
expenditures	<u>\$50,888</u>
	(\$9,352)

license fee \$50/yr dentists
\$25/yr hygienists

(fees vary for exams, license by credentials, etc.)

Last year legislature gave Dept. Commerce authority to set license fees administratively, with the concurrence of the board. You might ask the Dept. where in the process of fee setting they are.

file SB 456



Alaska State Legislature
House of Representatives
COMMITTEE ON HEALTH, EDUCATION
AND SOCIAL SERVICES

OFFICIAL BUSINESS

POUCH
JUNEAU, AK 998
465-377

SUNSET REVIEW REPORT - HOUSE BILL NO. 634

February 24, 1986

Representative Ben Grossendorf
Speaker of the House
P.O. Box V
Juneau, Alaska 99811

Dear Mr. Speaker:

The House Committee on Health, Education and Social Services has considered the Sunset Review of the Board of Nursing Home Administrators, and recommends that the board be continued. The Committee has introduced HB 634 to fulfill the findings of the Committee.

As required by AS 44.60.050 (c), the Committee submits the following findings:

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

The Division of Legislative Audit found that the board served no public purpose and should be eliminated, however, the Committee finds that the existence of the board is required by federal Medicaid law and should therefore be maintained so that Alaskan nursing home residents may continue to qualify for Medicaid funds.

(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.

Federal law requires the existence of this board as a criterion for qualification for Medicaid funding.

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

The statutes were amended to require biennial rather than annual licensing and to revoke licenses of those persons who do not uphold the board's standards.

(4) the extent to which the board, commission or agency has encouraged interested persons to report to it concerning the effect of its regulations

HB 634

REQUEST

Bill Resolution No.: HB 634
 Title: Continuation of the Board
 of Nursing Home Administrators
 Sponsor: House HESS
 Requestor: _____
 Date of Request: _____

FISCAL DETAIL

Agency Affected: Commerce & Econ. Dev.
 BRU: Occupational Licensing

 Components: _____

EXPENDITURES/REVENUES : (Thousands of Dollars)

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES						
TRAVEL					[.4]	[.4]
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		-0-	-0-	-0-	[.4]	[.4]

CAPITAL						
---------	--	--	--	--	--	--

REVENUE		-0-	-0-	-0-	-0-	-0-
---------	--	-----	-----	-----	-----	-----

FUNDING : (Thousands of Dollars)

GENERAL FUND		-0-	-0-	-0-	[.4]	[.4]
FEDERAL FUNDS						
OTHER						
TOTAL		-0-	-0-	-0-	[.4]	[.4]

POSITIONS :

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : Attach a separate page if necessary

This bill provides for continuation of the Board of Nursing Home Administrators and reduces the number of board members from five to three by attrition. One Anchorage member would attend only one meeting in FY 87, so per diem cost of \$80 would be eliminated for FY 88-91. This cost is not reflected as it is under \$100 annually.

The reduction in cost shown for FY 90 and FY 91 reflects the elimination of one Juneau member whose term expires October 1, 1988. This member would attend the face to face meeting in FY 89 but travel and per diem cost of \$432.00 in FY 90 and FY 91 would be eliminated.

Prepared by: Jennifer Strickler, Management Analyst Phone: 465-2144
 Division: Occupational Licensing Date: February 20, 1986
 Approved by Commissioner: [Signature] Date: February 20, 1986
 Agency: Commerce and Economic Development

HB 634

and decisions on the effectiveness of service, economy of service, and availability of service which it has provided.

There have been four board meetings since 1982. For two meetings, there was insufficient hearing notice between time of publication and the meetings, and for a third meeting there was no notice.

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

The board announces proposed changes to regulations in the newspaper according to the Administrative Procedures Act.

(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 the board or commission is administratively assigned, or with the office of the ombudsman have been processed or resolved.

Only one complaint has been filed with the Division of Occupational Licensing in the past several years, and that complaint was dismissed as lacking merit. No complaints have been filed with the Office of the Ombudsman or the Attorney General's office.

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

50 persons are licensed as nursing home administrators in the state, with no evidence that unqualified practitioners have been licensed.

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

No complaints have been filed with the Office of Equal Employment Opportunity regarding the Board of Nursing Home Administrators.

(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.

The Committee determined that the board should be reduced to three members to reduce the cost of operation. This change is reflected in HB 634, which the Committee introduced to continue the board.

As required by AS 44.60.050 (d), the Committee submits the following findings:

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

The board needs to assure adequate notice of board meetings. The board wishes to investigate a preceptorship program and continuing

education requirements. The Committee determined that the board has the statutory authority to pursue these goals.

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

The purpose of the board is to license qualified nursing home administrators to protect the public and assure that Alaska receives Medicaid funding. The board is fulfilling this function.

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

There are no other programs having a duplicate function.

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

Because the Medicaid regulations require licensure by a board composed of members of different medical professions, the Committee determined that there are no alternatives other than this board for licensing nursing home administrators.

- (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.

Elimination of the board would make the state of Alaska liable for federal Medicaid sanctions. Since institutional facilities account for over half of the Medicaid budget, this would not be in the state's best interest. In order to save money, the Committee has reduced the number of members on the board to three from five.

- (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.

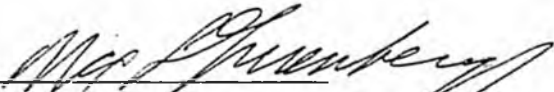
Since Alaska has no combined medical licensing boards which would meet federal regulations, the board must be continued.

- (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.

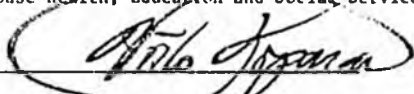
The Committee recommended that reduction of the board be accomplished by attrition. The Division of Occupational Licensing recommended that the meetings be reduced to one per year, but the Committee felt that teleconferenced meetings can and should be held so that the board can fulfill the mandate of AS 08.70.040 at little cost to the state. Such meetings will also allow the board to develop its proposed preceptorship program.

The Committee also recommends that licensing fees for the board be raised in order to produce income necessary to cover the operating

expenses of the board.



Representative Max E. Gruenberg, Jr., Co-Chair
House Health, Education and Social Services Committee



Representative Riiho Koponen, Co-Chair
House Health, Education and Social Services Committee

- (ii) in the care of the ill, injured, or infirm;
- (B) administration, supervision, delegation, and evaluation of nursing practice;
- (C) teaching others the skills of nursing;
- (D) execution of a medical regimen as prescribed by a person authorized by the state to practice medicine;
- (E) performance of other acts that require education and training that are recognized by the nursing profession as properly performed by registered nurses;
- (F) performance of acts of medical diagnosis and the prescription of medical therapeutic or corrective measures under regulations adopted by the board. (§ 2 ch 90 SLA 1957; am § 5 ch 37 SLA 1970; am § 3 ch 67 SLA 1973; am §§ 11, 12 ch 129 SLA 1974; am § 25 ch 14 SLA 1982)

Effect of amendments. — The 1982 amendment rewrote the section. remove personal pronouns in conformity with AS 01.05.031(c) and § 4, Chapter 58, ALS 1982.

Editor's notes. — This section was redrafted by the revisor of statutes to

Chapter 70. Nursing Home Administrators.

Section	Section
10. Creation of Board of Nursing Home Administrators	120. Examination
20. Membership board; source of appointments; term of office	130. Provisional licenses
30. Election of officers	140. Expiration and renewal
40. Board meetings: Quorum	150. Fees
50. Duties and powers of the board	155. Grounds for imposition of disciplinary sanctions
55. Removal of board members	160. Disciplinary sanctions
60 — 70. [Repealed]	170. Penalties
80. License required	180. Definitions
90. Application	190. Facilities operated by religious organizations
110. Licensing	

Collateral references. — 58 Am. Jur. Licensing and regulation of nursing or rest homes. 97 ALR2d 1187.
 2d. Occupations, Trades and Professions, §§ 17-22.

Sec. 08.70.010. Creation of Board of Nursing Home Administrators. There is established the Board of Nursing Home Administrators. (§ 1 ch 123 SLA 1975)

Sec. 08.70.020. Membership board; source of appointments; term of office. (a) The board consists of five members: two nursing home administrators licensed under this chapter and practicing in the

§
st
fir
ge
su
ter
suc
fro
ch
Et
amer
finar
subse
stitu
begir
Se
elect
123
Se
at lea
(§ 1
Sec
shall
(1)
insur
and ir
tors, a
(2)
qualifi
(3)
the bo
fail to
(4) a
the lic
license
accredi
(5) k
govern
(6) ac
upon pr
(b) TI
of its dt
Security
requiren

state, a registered nurse licensed in the state and having no direct financial interest in any nursing home, and two persons from the general public.

(b) Board members are appointed by the governor.

(c) Board members serve staggered terms of four years or until their successor is appointed, except that a member appointed to a vacated term serves the duration of that term. A person who has served two successive complete terms may not be reappointed until four years from the expiration of the second term. (§ 1 ch 123 SLA 1975; am § 1 ch 77 SLA 1977; am §§ 3, 4 ch 141 SLA 1980)

Effect of amendments. — The 1980 amendment inserted "and having no direct financial interest in any nursing home" in subsection (a), and in subsection (c), substituted "four" for "three" near the beginning of the subsection, and substi-

uted the present second sentence for the former, which read: "On the first board two members serve one-year terms, two members serve two-year terms and one member serves a three-year term."

