

ALASKA LEGISLATURE COMMITTEE FILES 1985-1986 80/2

4219 SLAB HB 589 - HB 641

1099



# 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

11/24/89  
Date

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(907) 586-3537

May 7, 1986

Senator Fred F. Zharoff, Chairman  
Senate Labor and Commerce Committee  
Room 121, Capital Building  
Juneau, Alaska 99801

RE: CSHB 589 (Finance) am; An Act relating to  
disability insurance; and providing for an  
effective date.

Dear Senator Zharoff:

I am the registered lobbyist for the Alaska Nurses Association. The Association has some concerns about the impact of HB 589 on the practice of nursing. Nurses constitute the largest group of health care providers in the State and are deeply involved in all aspects of health care delivery. Nurses do not practice medicine, they practice nursing. Insurance coverage should be provided for nursing services without regard to whether those services are provided under the continued direction of a physician. Specifically, the Association recommends:

1. Page 4, line 28, delete "at the physician's direction";
2. Page 16, line 29, delete "upon recommendation of a licensed physician";
3. Page 17, lines 4-5, delete "under the continued direction of the person's physician and".

Additionally, we believe that Section 21.55.140 (13) found on page 10, lines 3-5, should be deleted. We believe it is poor policy to exclude services of a registered nurse from coverage simply because she resides in the covered individual's home - this makes no more sense than excluding the services of a physician who treats a member of his family.

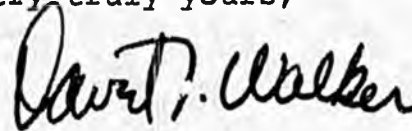
Please do not hesitate to contact me if you have a question about the Association's position on this bill,

Senator Fred F. Zharoff, Chairman  
Senate Labor and Commerce Committee

May 7, 1986  
Page 2

nurses, the practice of nursing, or any other matter.

Very truly yours,

A handwritten signature in cursive script that reads "David T. Walker". The signature is written in dark ink and is positioned directly below the typed name.

David T. Walker

DTW/dsm

cc: Members of the Senate Labor  
and Commerce Committee

METROPOLITAN LIFE INSURANCE  
ONE MADISON AVE 2Y  
NEW YORK NY 10010 02AM



Mailgram®



1-116573U122019 05/02/86 ICS WA16614  
01262 MLTN VA 05/02/86 JN29285

AHGB

THE HONORABLE ZHAROFF FRED  
ALASKA SENATE RM 121  
STATE CAPITOL  
P O BOX V  
JUNEAU AK 99811

MAY 6 1986

METROPOLITAN LIFE RESPECTFULLY URGES THE ALASKA SENATE NOT TO ACT  
FAVORABLY ON HOUSE BILL 589. THERE IS NO DEMONSTRATED NEED FOR SUCH  
WIDE RANGING LEGISLATION IN ALASKA. ALTERNATIVE SOLUTIONS MERIT  
FURTHER STUDY. THE LEVEL OF BENEFITS MANDATED COUPLED WITH  
LIMITATIONS ON PREMIUMS COULD RESULT IN SOME INSURERS CEASING THE  
WRITING OF HEALTH INSURANCE IN ALASKA.

ROBERT O. FLECKENSTEIN METROPOLITAN LIFE INSURANCE CO

50085  
1619 EST

MGMCOMP MGM

## CS HB 589 (Finance)

An Act relating to disability insurance;  
and providing for an effective date.

### OVERVIEW

Prepared by Rep. John Sund's office; May 3, 1986

#### Objective

The primary purpose of HB 589 is to ensure medical insurance availability to those Alaskan residents who are considered too high of a health risk for standard insurance in the open marketplace.

#### What This Bill Does

HB 589 would establish a nonprofit, statewide association of all disability insurers in the state. Participation in the association would be mandatory in order to do business in the state.

The association would offer major medical insurance and medicare supplement insurance as described in the bill to any Alaskan who cannot get standard coverage or has excessive restrictions placed on his or her insurance. Certain eligibility requirements would be set.

If the association's claim payments exceed the premiums collected, the association members would be assessed to make up the differences. Any premiums that exceed losses would be held at interest to offset future losses. The association would administer the plan under the monitoring of the director of the Division of Insurance.

For the first year of the plan, premium rates would be capped at 150% of the average rate of the plan if it were offered to standard risk people by the five largest disability insurers in the state. Based on that year's experience, the association will set actuarially sound rates but the rates cannot exceed 250% of standard rates for a comparable plan.

#### Why This Bill Is Needed

Standard disability insurance is often denied people who are considered high risks, such as older individuals and those who are suffering or have suffered from serious illnesses. Comprehensive insurance should be available to these people. Moreover, providing them insurance should eventually decrease costs to society.

CS HB 589 (Judiciary)

An Act relating to disability insurance;  
and providing for an effective date.