Sec. 08.70.030. Election of officers. The board shall annually elect a chairperson and a vice-chairperson from its members. (§ 1 ch 123 SLA 1975)

Sec. 08.70.040. Board meetings: Quorum. The board shall meet at least semiannually. A majority of the board constitutes a quorum. (§ 1 ch 123 SLA 1975)

Sec. 08.70.050. Duties and powers of the board. (a) The board shall

(1) adopt standards for licensing nursing home administrators to insure that licensees have knowledge and experience in health care and institutional administration necessary for competent administrators, and update the standards when necessary;

(2) examine, approve issuance of licenses and renewal of licenses of qualified persons;

(3) establish procedures to insure that licensees continue to uphold the board's standards; impose disciplinary sanctions upon persons who fail to uphold the standards;

(4) adopt criteria for educational programs for persons preparing for the licensing examination and for the continuing education of licensees; review the educational programs available in the state and accredit the programs meeting the criteria;

(5) keep a record of its proceedings and submit annual reports to the governor and the legislature;

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

(b) The board may adopt regulations necessary for the performance of its duties and to meet the requirements of Title 19 of the Social Security Act, the federal rules promulgated under it, and other federal requirements. (§ 1 ch 123 SLA 1975; am §§ 5 — 7 ch 141 SLA 1980)

Effect of amendments. — The 1980 amendment, in subsection (a), substituted "approve issuance of licenses and renewal of" for "license, and renew the" in para-

graph (2), substituted "impose disciplinary sanctions upon" for "revoke, suspend, or refuse to renew licenses of" in paragraph (3), and added paragraph (6).

Sec. 08.70.055. Removal of board members. A member of the board may be removed from office by the governor for cause. The board may by regulation provide that unexcused absences from meetings constitute cause for removal. (§ 8 ch 141 SLA 1980)

Secs. 08.70.060 — 08.70.070. Expenses; applicability of Administrative Procedure Act.

Repealed by § 16 ch 141 SLA 1980.

Editor's notes. — The repealed sections derived from § 1, ch. 123, SLA 1975.

Sec. 08.70.080. License required. Only a licensed nursing home administrator may manage, supervise, or be generally in charge of a nursing home. The care provided by a nursing home or a licensed hospital providing nursing home care through the use of skilled nursing beds or intermediate care beds shall be supervised by a licensed nursing home administrator or by a person exempted from licensure requirements under this section. This section does not apply to persons engaged on July 1, 1980, in managing or administering an Alaska Pioneers' Home or a hospital with skilled nursing beds or intermediate care beds. (§ 1 ch 123 SLA 1975; am § 9 ch 141 SLA 1980)

Effect of amendments. — The 1980 amendment rewrote the section.

Sec. 08.70.090. Application. Applicants shall file applications with the Department of Commerce and Economic Development on forms provided by the department. Information requested on the forms shall be given under oath. (§ 1 ch 123 SLA 1975; am § 50 ch 218 SLA 1976)

Sec. 08.70.110. Licensing. (a) The board shall license

(1) applicants who pass the written examination administered by the board and meet the standards established by the board under AS 08.70.050;

(2) persons licensed under emergency regulations 7AAC 12.045 promulgated in Register 51, July 8, 1974, who have practiced as administrators since licensing.

(b) The board may issue a license without examination to a person holding a current license as a nursing home administrator from another jurisdiction, if the board finds that the standards for licensing in the other jurisdiction are substantially equivalent to those in this state, and the person is otherwise qualified. (§ 1 ch 123 SLA 1975)

§ ()
tes
stat
boa
Exa
cho:

Ed
redra
remo

Se
may
dard:
need
(b)
nonre

Sec
141 S
(b)
admin
renew:
depart
(c) A
more n
has not
SLA 19

Effect
ame idme
sub section
tion (a),
administr.
December

Sec. ()
this chap
(1) ext
(2) inv
AS 08.70.
(3) lice
 (§ 1 ch 1:

Effect of
amendment

Sec. 08.70.120. Examination. The purpose of the examination is to test the applicant's knowledge of the health and safety standards of the state and the applicant's experience in the practice of health care. The board determines the content, scope, format, and grading procedure. Examinations shall be given at least annually, at the time and place chosen by the board. (§ 1 ch 123 SLA 1975)

Editor's notes. — This section was redrafted by the revisor of statutes to remove personal pronouns in conformity with AS 01.05.031(c) and § 4, Chapter 58, SLA 1982.

Sec. 08.70.130. Provisional licenses. (a) A provisional license may be granted without examination to a person who meets the standards adopted by the board under AS 08.70.050 and who is needed to fill a vacancy in an administrative position.

(b) The provisional license is valid for six months and is nonrenewable. (§ 1 ch 123 SLA 1975)

Sec. 08.70.140. Expiration and renewal. (a) Repealed by § 16 ch 141 SLA 1980.

(b) An administrator may apply to renew the license issued to the administrator under this chapter by submitting an application for renewal to the board; application forms for renewal are provided by the department.

(c) A person whose license has expired for a period of 24 months or more must apply for a license in the same manner as an applicant who has not been licensed before. (§ 1 ch 123 SLA 1975; am §§ 10, 16 ch 141 SLA 1980)

Effect of amendments. — The 1980 amendment substituted "24" for "12" in subsection (c), and repealed former subsection (a), which read: "A nursing home administrator's license expires on December 31 of the year issued."

Editor's notes. — This section was redrafted by the revisor of statutes to remove personal pronouns in conformity with AS 01.05.031(c) and § 4, Chapter 58, SLA 1982.

Sec. 08.70.150. Fees. The following fees shall be imposed under this chapter when applicable:

- (1) examination fee \$25
 - (2) investigation fee for persons applying for a license under AS 08.70.110(b) \$25
 - (3) license renewal fee \$50
- (§ 1 ch 123 SLA 1975; am § 11 ch 141 SLA 1980)

Effect of amendments. — The 1980 amendment deleted "annual" at the beginning of paragraph (3) and inserted "renewal" in paragraph (3).

Chapter 70. Nursing Home Administrators.

Section

150. Fees

Sec. 08.70.150. Fees [See effective date note]. The department shall set fees under AS 08.01.065 for examination and investigation of persons applying for a license, initial license, and license renewal. (§ 1 ch 123 SLA 1975; am § 11 ch 141 SLA 1980; am § 41 ch 37 SLA 1985)

Effect of amendments. — The 1985 amendment rewrote this section, which included a fee schedule. ment to this section is effective upon the adoption of regulations under AS 08.01.065. For the law until that date, see the main pamphlet.

Effective dates. — The 1985 amendment to this section is effective upon the adoption of regulations under AS 08.01.065. For the law until that date, see the main pamphlet.

Chapter 71. Dispensing Opticians.

Article

2. Licensing (§§ 08.71.120, 08.71.130)

5. General Provisions (§ 08.71.220)

Article 2. Licensing.

Section

120. Fees

130. Renewal of license

Sec. 08.71.120. Fees [See effective date note]. The department shall set fees under AS 08.01.065 for examination, initial license, and license renewal. (§ 1 ch 45 SLA 1973; am § 5 ch 56 SLA 1980; am § 42 ch 37 SLA 1985)

Effect of amendments. — The 1985 amendment rewrote this section, which included a fee schedule. ment to this section is effective upon the adoption of regulations under AS 08.01.065. For the law until that date, see the main pamphlet.

Effective dates. — The 1985 amendment to this section is effective upon the adoption of regulations under AS 08.01.065. For the law until that date, see the main pamphlet.

Sec. 08.71.130. Renewal of license. (a) A licensed dispensing optician shall renew a license issued under this chapter every four years with the department on or before the date set by the department under AS 08.01.100.

(b) [See effective date note] If the license is not renewed on or before the date set by the department under (a) of this section, the license lapses. Before reinstatement of a license that has remained lapsed for more than 60 days, the applicant must pay all delinquent renewal fees and any penalty established under AS 08.01.100(b).

(c) If the license remains lapsed for more than one year, the board may require the applicant to be examined under AS 08.71.090.

Sec. 08.70.155. Grounds for imposition of disciplinary sanctions. After a hearing the board may impose disciplinary sanctions when it finds that a licensee

- (1) secured a license through deceit, fraud, or intentional misrepresentation;
- (2) engaged in deceit, fraud, or intentional misrepresentation in the course of providing professional services or engaging in professional activities;
- (3) advertised professional services in a false or misleading manner;
- (4) intentionally or negligently engaged in or permitted the performance of patient care by persons under the licensee's supervision which does not conform to minimum professional standards regardless of whether actual injury to the patient occurred;
- (5) failed to comply with this chapter, with a regulation adopted under this chapter, or with an order of the board;
- (6) continued to practice after becoming unfit due to
 - (A) professional incompetence;
 - (B) addiction or severe dependency on alcohol or other drugs which impairs the licensee's ability to practice safely;
 - (C) physical or mental disability;
- (7) sold or furnished a license to another;
- (8) practiced as a nursing home administrator or used a designation tending to imply that the licensee is a nursing home administrator without a license issued under this chapter unless exempted from licensure requirements under AS 08.70.080. (§ 12 ch 141 SLA 1980)

Editor's notes. — This section was redrafted by the revisor of statutes to remove personal pronouns in conformity with AS 01.05.031(c) and § 4, Chapter 58, SLA 1982.

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

- (1) permanently revoke a license to practice;
- (2) suspend a license for a determinate period of time;
- (3) censure a licensee;
- (4) issue a letter of reprimand;
- (5) place a licensee on probationary status and require the licensee to
 - (A) report regularly to the board upon matters involving the basis of probation;
 - (B) limit practice to those areas prescribed;
 - (C) continue professional education until a satisfactory degree of skill has been attained in those areas determined by the board to need improvement;
- (6) impose limitations or conditions on the practice of a licensee.

§
d
o
a
li
u
th
ap
tic
(
rev
pra
(
ary
sim
ch

Et
ame
Ec
redr

Sc
sion
1978

Crc
mide
Eff
amenc

Se.
(1)
(2)
nomic
(3)
qualif
istrat
(4)
a nurs
(5)
with a
cal ser
of pers
the ac
acutely
related

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

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

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

(e) The board shall seek consistency in the application of disciplinary sanctions, and significant departure from prior decisions involving similar situations shall be explained in findings of fact or orders. (§ 1 ch 123 SLA 1975; am § 13 ch 141 SLA 1980)

Effect of amendments. — The 1980 amendment rewrote the section.

Editor's notes. — This section was redrafted by the revisor of statutes to

remove personal pronouns in conformity with AS 01.05.031(c) and § 4, Chapter 58, SLA 1982.

Sec. 08.70.170. Penalties. A person convicted of violating a provision of this chapter is guilty of a class B misdemeanor. (§ 1 ch 123 SLA 1975; am § 14 ch 141 SLA 1980)

Cross references. — For penalties for misdemeanors, see AS 12.55.135.

Effect of amendments. — The 1980 amendment substituted "guilty of a class B

misdemeanor" for "punishable by a fine of not more than \$500, or by imprisonment for not more than one year, or by both" at the end of the section.

Sec. 08.70.180. Definitions. In this chapter

- (1) "board" means the Board of Nursing Home Administrators;
- (2) "department" means the Department of Commerce and Economic Development;
- (3) "license" means the certificate awarded by the board to a qualified person which entitles the person to be a nursing home administrator in this state;
- (4) "licensee" means a person who has been granted a license to be a nursing home administrator in this state by the board;
- (5) "nursing home" means a facility which is operated in connection with a hospital or in which nursing care, intermediate care, and medical services are prescribed by or performed under the general direction of persons licensed to practice medicine or surgery within the state for the accommodation of convalescents or other persons who are not acutely ill but who do require skilled or intermediate nursing care and related medical services; the term "nursing home" is restricted to those

facilities the purpose of which is to provide skilled or intermediate nursing care and related medical services for a period of not less than 24 hours a day to individuals admitted because of illness, disease or physical or mental infirmity;

(6) "nursing home administrator" means a person who manages, supervises, or is in general charge of a nursing home, even though the duties are shared with another person; a member of a board of directors of a nursing home is an administrator only if the board member also serves in the administrative capacity defined in this paragraph. (§ 1 ch 123 SLA 1975; am § 51 ch 218 SLA 1976)

Editor's notes. — This section was redrafted by the revisor of statutes to remove personal pronouns in conformity with AS 01.05.031(c) and § 4, Chapter 58, SLA 1982.

Sec. 08.70.190. Facilities operated by religious organizations. Nothing in this chapter or the regulation under this chapter is to be construed as requiring a person who applies for a license as administrator of a facility operated by a religious organization relying on spiritual means alone for healing to have skills in medical techniques or educational qualifications which are not in accord with the care and treatment provided in the facility. (§ 1 ch 123 SLA 1975)

Chapter 71. Dispensing Opticians.

Article

- 1. Board of Dispensing Opticians (§§ 08.71.010 — 08.71.070)
- 2. Licensing (§§ 08.71.080 — 08.71.160)
- 3. Unlawful Acts (§§ 08.71.170 — 08.71.180)
- 4. Miscellaneous Provisions (§ 08.71.200)
- 5. General Provisions (§§ 08.71.220 — 08.71.240)

Collateral references. — 61 Am. Jur. 2d, Physicians, Surgeons and Other Healers, §§ 3, 40-43. 70 C.J.S., Physicians and Surgeons, §§ 11, 13.

Article 1. Board of Dispensing Opticians.

Section

- 10. Creation of board
- 20. Membership and term of office
- 30. [Repealed]
- 40. Election of officers

Section

- 45. Removal of board members
- 50. [Repealed]
- 55. Powers and duties
- 60 — 70. [Repealed]

Sec. 08.71.010. Creation of board. There is created the Board of Dispensing Opticians. (§ 1 ch 45 SLA 1973)

C
 I
 f
 t
 P
 r
 (§
 1:

 J
 an
 lic
 lic

 §
 F

 C)
 sion:
 offic

 S
 chai
 adm

 Se
 board
 may
 const

 Sec

 Rej

 Cros
 relating
 see AS

 Sec.
 followi
 (1) t
 (2) t
 (3) t
 son wh
 (4) t
 docume
 (5) to
 the nan



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.

James O. Smith
Signature of Camera Operator

10/31/89
Date

S B

4 5 7

Senate Health, Education and Social Services Committee

Legislation Checklist

Bill number: SB 457
Sponsor: HESS COMMITTEE
Date referred to committee: 2/26
Synopsis completed:
Fiscal note:
Further referrals:

CONTACTS:

Sharon Macklin 6-9518

Dr. Wing 456-5711

Rick Urion

Hal Egbert 265-9249

Jenny Grickler 2534

BILL SUMNER 248-9443

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY
LEGISLATIVE REFERENCE LIBRARY

POUCHY - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3000

May, 1986

Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS date base CM 14. In order to save space copies of minutes have not been left in the files.

Jeanie Henry

Senate Health Education and Social Services Committee 2/20/86, 1:36 pm.
" " " " " " " " 3/18/86, 1:38 pm.

ADOPTED

Senate Bill

LETTER OF INTENT FOR SB 457
Relating to the State Physical Therapy Board

SB 457 provides for the continuation of the State Physical Therapy Board for three years. It also repeals those statutes that regulate the supervision of physical therapists by other medical professionals. It is the intent of the committee that the Board present to the Legislature at its next sunset review, a report evaluating the performance of physical therapists practicing without referral. The report should include information indicating the number of physical therapists in the state practicing without referral, their qualifications, including education and the number of years licensed and practicing, the number of clients served with and without referral, the number of complaints filed, effects on the cost of medical malpractice insurance, and a recommendation on the continued independent practice of licensed physical therapists.

It is also the intent of the committee that the board adopt regulations requiring licensed physical therapists to complete at least 25 hours of continued medical education every two years.

Offered: 3/19/86
Referred: Rules

Original sponsor: Health, Education and
Social Services Committee

BY THE HEALTH, EDUCATION AND
SOCIAL SERVICES COMMITTEE

1 IN THE SENATE

2

CS FOR SENATE BILL NO. 457 (HESS)

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

6 For an Act entitled: "An Act relating to the State Physical Therapy Board;
7 and providing for an effective date."

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

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

10 (8) State Physical Therapy Board (AS 08.84.010) -- June 30,
11 1989 [1986].

12 * Sec. 2. AS 08.84.120 is repealed and reenacted to read:

13 Sec. 08.84.120. REFUSAL, REVOCATION, AND SUSPENSION OF LICENSE.

14 (a) The board may refuse to license an applicant, may refuse to renew
15 the license of a person, and may suspend or revoke the license of a
16 person who

17 (1) has obtained or attempted to obtain a license by fraud
18 or material misrepresentation;

19 (2) uses drugs or alcohol in a manner that affects the
20 person's ability to practice physical therapy competently and safely;

21 (3) has been convicted of a state or federal felony or
22 other crime that effects the person's ability to practice competently
23 and safely;

24 (4) is guilty, in the judgment of the board, of gross
25 negligence or malpractice or has engaged in conduct contrary to the
26 recognized standards of ethics of the physical therapy profession;

27 (5) has continued to practice physical therapy after becom-
28 ing unfit due to physical or mental disability;

29 (6) has failed to refer a patient to another qualified

1 professional when the patient's condition is beyond the training or
2 ability of the physical therapist; or

3 (7) as a physical therapy assistant, has attempted to
4 practice physical therapy that has not been initiated, supervised, and
5 terminated by a licensed physical therapist.

6 (b) The refusal or suspension of a license may be modified or
7 rescinded if the person has been rehabilitated to the satisfaction of
8 the board.

9 * Sec. 3. AS 08.84.130 is amended to read:

10 Sec. 08.84.130. FALSE CLAIM OF LICENSE FORBIDDEN. (a) A person
11 not licensed as a physical therapist, or whose license is suspended or
12 revoked, or whose license is lapsed, who uses in connection with the
13 person's name the words or letters "L.P.T.", "Licensed Physical Thera-
14 pist," or other letters, words, or insignia indicating or implying
15 that the person is a licensed physical therapist, or who in any way,
16 orally, or in writing, directly or by implication, holds out as a
17 licensed physical therapist is guilty of a class B misdemeanor.

18 (b) A person not licensed as a physical therapy assistant, or
19 whose license is suspended or revoked, or whose license is lapsed, who
20 in any way, orally, or in writing, directly or by implication, holds
21 out as a licensed physical therapy assistant is guilty of a class B
22 misdemeanor.

23 * Sec. 4. AS 08.84.140 is amended to read:

24 Sec. 08.84.140. PENALTY FOR FRAUD IN OBTAINING LICENSE. A
25 person who wilfully makes a false oath or affirmation or who obtains
26 or attempts to obtain a license by a fraudulent representation is
27 guilty of a class B misdemeanor.

28 * Sec. 5. AS 08.84.160 is amended to read:

29 Sec. 08.84.160. PRACTICE OF LICENSED PHYSICAL THERAPIST. [A

1 PERSON LICENSED UNDER THIS CHAPTER MAY NOT TREAT HUMAN AILMENTS BY
2 PHYSICAL THERAPY OR OTHERWISE EXCEPT UNDER THE PRESCRIPTION AND DIREC-
3 TION OF A PERSON LICENSED TO PRACTICE MEDICINE, OSTEOPATHY, DENTISTRY
4 OR PODIATRY.] This chapter does not authorize any person to practice
5 medicine, osteopathy, chiropractic, or other method of healing.