SECTIONAL ANALYSIS

Prepared by Rep. John Sund's office; May 3, 1986

Section 1

ARTICLE 1

Sec. 21.55.010. Page 1, line 12: creates the Comprehensive Disability Insurance Association, a nonprofit corporation with membership consisting of all licensed disability insurers and licensed hospital or medical service corporations in the state that write on an expense incurred basis. Insurers must be members of the association in order to do business in the state.

Sec. 21.55.020. Page 1, line 22: sets a seven-member board of directors selected by association members and approved by the director of the state Division of Insurance. The director or a designee will be a nonvoting, ex officio member of the board.

Sec. 21.55.030. Page 2, line 12: describes the association's general powers.

Sec. 21.55.040. Page 2, line 21: subjects association articles, bylaws and operating rules to the approval of the director of the Division of Insurance.

Sec. 21.55.050. Page 3, line 26: exempts the association from the Administrative Procedure Act.

Sec. 21.55.060. Page 3, line 28: exempts the association from taxes.

ARTICLE 2

Sec. 21.55.100. Page 4, line 4: offers the state plan, including the medicare supplement plan, on an individual basis to high-risk residents. The association may not deny coverage to any eligible resident.

Sec. 21.55.110. Page 4, line 16: explains the minimum benefits of the state plan, which is a basic major medical plan. Lifetime maximum benefit is \$1 million.

Sec. 21.55.120. Page 6, line 26: offers deductibles of \$200, \$500 or \$1,000 per person. The maximum copayment by enrollees would be 20% once the deductible is met for all health care and 50% for mental health care. Maximum annual payments of

deductible and copayments cannot exceed \$2,000 per insured. The plan would pay 100% once that limit is reached.

Sec. 21.55.130. Page 7, line 27: excludes coverage for preexisting conditions if the condition began within the three months just preceding the effective date of coverage. Preexisting conditions would not be covered for the first six months of a plan. The limitation can be waived if the insured's previous insurance was terminated and the state plan application is made within 31 days following termination.

Sec. 21.55.140. Page 8, line 22: describes care and services that are not covered by the plan.

Sec. 21.55.150. Page 10, line 9: sets separate scales of premium rates based on age and geographic location of the insured.

Premium rates for the first year of the plan are capped at 150% of the average rate of the plan if it were offered to standard risk people as determined by the five largest disability insurers in the state. Thereafter, the rates will be determined using sound actuarial methods based on plan experience. But the rates may never exceed 250% of standard rates for a comparable plan.

### ARTICLE 3

Sec. 21.55.200. Page 10, line 29: sets guidelines for the association's selection of a writing carrier through a bidding process.

Sec. 21.55.210. Page 11, line 7: explains the duties of the writing carrier who will be contracted for three-year terms unless earlier termination is approved by the director.

The carrier will perform the administrative and claims payment functions of the plan and report quarterly to the association. The carrier will be reimbursed for direct and indirect expenses of administering the plan.

Sec. 21.55.220. Page 12, line 17: requires that association members be assessed to share the claim losses and administrative expenses that exceed premium payments. Each member will contribute to the association an amount based on that member's share of all disability insurance premiums paid in the state. Assessments will be made yearly, unless interim assessments are desired.

A member's failure to pay an assessment within 30 days could cease that member's certification to operate in the state.

Net gains will be held at interest to offset future losses.

ARTICLE 4

Sec. 21.55.300. Page 14, line 5: states that all high-risk residents are eligible for the state plan unless covered by another disability insurance policy. A person loses eligibility upon ceasing residency.

Sec. 21.55.310. Page 14, line 16: explains the enrollment procedure.

Sec. 21.55.320. Page 14, line 25: requires the state plan writer to respond to the applicant within 30 days of receiving the application.

Sec. 21.55.330. Page 15, line 1: sets the policy effective date at the day of application once the first premium is paid. It also permits 60 day retroactive coverage for those individuals whose previous insurance terminated, if premiums are paid for the retroactive period.

Sec. 21.55.340. Page 15, line 15: requires that the association advertise the state plan to the public. An insurer who rejects or restricts a policy must tell the applicant about the state plan.

ARTICLE 5

Sec. 21.55.400. Page 16, line 5: explains the duties of the director of the Division of Insurance in regard to the state plan.

Sec. 21.55.410. Page 16, line 16: states the state is not liable for association actions.

Sec. 21.55.500. Page 16, line 20: offers chapter definitions.

Resident is defined as a person who has lived in the state at least six consecutive months prior to application and intends to remain. Absence from the state is permitted for medical and educational reasons.

A high risk resident is defined as someone who has been rejected for disability coverage by at least two association members or has had a restrictive rider placed on a policy.

Section 2. Page 19, line 20: requires that the state plan be available by July 1, 1987.

Section 3. Page 19, line 23: sets an immediate effective date.