6 * Sec. 6. AS 08.84.185(a) is amended to read:

7 (a) In addition to action under AS 08.84.180, upon a finding
8 that by reason of demonstrated problems of competence, experience,
9 education, or health the authority to practice physical therapy should
10 be limited or conditioned or the practitioner disciplined, the board
11 may reprimand, censure, place on probation, restrict practice by
12 specialty, procedure, or facility, require additional education or
13 training, or revoke or suspend a license [REGISTRATION].

14 * Sec. 7. AS 08.84.170 is repealed.

15 * Sec. 8. This Act takes effect immediately in accordance with AS 01.-
16 10.070(c).

- ① registered w/ drug enforcement admin
- ② manipulation

Blue Cross - Shield - does not pay.

may not do chiropractic
mobilize & stretch.

talked to AK Ch. ~~Assoc.~~ Society

③ ^{cannot} Practice medicine

④ w/o ~~the~~ de's approval - no 3rd party payments

⑤ Educational requirements
2 year → how many ce?

PT - bachelor or master.
1/3 2/3

5 yrs college.

hard to set in -
3.5 graduate.

M. Day Spence?

dis-
and
ous
s or

ing,
;
art-
ions
are

l or
s of
acy;
acy
ner

ate

ter,

ler,
ctly

sale

d as

and
nich
tant

sed
nent
sis,
ing,
and

inis-

s in
and

(19) Repealed by § 21 ch 166 SLA 1980.

(20) [Effective until January 1983] "controlled substance" means a narcotic drug as defined in AS 17.10.230(13) or a depressant, hallucinogenic or stimulant drug as defined in AS 17.12.150(3).

[Effective January 1, 1983] "controlled substance" has the same meaning set out in AS 11.71.900(4). (§ 2 ch 194 SLA 1955; am §§ 27 — 29 ch 206 SLA 1972; am § 11 ch 53 SLA 1973; am §§ 20, 21 ch 166 SLA 1980; am § 9 ch 45 SLA 1982)

Effect of amendments. — The 1980 amendment added paragraph (20), and repealed former paragraph (19), which read " 'shopkeeper' means a retail dealer who sells over the counter medicinal preparations in original unbroken packaging which do not require a prescription for dispensing."

The 1982 amendment, effective January 1, 1983, rewrote paragraph (20).

Editor's notes. — For declaration of legislative purpose, see § 1, ch. 45, SLA 1982 in the 1982 Temporary and Special Acts and Resolves.

Sec. 08.80.490. Short title. This chapter may be known as the Pharmacy Act. (§ 1 ch 194 SLA 1955)

Chapter 84. Physical Therapists Practice Act.

Article

1. State Physical Therapy Board (§§ 08.84.010 — 08.84.020)
2. Registration (§§ 08.84.030 — 08.84.120)
3. Unlawful Acts (§§ 08.84.130 — 08.84.185)
4. General Provisions (§§ 08.84.190 — 08.84.200)

Collateral references. — 61 Am. Jur. 70 C.J.S., Physicians and Surgeons, 2d, Physicians, Surgeons and Other § § 6, 13. Healers, § § 11, 86.

Article 1. State Physical Therapy Board.

Section

10. State Physical Therapy Board
20. Applicability of Administrative Procedure Act

Sec. 08.84.010. State Physical Therapy Board. (a) There is created the State Physical Therapy Board, which consists of five members appointed by the governor. The membership consists of one physician licensed to practice medicine in the state, three physical therapists licensed in the state or two physical therapists and a physical therapy assistant licensed in the state, and one lay person with no direct financial interest in the health care industry. Members of the board

Sec. 08.84.020. Applicability of Administrative Procedure Act. The board shall comply with the Administrative Procedure Act (AS 44.62).

Article 2. Registration.

Section	Section
30. Qualifications for licensing	65. Temporary permit
32. Foreign-trained physical therapy or physical therapy assistant applicants	70. [Repealed]
35. [Repealed]	80. Examinations
40. Application for license	90. Licensure
50. Fees	100. Renewal of license
60. Licensure by acceptance of credentials	110. [Repealed]
	120. Refusal, revocation and suspension of license

Collateral references. — 61 Am. Jur. 70 C.J.S., Physicians and Surgeons, 2d, Physicians, Surgeons and Other Healers, §§ 11, 12, 23. §§ 19, 29-31.

Sec. 08.84.030. Qualifications for licensing. To be eligible for licensure by the board as a physical therapist or physical therapy assistant, an applicant, unless a graduate of a foreign school of physical therapy located outside the United States, shall

- (1) Repealed by § 2 ch 55 SLA 1980.
- (2) have graduated from a school of physical therapy approved by the Council on Medical Education and Hospitals of the American Medical Association, or the American Physical Therapy Association;
- (3) pass to the satisfaction of the board an examination prepared by the Professional Examination Service Association or by a national testing service approved by the board to determine the applicant's fitness for practice as a physical therapist or physical therapy assistant, or be entitled to licensure without examination as provided in AS 08.84.060;
- (4) meet qualifications for licensure established in regulations adopted by the board under AS 08.84.010(b)(8). (§ 3 ch 74 SLA 1957; am §§ 1, 8 ch 49 SLA 1969; am §§ 1, 2 ch 26 SLA 1970; am § 25 ch 245 SLA 1970; am § 2 ch 71 SLA 1974; am § 2 ch 208 SLA 1975; am § 2 ch 55 SLA 1980)

Effect of amendments. — The 1980 amendment substituted "licensure" for "registration," and inserted "unless a graduate of a foreign school of physical therapy located outside the United States" in the introductory paragraph, repealed former paragraph (1), which read: "Be of good moral character," substituted "prepared by" for "from," "or by a national testing service approved by the board" for a comma, and "licensure" for "registration." all in paragraph (3), and added paragraph (4).

Editor's notes. — This section was redrafted by the revisor of statutes to remove personal pronouns in conformity with AS 01.05.031(c) and § 4, Chapter 58, SLA 1982.

- (4) label products with expiration date;
- (5) provide reasonable services to accept returned goods that have reached their expiration date;
- (6) maintain 24-hour resources for product information where practicable and financially feasible;
- (7) maintain recall capabilities for unsafe or defective drugs;
- (8) shall not refuse to sell to any properly licensed pharmacy.
- (h) As used in this section, unless the context requires otherwise,
 - (1) "brand name" means the proprietary or trade name selected by the manufacturer and placed upon a drug, its container, label or wrapping at the time of packaging;
 - (2) "generic name" means the official title of a drug or drug ingredients published in the latest edition of a nationally recognized pharmacopoeia or formulary;
 - (3) "substitute" means to dispense without prescriber's express authorization a different drug product in place of the drug ordered or prescribed;
 - (4) "therapeutically equivalent" means drugs that will provide essentially the same efficacy and toxicity when administered to an individual in the same dosage regimen. (§ 15 ch 206 SLA 1972; am § 2 ch 187 SLA 1976; am § 8 ch 94 SLA 1980; am § 31 ch 6 SLA 1984)

Effect of amendments. — The 1984 (e), relating to pharmacies posting a sign amendment repealed former subsection as to substitution of drugs.

Chapter 84. Physical Therapists Practice Act.

Article

2. Registration (§§ 08.84.032, 08.84.050, 08.84.100)

Article 2. Registration.

Section	Section
32. Foreign-trained physical therapy or physical therapy assistant applicants	50. Fees 100. Renewal of license

Sec. 08.84.032. Foreign-trained physical therapy or physical therapy assistant applicants [See effective date note]. To be eligible for licensure by the board as a physical therapist or physical therapy assistant, an applicant who is a graduate of a school of physical therapy that is located outside of the United States shall

- (1) have completed, to the satisfaction of the board, a resident course of study and professional instruction equivalent to that provided by a school approved by the Council on Medical Education and Hospitals of the American Medical Association or the American

Physic
compli
Englis
tions:

- (2) l
under
physic
therap
by the
this pr
- (3) p
board;
- (4) l
tion a
States
- (5) p
08.84.
- (6) p
am §

Effec
amendr
and in
for "wh
tuted")
08.84.0

Sec
of Co
08.01
(1)
(2)
(3)
(4)
(5)
am §
1985)

Effe
amend
includ
Effe

at have where

erwise, cted by abel or

r drug gnized

express ered or

rovide to an 72; am 1984)

g a sign

ct.

ysical To be yysical ool of shall sident that cation erican

Physical Therapy Association, and furnish documentary evidence of compliance with this paragraph, translated, if necessary, into the English language by a person verifying the accuracy of the translations;

(2) have completed, to the satisfaction of the board, an internship under the continuous direction and immediate supervision of a physical therapist in an institution that ordinarily provides physical therapy and is approved by the board, for that period of time specified by the board, and furnish documentary evidence of compliance with this paragraph;

(3) pass an oral examination administered by a member of the board;

(4) have met applicable requirements under the federal Immigration and Nationality Act (8 U.S.C. 1101 et seq.), unless a United States citizen;

(5) pass the examination administered by the board under AS 08.84.030(3); and

(6) pay the fee required under AS 08.84.050. (§ 3 ch 55 SLA 1980; am § 46 ch 37 SLA 1985)

Effect of amendments. — The 1985 amendment in the introductory language and in paragraph (2) substituted "that" for "which" and in paragraph (6) substituted "required" for "prescribed" and "AS 08.84.050" for "AS 08.84.050(2) and (3)."

Effective dates. — The 1985 amendment to this section is effective upon the adoption of regulations under AS 08.01.065. For the law until that date, see the effect of amendments note.

Sec. 08.84.050. Fees [See effective date note]. The Department of Commerce and Economic Development shall set fees under AS 08.01.065 for the following:

- (1) application;
- (2) license by examination;
- (3) license by acceptance of credentials;
- (4) renewal;
- (5) temporary permit. (§ 4 ch 74 SLA 1957; am § 2 ch 49 SLA 1969; am § 3 ch 26 SLA 1970; am § 5 ch 55 SLA 1980; am § 47 ch 37 SLA 1985)

Effect of amendments. — The 1985 amendment rewrote this section, which included a fee schedule.

ment to this section is effective upon the adoption of regulations under AS 08.01.065. For the law until that date, see the main pamphlet.

Effective dates. — The 1985 amend-

Sec. 08.84.032. Foreign-trained physical therapy or physical therapy assistant applicants. To be eligible for licensure by the board as a physical therapist or physical therapy assistant, an applicant who is a graduate of a school of physical therapy which is located outside of the United States shall

(1) have completed, to the satisfaction of the board, a resident course of study and professional instruction equivalent to that provided by a school approved by the Council on Medical Education and Hospitals of the American Medical Association or the American Physical Therapy Association, and furnish documentary evidence of compliance with this paragraph, translated, if necessary, into the English language by a person verifying the accuracy of the translations;

(2) have completed, to the satisfaction of the board, an internship under the continuous direction and immediate supervision of a physical therapist in an institution which ordinarily provides physical therapy and is approved by the board, for that period of time specified by the board, and furnish documentary evidence of compliance with this paragraph;

(3) pass an oral examination administered by a member of the board;

(4) have met applicable requirements under the federal Immigration and Nationality Act (8 U.S.C. 1101 et seq), unless a United States citizen;

(5) pass the examination administered by the board under AS 08.84.030(3); and

(6) pay the fee prescribed under AS 08.84.050(2) and (3). (§ 3 ch 55 SLA 1980)

Sec. 08.84.035. Malpractice insurance.

Repealed by § 40 ch 177 SLA 1978.

Editor's notes. — The repealed section ch. 177, SLA 1978 as amended by § 7, ch. derived from § 29, ch. 102, SLA 1976. 46, SLA 1982, in the 1982 Temporary and As to purpose of repealing act, see § 1, Special Acts and Resolves.

Sec. 08.84.040. Application for license. To be licensed as a physical therapist or physical therapy assistant, an applicant shall apply to the board on a form prescribed by the board. An applicant shall include in his application, evidence under oath that he possesses the qualifications required by AS 08.84.030 or 08.84.032. (§ 4 ch 74 SLA 1957; am § 3 ch 71 SLA 1974; am § 4 ch 55 SLA 1980)

Effect of amendments. — The 1980 amendment substituted "licensed" for "registered" near the beginning of the first sentence, and added "or 08.84.032" at the end of the section.

Sec. 08.84.050. Fees. The following fees shall be imposed under this chapter when applicable:

§
am
E
ame
para
visio
form
S
boar
ther.
othe
for li
at tl
requ
1970
Effe
amend
ister,"
sure"
inserte
twice.
Sec
nonre
tance
AS 08
(b) /
tance /
siders
whiche
(c) A
ination
ination
occurs i
the app
the day
(d) A
a foreig
is valid
08.84.05
208 SLA

(1) application	\$ 50
(2) licensure by examination	50
(3) licensure by acceptance of credentials	50
(4) quadrennial renewal	200
(5) temporary permit	20

(§ 4 ch 74 SLA 1957; am § 2 ch 49 SLA 1969; am § 3 ch 26 SLA 1970; am § 5 ch 55 SLA 1980)

Effect of amendments. — The 1980 amendment substituted "\$50" for "\$25" in paragraph (1), substituted the present provisions of paragraphs (2) — (4) for the former, which read, respectively: "(2) reg-

istration by examination . . . 25," "(3) registration by endorsement . . . 25," and "(4) biennial renewal . . . 25," and substituted "20" for "10" in paragraph (5).

Sec. 08.84.060. Licensure by acceptance of credentials. The board may license without examination an applicant who is a physical therapist or physical therapy assistant licensed under the laws of another state or territory or the District of Columbia, if the requirements for licensure in that state or territory or the District of Columbia, were, at the date of the applicant's licensure, substantially equal to the requirements in this state. (§ 6 ch 74 SLA 1957; am § 4 ch 26 SLA 1970; am § 4 ch 71 SLA 1974; am § 6 ch 55 SLA 1980)

Effect of amendments. — The 1980 amendment substituted "license" for "register," "licensed" for "registered," "licensure" for "registration," twice, and inserted "or the District of Columbia," twice.

Editor's notes. — This section was redrafted by the revisor of statutes to remove personal pronouns in conformity with AS 01.05.031(c) and § 4, Chapter 55, SLA 1982.

Sec. 08.84.065. Temporary permit. (a) The board may issue a nonrenewable temporary permit to an applicant for licensure by acceptance of credentials or by examination who meets the requirements of AS 08.84.030(2) and 08.84.032(2) and (4) and pays the required fee.

(b) A temporary permit issued to an applicant for licensure by acceptance of credentials is valid for eight months or until the board considers the applicant's application for acceptance of credentials, whichever occurs first.

(c) A temporary permit issued to an applicant for licensure by examination is valid for eight months or until the results of the first examination for which the applicant is scheduled are published, whichever occurs first. If the applicant fails to take the first examination for which the applicant is scheduled the applicant's temporary permit lapses on the day of the examination.

(d) A temporary permit issued to an applicant who is a graduate of a foreign school of physical therapy located outside the United States is valid until completion of the internship required under AS 08.84.032(2). (§ 5 ch 26 SLA 1970; am § 5 ch 71 SLA 1974; am § 3 ch 208 SLA 1975; am § 7 ch 55 SLA 1980)

Effect of amendments. — The 1980 amendment substituted "licensure" for "registration" wherever it appears, "acceptance of credentials" for "endorsement" in subsections (a) and (b), and "AS 08.84.030(2) and 08.84.032(2) and (4)" for "AS 08.84.030(1) and" in subsection (a), deleted "endorsement" following "appli-

cant's", and inserted "for acceptance of his credentials" in subsection (b), and added subsection (d).

Editor's notes. — This section was redrafted by the revisor of statutes to remove personal pronouns in conformity with AS 01.05.031(c) and § 4, Chapter 58, SLA 1982.

Sec. 08.84.070. Registration fee.
 Repealed by § 8 ch 49 SLA 1969.

Editor's note. — The repealed section derived from § 6, ch. 74, SLA 1957.

Sec. 08.84.080. Examinations. The board shall examine applicants for licensure as physical therapists or physical therapy assistants at the times and places it determines. (§ 7 ch 74 SLA 1957; am § 3 ch 49 SLA 1969; am § 6 ch 26 SLA 1970; am § 6 ch 71 SLA 1974; am § 8 ch 55 SLA 1980)

Effect of amendments. — The 1980 amendment deleted the subsection (a) designation, substituted "licensure" for "registration," and deleted former subsection (b), which read: "An application for examination shall be submitted to the department at least 40 days before the examination date."

Sec. 08.84.090. Licensure. The board shall license an applicant who meets the qualifications for licensure under this chapter. It shall issue a license certificate to each person licensed. A license certificate is prima facie evidence of the right of the person to hold out as a licensed physical therapist or licensed physical therapy assistant. (§ 8 ch 74 SLA 1957; am § 7 ch 71 SLA 1974; am § 9 ch 55 SLA 1980)

Effect of amendments. — The 1980 amendment substituted "license" for "register" near the beginning of the section, "licensure" for "registration" in the first sentence, "licensed" for "registered," wherever it appears, inserted "license" in the second and third sentences, and deleted "of registration" in the third sentence.

Editor's notes. — This section was redrafted by the revisor of statutes to remove personal pronouns in conformity with AS 01.05.013(c) and § 4, Chapter 58, SLA 1982.

~~**Sec. 08.84.100. Renewal of license.** (a) A licensed physical therapist or physical therapy assistant shall renew a license issued under this chapter every four years with the Department of Commerce and Economic Development on or before the date set by the department under AS 08.01.100(a). If the license is not renewed on or before that date, it lapses.~~

~~(b) A penalty of \$10 shall be charged in addition to all delinquent renewal fees for reinstatement of a license which remains lapsed for more than 60 days. If the license remains lapsed for more than three years, the board may require the applicant to take and pass the examination given under AS 08.84.030(3).~~

c
T
l
w
tl
h
th
pe
m
be
otl
pe
tic
cal
a l
(
SL
ch

Sec. 08.84.100. **Renewal of license.** (a) A licensed physical therapist or physical therapy assistant shall renew a license issued under this chapter every four years with the Department of Commerce and Economic Development on or before the date set by the department under AS 08.01.100(a). If the license is not renewed on or before that date, it lapses.

(b) [See effective date note] Before reinstatement of a license that remains lapsed for more than 60 days, the applicant must pay all delinquent renewal fees and any penalty established under AS 08.01.100(b). If a license remains lapsed for more than three years, the board may require the applicant to take and pass the examination given under AS 08.84.030(3).

(c) A license may not be renewed unless the applicant demonstrates competence as a physical therapist or physical therapy assistant in a manner established by the board in regulations adopted under AS 08.84.010(b)(8). (§ 9 ch 74 SLA 1957; am § 4 ch 49 SLA 1969; am § 8 ch 71 SLA 1974; am § 4 ch 208 SLA 1975; am § 54 ch 218 SLA 1976; am § 10 ch 55 SLA 1980; am § 48 ch 37 SLA 1985)

Effect of amendments. — The 1985 amendment in subsection (b) in the first sentence substituted "Before" for "A penalty of \$10 shall be charged in addition to all delinquent renewal fees for" and "that" for "which" and added "the applicant must pay all delinquent renewal fees and any penalty established under AS

08.01.100(b)" at the end of the sentence and substituted "a" for "the" preceding "license" in the second sentence.