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James O. Smith  
Signature of Camera Operator

11/24/89  
Date

HB

603



Official Business

# Alaska State Legislature

## Senate

### Committee on Labor & Commerce

Pouch V  
State Capitol  
Juneau, Alaska 99811

#### CSHB 603(L&C) Sectional Analysis

Section 1) Extends the Board of Dispensing Opticians until 6/30/89.

Section 2) Expands the qualifications required of applicants for examinations as follows:

Adds 4 years of attendance, or the equivalent, at a high school;

Provides that graduation with an associate degree, from a recognized school of opticianry, may be substituted for 4,000 of the 6,000 hours of experience in the profession.

Section 3) Prior to license renewal, licensee shall submit evidence to the board of 30 hours of continued competence in the profession, as prescribed by board regs.

Section 4) Immediate effective date

BILL SHEFFIELD  
GOVERNOR



STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
JUNEAU

February 14, 1986

The Honorable Ben Grussendorf  
Speaker of the House  
Alaska State Legislature  
P.O. Box V  
Juneau, AK 99811

Dear Representative Grussendorf:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill to extend the Board of Dispensing Opticians until June 30, 1988 and to make minor changes in two sections of AS 08.71, concerning opticians' eligibility for examination for licensure and renewal of licensure.

Although the June 30, 1985 termination date for the Board of Dispensing Opticians has passed, the board continues in existence until June 30, 1986 under the wind-down provisions of AS 08.03.020.

Last spring, I vetoed CSSB 167(L&C) which would have continued the board until 1989 and made the same change as does sec. 3 of this bill regarding optician license renewal, along with several other changes to AS 08.71, concerning licensing of opticians. After that veto, I appointed a working group identical to that which would have been required by the vetoed bill. That working group recommended, by unanimous vote, all of the provisions of the attached bill.

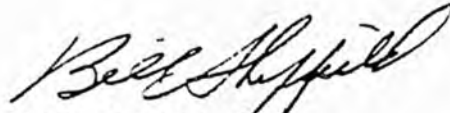
I believe that the best way to solve the inefficiencies, controversies, and sometimes bitter contention, that pervades the sometimes overlapping and deeply interrelated professions of optometry and opticianry is to pursue combining the two separate boards and statutes now regulating each. I agree with the working group that this somewhat radical change from the status quo can be most productively pursued as part of simultaneous sunset review of both

boards. That is why this bill extends the Board of Dispensing Opticians until the June 30, 1988 sunset date for the Board of Examiners in Optometry.

Meanwhile, the working group, also by unanimous vote, recommended other changes to AS 08.71, the dispensing optician statutes, which are also part of the bill. I agree with these changes, including the doubling of the number of continuing education hours in sec. 3 of the bill. In 1980 the license renewal date was changed from every two years to every four years, but a corresponding doubling of the continuing education hour requirement was overlooked. Now that all the 66 dispensing optician licenses were renewed last summer, for four years, the licensees will have ample notice and time to comply with the doubled requirement. The changes made by sec. 2 of the bill affect the qualifications that must be met by an applicant for examination.

I urge your prompt action to pass this bill so that we can continue to work with the opticians and the optometrists to pursue a better, more efficient way to regulate these two interrelated professions in truly the best interests of the consuming public.

Sincerely,

A handwritten signature in cursive script that reads "Bill Sheffield".

Bill Sheffield  
Governor

CHAIRMAN'S INFORMATION: CSHB 603 (L&C)

- 1) BILL TITLE: "An act relating to dispensing opticians; and providing for an effective date."
  - a) Introduced: Governor
  - b) Co-sponsors:
  
- 2) INTENT: This measure extends the termination date of the dispensing opticians until 6/30/89, and expands the qualifications an applicant must meet prior to examination and licensure.

FISCAL NOTE: 0

- 3) ADDITIONAL REFERRALS: HESS and Rules
- 4) PUBLIC HEARINGS:
  - a) Sponsor:
  - b) Public Witnesses:
- 5) BILL ACTION:
  - a) Hold in committee?
  - b) Assign to sub committee for further review?
  - c) Move from committee?
  - d) Close public hearings?
- 6) COMMITTEE ACTION?
  - a) amendments?
  - b) CS adoption?