Effective dates. — The 1985 amendment to this section is effective upon the adoption of regulations under AS 08.01.065. For the law until that date, see the effect of amendments note.

~~Chapter 86. Psychologists and Psychological Associates.~~

Article

- 2. Administration of Board Affairs (§ 08.86.070)
- 3. Licensing of Psychologists (§§ 08.86.140, 08.86.150)
- 4. Prohibitions and Penalties (§ 08.86.180)
- 5. General Provisions (§ 08.86.230)

Section
70. Duties

Sec.

- (1) es
- license
- (2) es
- (3) ap
- (4) ac
- psychol.
- (5) in
- (6) ac
- license
- (7) pr
- covering
- examin
- nation,
- ment;
- (8) re
- availabi
- (9) co
- practice
- the stat
- (10) r
- quireme
- (11) :
- chapter
- 177 SL
- 1983)

Effect
amendmc

(c) A license may not be renewed unless the applicant demonstrates competence as a physical therapist or physical therapy assistant in a manner established by the board in regulations adopted under AS 08.84.010(b)(8). (§ 9 ch 74 SLA 1957; am § 4 ch 49 SLA 1969; am § 8 ch 71 SLA 1974; am § 4 ch 208 SLA 1975; am § 54 ch 218 SLA 1976; am § 10 ch 55 SLA 1980)

Effect of amendments. — The 1980 amendment substituted "licensed" for "registered" at the beginning of subsection (a), "license every four years" for "registration biennially" in the first sentence of subsection (a), "license" for "registration" wherever it appears in subsections (a) and

(b), and added subsection (c).

Editor's notes. — This section was redrafted by the revisor of statutes to remove personal pronouns in conformity with AS 01.05.031(c) and § 4, Chapter 58, SLA 1982.

Sec. 08.84.110. Renewal fee.

Repealed by § 8 ch 49 SLA 1969.

Editor's notes. The repealed section derived from § 9, ch. 74, SLA 1957.

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) uses drugs or intoxicating liquors in any manner which affects the person's practice of physical therapy;
- (2) repealed by § 11 ch 55 SLA 1980;
- (3) has been convicted of violating a state or federal narcotic law and has not been rehabilitated to the satisfaction of the board;
- (4) has been convicted of a felony and has not been rehabilitated to the satisfaction of the board;
- (5) is guilty, in the judgment of the board, of gross negligence in the person's practice as a physical therapist;
- (6) has obtained or attempted to obtain a license by fraud or material misrepresentation;
- (7) has been declared mentally ill by a court and has not thereafter been lawfully declared sane;
- (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;
- (9) as a physical therapy assistant, has attempted to practice physical therapy which has not been initiated supervised and terminated by a licensed physical therapist;
- (10) has been held liable for malpractice in a civil action. (§ 10 ch 74 SLA 1957; am § 5 ch 49 SLA 1969; am § 9 ch 71 SLA 1974; am § 11 ch 55 SLA 1980)

Effect of amendments. — The 1980 amendment substituted "license" for "register" near the beginning of the introductory paragraph, "license" for "registration" twice in the introductory paragraph, "uses drugs or intoxicating liquors in any manner which affects his practice of physical therapy" for "is habitually drunk or addicted to the use of narcotic drugs" in paragraph (1), repealed former paragraph (2), which read: "is, in the judgment of the board, guilty of immoral or unprofessional conduct," added "and has not been rehabilitated to the satisfaction of the board" in paragraph (3), substituted "felony and has not been rehabilitated to the satisfaction

of the board" for "crime involving moral turpitude" at the end of paragraph (4), and "a license" for "registration" in paragraph (6), deleted "or" at the end of paragraph (7), substituted a comma for "or" following "to practice medicine" in paragraph (8), and added "dentistry or podiatry" at the end of paragraph (8), substituted "licensed" for "registered" in paragraph (9), and added paragraph (10).

Editor's notes. — This section was redrafted by the revisor of statutes to remove personal pronouns in conformity with AS 01.05.031(c) and § 4, Chapter 58, SLA 1982.

NOTES TO DECISIONS

Cited in *Leege v. Martin*, Sup. Ct. Op. No. 131 (File No. 256), 379 P.2d 447 (1963).

Article 3. Unlawful Acts.

Section

- 130. False claim of license forbidden
- 140. Penalty for fraud in obtaining license
- 150. Licensure of physical therapists
- 160. Practice of licensed physical therapist

Section

- 170. Penalty
- 180. Investigation
- 135. Limits or conditions on license; discipline

Sec. 08.84.130. False claim of license forbidden. (a) A person not licensed as a physical therapist, or whose license is suspended or revoked, or whose license is lapsed, who uses in connection with the person's name the words or letters "L.P.T.", "Licensed Physical Therapist," or other letters, words, or insignia indicating or implying that the person is a licensed physical therapist, or who in any way, orally, or in writing, directly or by implication, holds out as a licensed physical therapist is guilty of a misdemeanor.

(b) A person not licensed as a physical therapy assistant, or whose license is suspended or revoked, or whose license is lapsed, who in any way, orally, or in writing, directly or by implication, holds out as a licensed physical therapy assistant is guilty of a misdemeanor. (§ 11 ch 74 SLA 1957; am § 10 ch 71 SLA 1974; am § 12 ch 55 SLA 1980)

Effect of amendments. — The 1980 amendment substituted "licensed" for "registered" and "license" for "registration" wherever each appears throughout the section, and "L.P.T." for "R.P.T." in subsection (a).

Editor's notes. — This section was redrafted by the revisor of statutes to remove personal pronouns in conformity with AS 01.05.031(c) and § 4, Chapter 58, SLA 1982.

§ 08

So who after a mi

Eff amend "regist

Sec for an dance therapi fulfill unless physic § 14 c

Cross designat physical Effect amendm igation tered" n added th student i

Sec. son lice physica tion of a podiatry cine, ost SLA 198

Effect of amendmen "registered tion, sub- following"

Sec. 0. guilty of of not les more than

Sec. 08 authoritie chapter c

Sec. 08.84.140. Penalty for fraud in obtaining license. A person who wilfully makes a false oath or affirmation or who obtains or attempts to obtain a license by a fraudulent representation is guilty of a misdemeanor. (§ 12 ch 74 SLA 1957; am § 13 ch 55 SLA 1980)

Effect of amendments. — The 1980 amendment substituted "a license" for "registration."

Sec. 08.84.150. Licensure of physical therapists. It is unlawful for anyone to practice physical therapy without being licensed in accordance with this chapter unless a student in an accredited physical therapy program or a graduate of a foreign school of physical therapy fulfilling the internship requirement of AS 08.84.032(2), and then only unless under the continuous direction and immediate supervision of a physical therapist. (§ 14 ch 74 SLA 1957; am § 6 ch 49 SLA 1969; am § 14 ch 55 SLA 1980)

Cross references. — For professional designation requirements for registered physical therapists, see AS 08.02.010.

Effect of amendments. — The 1980 amendment deleted the subsection (a) designation, substituted "licensed" for "registered" near the beginning of the section, added the provisions beginning, "unless a student in" and ending "of a physical ther-

apist" at the end of the section, and deleted former subsection (b), which read: "A person practicing physical therapy without being registered on April 27, 1969 may continue to practice for a period of six months. At the end of that period he must be registered under AS 08.84.090 in order to continue to practice physical therapy in the state."

Sec. 08.84.160. 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, osteopathy, dentistry or podiatry. This chapter does not authorize any person to practice medicine, osteopathy, chiropractic, or other method of healing. (§ 13 ch 74 SLA 1957; am § 7 ch 49 SLA 1969; am § 15 ch 55 SLA 1980)

Effect of amendments. — The 1980 amendment substituted "licensed" for "registered" at the beginning of the section, substituted a comma for "or" following "to practice medicine" and added

"dentistry or podiatry" in the first sentence, and deleted the former last sentence, which read: "A person who violates this section is guilty of a misdemeanor."

Sec. 08.84.170. Penalty. A person who violates this chapter is guilty of a misdemeanor, and upon conviction is punishable by a fine of not less than \$50 nor more than \$500, or by imprisonment for not more than 30 days. (§ 17 ch 74 SLA 1957)

Sec. 08.84.180. Investigation. The board shall request appropriate authorities to conduct investigations of every supposed violation of this chapter coming to its notice and shall report all cases which in the

judgment of the board warrant prosecution to the proper law enforcement officials. (§ 17 ch 74 SLA 1957; am § 16 ch 55 SLA 1980)

Effect of amendments. — The 1980 amendment substituted "request appropriate authorities to conduct investigations of" for "investigate."

Sec. 08.84.185. Limits or conditions on license; discipline. (a) In addition to action under AS 08.84.180, upon a finding that by reason of demonstrated problems of competence, 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 specialty, procedure or facility, require additional education or training, or revoke or suspend a registration.

(b) The Administrative Procedure Act (AS 44.62) applies to any action taken by the board under this section. (§ 29 ch 102 SLA 1976)

Cross references. — As to constitutionality of ch. 102, SLA 1976, see notes to AS 09.55.536 and Alas. Const., art. II, § 14. 2d. Physicians, Surgeons and Other Healers, §§ 48-66. 70 C.J.S., Physicians and Surgeons, §§ 16-18.

Collateral references. — 61 Am. Jur.

Article 4. General Provisions.

Section

190. Definitions
200. Short title

Sec. 08.84.190. Definitions. As used in this chapter, unless the context otherwise requires,

- (1) "board" means the State Physical Therapy Board;
- (2) "physical therapist" means a person who practices physical therapy;
- (3) "physical therapy" means the examination, treatment and instruction of human beings to detect, assess, prevent, correct, alleviate and limit physical disability, bodily malfunction, pain from injury, disease and other bodily or mental conditions and includes the administration, interpretation and evaluation of tests and measurements of bodily functions and structures; the planning, administration, evaluation and modification of treatment and instruction including the use of physical measures, activities and devices for preventive and therapeutic purposes; the provision of consultative, educational and other advisory services for the purpose of reducing the incidence and severity of physical disability, bodily malfunction and pain; "physical therapy" does not include the use of roentgen rays and radioactive materials for diagnosis and therapeutic purposes, the use of electricity for surgical purposes, and the diagnosis of disease.

(4) "physical therapy assistant" means a person who assists in the practice of physical therapy or portions of it as initiated, supervised, and terminated by a registered physical therapist; a physical therapy assistant's responsibilities do not include testing or evaluation. (§ 2 ch 74 SLA 1957; am § 11 ch 71 SLA 1974; am § 17 ch 55 SLA 1980)

Effect of amendments. — The 1980 amendment rewrote paragraph (3). remove personal pronouns in conformity with AS 01.05.031(c) and § 4, Chapter 58, SLA 1982.

Editor's notes. — This section was redrafted by the revisor of statutes to

Sec. 08.84.200. Short title. This chapter may be cited as the Physical Therapists Practice Act. (§ 1 ch 74 SLA 1957)

Chapter 86. Psychologists and Psychological Associates.

Article

- 1. Board of Psychologist and Psychological Associate Examiners (§§ 08.86.010 — 08.86.050)
- 2. Administration of Board Affairs (§§ 08.86.070 — 08.86.100)
- 3. Licensing of Psychologists (§§ 08.86.120 — 08.86.150)
- 3A. Licensing of Psychological Associates (§§ 08.86.160 — 08.86.164)
- 4. Prohibitions and Penalties (§§ 08.86.170 — 08.86.220)
- 5. General Provisions (§ 08.86.230)

Collateral references. — 61 Am. Jur. 70 C.J.S., Physicians and Surgeons, 2d, Physicians, Surgeons and Other Healers, §§ 6. 11-13. §§ 11, 86.

Article 1. Board of Psychologist and Psychological Associate Examiners.

Section

- 10. Creation and membership of board
- 20. Appointment and term of office
- 25. Removal of board members

Section

- 30. Board meetings
- 40. Assistants
- 50. [Repealed]

Sec. 08.86.010. Creation and membership of board. There is created a Board of Psychologist and Psychological Associate Examiners. It consists of four licensed psychologists, and one person who has no direct financial interest in the health care industry. (§ 1 ch 136 SLA 1967; am § 1 ch 65 SLA 1973; am § 30 ch 102 SLA 1976; am § 2 ch 58 SLA 1980)

Effect of amendments. — The 1980 amendment substituted "four" for "three," "one person" for "two persons," and "has" for "have," all in the second sentence.

§ 08.20.200

After a hearing to

been suspended or
applicant is able to

tion of disciplin-
earlier decisions
ndings of fact or
(1980)

ions in conformity
and § 4, Chapter 58,

and collect the

n, \$50;

r years, \$200.
12 ch 162 SLA

initial and renewal"
eleted former para-
"associate license,

ed by the board
10 ACLA 1949)

s.

nor. A person
in violation of
iction is pun-
nment for not
s section, evi-
s certificate of
the defendant

§ 08.20.210

BUSINESS AND PROFESSIONS

§ 08.20.220

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

Editor's notes. — This section was
redrafted by the revisor of statutes to
remove personal pronouns in conformity

with AS 01.05.031(c) and § 4, Chapter 58,
SLA 1982.

Collateral references. — Practicing
medicine, surgery, dentistry, optometry,
podiatry, or other healing arts without
license as a separate or continuing offense.
99 ALR2d 654.

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

Article 4. General Provisions.

Section

220. Chiropractic defined

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

Opinions of Attorney General. — It is
illegal and criminal for a chiropractor,
without additional qualifications, to pre-
scribe drugs or medicine to sick or injured
persons. 1961 Op. Att'y Gen., No. 23.

Money cannot be expended from the
fishermen's fund for the payment of
charges for medicines prescribed by chiro-
practors. 1961 Op. Att'y Gen., No. 23.

Collateral references. — Chiroprac-
tors as within term "physician" in rule as
to privileged communications. 68 ALR
177.

Kind or character of treatment which
may be given by one licensed as chiroprac-
tic. 86 ALR 630.

Chapter 24. Collection Agencies.

Article

1. Collection Agency Board (§§ 08.24.011 — 08.24.031)

2. Powers and Duties of Department of Commerce and Economic Development (§ 1 —
08.24.071)

3. Licensing (§§ 08.24.090 — 08.24.380)

Revisor's notes. — The Collection
Agency Board has been terminated under
the provisions of AS 08.03 and AS 44.66.

AS 08.03.010(b)(3) established a termina-
tion date of June 30, 1980.

SB 457, Relating to the State Board of Physical Therapists.

The sunset audit of the board recommended that physical therapists be allowed to practice without referral from other medical professionals. A draft committee substitute has been prepared that would:

- 1) extend the board for three years,
- 2) allow practice without referral, and
- 3) add as a cause for license suspension or revocation the failure to refer a patient whose condition is beyond the therapist's abilities.

A letter of intent has been prepared that requests the board to adopt regulations requiring continuing education and to prepare a report at the end of the three year extension evaluating the performance of physical therapists practicing without referral.

CSHB 161 (Finance)am, relating to the interest rate, loan conditions and repayment provisions of scholarship loans.

At our March 4 hearing on this bill, the United Campuses of Alaska indicated they would be meeting March 13 and 14 to develop a consensus position on the bill. This position will be presented at our Tuesday hearing.

Attached is a copy of the bill discussed at our March 4 hearing and an explanation of its fiscal impacts.

Finally, a letter regarding confirmation of the Governor's appointees to boards and commissions has been prepared. This will be addressed at the hearing.

**STATE OF ALASKA 1986 LEGISLATIVE SESSION
FISCAL NOTE**

Revision Date: _____

REQUEST

Bill/Resolution No.: CSSB 457
 Title: An Act relating to the State Physical Therapy Board;
 Sponsor: Senate HESS
 Requester: Senate HESS
 Date of Request: 3/14/86

FISCAL DETAIL

Agency Affected: Commerce & Economic Dev.
 BRU: Occupational Licensing
 Components: _____

EXPENDITURES / REVENUES : (Thousands of Dollars)

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES		-0-	-0-	-0-	-0-	-0-
TRAVEL		-0-	-0-	-0-	-0-	-0-
CONTRACTUAL		-0-	-0-	-0-	-0-	-0-
SUPPLIES		-0-	-0-	-0-	-0-	-0-
EQUIPMENT		-0-	-0-	-0-	-0-	-0-
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		-0-	-0-	-0-	-0-	-0-

CAPITAL						
---------	--	--	--	--	--	--

REVENUE		-0-	-0-	-0-	-0-	-0-
---------	--	-----	-----	-----	-----	-----

FUNDING: (Thousands of dollars)

GENERAL FUND		-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER						
TOTAL		-0-	-0-	-0-	-0-	-0-

POSITIONS:

FULLTIME		-0-	-0-	-0-	-0-	-0-
PARTTIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary.

The bill extends the State Physical Therapy Board for three years and enacts a re-write of AS 08.84.120 relating to REFUSAL, REVOCATION, AND SUSPENSION OF LICENSE. The bill also classifies a violation as a Class B Misdemeanor. In addition, the bill repeals sections relating to practice by referral, therefore allowing physical therapists to practice independently. The bill is not expected to generate new costs or revenues.

Prepared by: Jennifer Strickler, Management Analyst Phone: 465-2144
 Division: Occupational Licensing Date: 3-17-86

Approved by Commissioner: [Signature] Date: 3/17/86
 Agency: Commerce and Economic Development

Distribution (by Agency preparing fiscal note):

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

BETTYE FAHRENKAMP, Chairman
ARLISS STURGULEWSKI, Vice Chairman
JOE JOSEPHSON
PAUL FISCHER
EDNA ARMSTRONG-DE VRIES



P O BOX V
STATE CAPITOL
JUNEAU, ALASKA 99811
(907) 465-3834
(907) 465-3762

**Senate Committee on
Health, Education and Social Services**

M E M O R A N D U M

TO: Senator Bennett, Senate President
FROM: Senator Fahrenkamp, Chairman
Senate Committee on Health, Education and Social Services
RE: State Physical Therapy Board
DATE: February 25, 1986

Pursuant to your referral under AS 44.66.050 and AS 08.03.010, the Senate Committee on Health, Education and Social Services has had under review the State Physical Therapy Board.

As required by statute, a public hearing was held on the review of this Board. The Committee considered the findings and recommendations of the Legislative Audit Division and has examined the proposed budget for the Board.

After careful analysis, the Committee will be introducing legislation that would extend the State Physical Therapy Board for a three year period. In an effort to increase public access to physical therapy services, the legislation will also propose the repeal of statutes that regulate the supervision of physical therapists by other medical professionals.

Senator Fahrenkamp, Chairman

Senator Sturgulewski, Vice Chairman

Senator Josephson

Senator DeVries

Senator P. Fischer

Introduced: 2/17/86
Referred: Health, Education &
Social Services, Labor & Commerce
and Finance

BY THE HEALTH, EDUCATION AND
SOCIAL SERVICES COMMITTEE

1 IN THE HOUSE

2 HOUSE BILL NO. 640

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the State Physical Therapy Board;
7 and providing for an effective date."

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

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

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

12 * Sec. 2. AS 08.84.120 is amended to read:

13 Sec. 08.84.120. REFUSAL, REVOCATION, AND SUSPENSION OF LICENSE.
14 The board may refuse to license an applicant, may refuse to renew the
15 license of a person, and may suspend or revoke the license of a person
16 who

17 (1) uses drugs or intoxicating liquors in any manner which
18 affects the person's practice of physical therapy;

19 (2) [Repealed

20 (3)] has been convicted of violating a state or federal
21 narcotic law and has not been rehabilitated to the satisfaction of the
22 board;

23 (3) [(4)] has been convicted of a felony and has not been
24 rehabilitated to the satisfaction of the board;

25 (4) [(5)] is guilty, in the judgment of the board, of gross
26 negligence in the person's practice as a physical therapist;

27 (5) [(6)] has obtained or attempted to obtain a license by
28 fraud or material misrepresentation;

29 (6) [(7)] has been declared mentally ill by a court and has

1 not thereafter been lawfully declared sane;

2 (7) [(8)] has treated or attempted to treat ailments of
3 human beings otherwise than by physical therapy [, OR HAS ATTEMPTED TO
4 PRACTICE INDEPENDENT OF THE PRESCRIPTION AND DIRECTION OF A PERSON
5 LICENSED TO PRACTICE MEDICINE, OSTEOPATHY, DENTISTRY OR PODIATRY];

6 (8) [(9)] as a physical therapy assistant, has attempted to
7 practice physical therapy which has not been initiated, supervised,
8 and terminated by a licensed physical therapist;

9 (9) [(10)] has been held liable for malpractice in a civil
10 action.

11 * Sec. 3. AS 08.84.160 is amended to read:

12 Sec. 08.84.160. PRACTICE OF LICENSED PHYSICAL THERAPIST. [A
13 PERSON LICENSED UNDER THIS CHAPTER MAY NOT TREAT HUMAN AILMENTS BY
14 PHYSICAL THERAPY OR OTHERWISE EXCEPT UNDER THE PRESCRIPTION AND DIREC-
15 TION OF A PERSON LICENSED TO PRACTICE MEDICINE, OSTEOPATHY, DENTISTRY
16 OR PODIATRY.] This chapter does not authorize any person to practice
17 medicine, osteopathy, chiropractic, or other method of healing.

18 * Sec. 4. AS 08.84.065(d) is repealed.

19 * Sec. 5. This Act takes effective immediately in accordance with
20 AS 01.10.070(c).

Senate HESS Committee
February 20, 1986

TELECONFERENCED TO ANCHORAGE AND FAIRBANKS ONLY.

SUNSET REVIEW OF THE BOARD OF PHYSICAL THERAPISTS.

TO TESTIFY:

Nancy Dunn + JENNY STRICKLER, Division of Occupational Licensing

available
2:00-2:30
only

→ MORRIS HORNING, M.D., Board Member, ANCHORAGE

HAL EGBERT, Chairman, Alaska Practice Without Referral Task
Force, ANCHORAGE

AUDIT RECOMMENDS:

- 1) Continue Board
- 2) Repeal of statutes that regulate supervision of physical therapists by other medical professionals. (Current statute allows the practice of physical therapy only under the supervision of licensed medical doctors)

sunset
provision?

Allowing physical therapists to practice more autonomously could increase public access to their services and reduce costs.

HOUSE HAS INTRODUCED:

HB 640 House HESS Committee

Extends for four more years

Repeals statutes requiring referral by physicians.

Repeals statutes relating to temporary permits for foreign trained students.

HB 564 Marrou

BOARD'S BUDGET

Average Revenues \$8,129

Expenditures \$3,417

Excess funds \$4,712

License fee \$50/year



OFFICIAL BUSINESS

Alaska State Legislature
House of Representatives
 COMMITTEE ON HEALTH, EDUCATION
 AND SOCIAL SERVICES

ROUGHY
 JUNEAU AK 99811
 465-3759

SUNSET REVIEW REPORT - HOUSE BILL NO. 640

February 24, 1986

Representative Ben Grussendorf
 Speaker of the House
 P.O. Box V
 Juneau, Alaska 99811

Dear Mr. Speaker:

The House Committee on Health, Education and Social Services has considered the Sunset Review of the State Physical Therapy Board, and recommends that the board be continued. The Committee has introduced HB 640 to fulfill the findings of the Division of Legislative Audit.

As required by AS 44.60.050 (c), the Committee submits the following findings:

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

The board has established regulations governing the duties and licensure requirements, has enforced their licensing statute in a uniform and consistent manner and has held meetings and administered examinations in accordance with the law.

(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.

Funding for the board was reduced from \$5,200 in FY 84 to \$1,700 in FY 85. As a result, the number of meetings dropped from three each in FY 83 and 84 to two in FY 85. The House HESS Committee is concerned because physical therapist's and physical therapy assistant's fees create annual revenues of \$8,129 while annual expenditures average only \$3,417 (see Appendix A to the 9/23/85 Legislative Audit of the State Physical Therapy Board). It therefore appears that income from licensing fees exceeded expenditures by 238%.

The Committee therefore requests that the Division of Occupational Licensure consider restoring necessary board expenses, such as the cost of meetings, if requested by the board.

The Committee further requests that the Division report in writing to

HB 317

For Bill/Resolution No. CSHB 317 (L&C) Page 3 of 3PROJECTED REVENUES:

FY 87:	Based on the number of practitioners identified, it is anticipated that 219 practitioners will be seeking initial licensure. 219 x \$400	** \$ 87.6
FY 88:	Based on the assumption that there will be at least 25 new applicants. 25 x \$400	10.0
FY 89:	Projections for this fiscal year are based on the assumption that all licenses will be renewed. Based on 244 renewing x \$350 (renewal fee) In addition, 25 new licensees x \$400	85.4 <u>10.0</u> 95.4
FY 90:	Based on an estimate of 25 new licensees x \$400	10.0
FY 91:	Assuming this will also be a renewal year, 294 licensees x \$350 (renewal fee) In addition, 25 new licensees x \$400	102.9 <u>10.0</u> 112.9

**Note: The 219 practitioners were determined as a result of the 131 State employees not required to be licensed by the bill. Total number of Social Workers identified in Alaska by the Alaska Chapter of the National Association of Social Workers were 350 practitioners.

the Committee by May 1, 1986 the action it is taking in response to this request.

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

The board supported a statutory change recommended by the Physical Therapy Association to allow physical therapists to practice autonomously. This recommendation was suggested by the Division of Legislative Audit and supported by the committee, and is included in HB 640.

Another statutory amendment recommended by the board was to allow foreign-trained physical therapists to practice in Alaska. The statute was amended accordingly in 1980.

- (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.

Notification of meetings have been published in newspapers in Anchorage, Fairbanks and Juneau. Meetings have been held in each of these locations, and public notice posters announcing meetings have been distributed to physical therapy departments statewide.

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

Newspaper notice of proposed regulation changes are published statewide as required by the Administrative Procedures Act.

- (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 the board or commission is administratively assigned, or with the office of the ombudsman have been processed or resolved.

The Office of the Ombudsman and the Attorney General's Office have no outstanding consumer complaints about the Physical Therapy Board.

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

169 physical therapists and 11 physical therapy assistants are licensed in the state, with no evidence that unqualified applicants have been licensed.

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

No complaints have been filed with the office of Equal Employment Opportunity relating to the Physical Therapy Board.

(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.

The Division of Legislative Audit recommended that the licensing statute be amended to allow independent practice of physical therapists in the state as a way of saving money for the consumer. This recommendation was included by the Committee in HB 640.

As required by AS 44.60.050 (d), the Committee submits the following findings:

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

The purpose of the board is to protect the public against unqualified practitioners of physical therapy.

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

The board is to license qualified physical therapists and physical therapy assistants in the state to protect the public welfare.

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

There are no duplicate programs.

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

The Committee did not discuss any alternative methods for licensure for this profession.

(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.

The Committee did not consider eliminating the board. The Division of Legislative Audit and the Division of Occupational Licensing recommended that the board be continued to serve the public welfare. There was no discussion of further budget reductions, in fact, as set forth above, the Committee questions the current level of fees and the need for restoring the board to its former level of operations.


(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.

The board will be especially important in monitoring the profession with the addition of independent practice for the therapists to

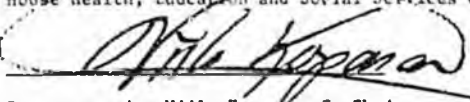
safeguard against any unanticipated results. Other states which have allowed independent practice have experienced no difficulties regarding practice or insurance.

(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.

There are no additional recommendations.



Representative Max F. Gruenberg, Jr., Co-Chair
House Health, Education and Social Services Committee



Representative Nillo Koponen, Co-Chair
House Health, Education and Social Services Committee



456-5711

8Bonnie Street
Fairbanks, Alaska 99701
March 11, 1986

TO: Bettye. Fahrenkamp
Danny Consenstein, Aide

RE: Independent Practice of Physical Therapists, SB 457

I spoke to Shelly Kozel, local physical therapist. She called Hal Egbert, Physical Therapist from Alaska Native Hospital in Anchorage who is one of the spokespeople for the state group. She indicated that he said the group would be willing to accept the following limitations for those therapists applying for independent practice status:

1. Two years experience after obtaining their PT degree
2. a referral letter to be required with the application and to be obtained from a physician or another physical therapist with whom they have been working those 2 years
3. continuing medical education

I would be willing to accept the three items above. She was uncertain of the amount of CME the group was willing to accept. I would ^{suggest} at least 30 credits every two years, but would certainly encourage more. They currently would like to avoid the issue of a master's degree. It is perhaps early days to be looking at that particular area. As I mentioned before, Danny, I would be unwilling to support the bill without any limitations at all. I feel the three items above are acceptable and that all three are needed.

Thank you for keeping me informed on this issue.

Mary C. Winy MD, President

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