A PERFORMANCE REPORT  
ON THE BOARD OF  
DISPENSING OPTICIANS

July 1, 1981 -- June 30, 1984

Audit Control Number

08-1168-84-R

Commissioner, Department of  
Commerce and Economic  
Development

Richard A. Lyon

Deputy Commissioners, Department  
of Commerce and Economic  
Development

Vincent O'Reilley  
Terry Elder

Members of the  
Board of Dispensing Opticians

Chairman  
Secretary  
Member  
Member  
Member

J. Robin Isbell  
Leslie E. Brockelsby  
Larry E. Harper  
George Tresnak  
Vacant

# STATE OF ALASKA

AUDIT DIVISION  
POUCH W  
JUNEAU, ALASKA 99811

## THE LEGISLATURE

BUDGET AND AUDIT COMMITTEE

June 30, 1984

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 BOARD OF DISPENSING OPTICIANS

July 1, 1981 -- June 30, 1984

Audit Control Number

08-1168-84-R



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

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## PURPOSE AND SCOPE OF THE REPORT

### Purpose

In accordance with the intent of Titles 24 and 44 of the Alaska Statutes (sunset legislation), we have reviewed the activities of the Board of Dispensing Opticians for the past three 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 Dispensing Opticians should be reestablished. The law now specifies that the Board will terminate June 30, 1985, and have one year from that date to conclude its affairs.

### Scope

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

1. Applicable statutes and regulations.
2. Tests of files and documents of licensees.
3. Interviews with the license examiners.
4. Complaints filed with the Division of Occupational Licensing, Human Rights Commission, Equal Employment Opportunity Office, Attorney General's 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.

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## ORGANIZATION AND FUNCTION

The Board of Dispensing Opticians was established by the 1973 Session Laws of Alaska. This regulatory board consists of five persons; four dispensing opticians and one public member, appointed by the Governor. Board members serve staggered terms of four years.

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

The Board sets the minimum standards to practice in Alaska by:

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

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## 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 committee should take into consideration the Findings and Recommendations presented in this report so the potential impact of policy changes can be evaluated.

### Report Conclusion

The primary purpose of a regulatory board with a licensing function is to protect the public. The questions that have to be evaluated to determine if licensing is needed are:

1. Does the unlicensed practice pose a serious risk to the consumers' life, health, safety, or economic well-being?
2. Can the potential users be expected to possess the knowledge needed to properly evaluate the qualifications of those offering services?
3. Do the benefits to the public clearly outweigh any potential harmful effects, such as a decrease in the availability of practitioners, higher costs of services, and restriction on optimum utilization of personnel?

During our review to determine if the Board's licensing function is required and meets the previously mentioned criteria, we examined existing statutes, complaints, and various Board functions. As a result of our examination we found:

1. The Board performs only minimal functions. The majority of their duties, as outlined by AS 08.71.070, are handled by the Division of Occupational Licensing. Those duties that are executed by the Board include conducting meetings, reviewing applications for licensure, reviewing results of investigations and hearings and determining proper disciplinary actions, and preparing and grading the State examination. These duties are not substantial enough to continue the Board. Conducting meetings is only necessary to the extent that it is easier to take care of business at a meeting as opposed to by mail.

The bulk of the work on reviewing applications for licensure is done by the license examiner. He/she gathers the proper documentation and makes sure it is complete. The applications are then presented to the Board, who then votes whether to approve or disapprove licensure. This review tends to be cursory as the majority of it has already been done by the license examiner.

Reviewing results of investigations and hearings and determining proper disciplinary actions also tends to be cursory. This is due to the up-front work that is done by the investigations unit in Occupational Licensing and the hearing officers. The Board is kept informed of the status of complaints but are not involved in the investigations. The determination of proper disciplinary actions has usually been done by the hearing officer. It is then a formality for the Board to approve them.

The only duty requiring the expertise of the Board is the preparation and grading of the State examination. A license examiner does not have the background to formulate those exams. However, it is not necessary to give an exam because the potential physical harm caused by unlicensed dispensing opticians is minimal to nonexistent, and the administering of an exam is not essential.

Consequently, there are not enough duties for the Board to justify its existence. The expenses to maintain a Board of 5 members to regulate approximately 60 dispensing opticians is not economical.

2. An optician cannot cause great physical harm to an individual. Spectacles can cause double vision, distorted vision, and trouble with perception. Yet with these types of troubles, most patients will return to their optometrist or ophthalmologist for verification of the prescription. Improper fitting of contact lenses can result in physical harm. However, AS 08.71.200 requires a licensed physician (ophthalmologist) or optometrist to supervise the fitting of contact lenses and requires the patient to return to the prescribing physician or optometrist. In addition, AS 08.72.275 is adequate to protect the public from harm due to improperly hardened lenses because it requires each lens to be impact resistant under specified test conditions.
3. Approximately 12 complaints were received by the Division of Occupational Licensing and 2 complaints were received by Consumer Protection over the last few years.

Most of the complaints were instigated by licensed practitioners, not consumers, and related to unlicensed individuals dispensing. Of these, none resulted in physical harm. In one case, the Attorney General's Office refused to prosecute a violation because there was no evidence of physical harm.

4. In addition, several cases were noted where individuals were licensed without adequate documentation of statutory and regulatory requirements. These individuals were potentially "unqualified," yet no evidence of physical harm has resulted from their practices.
5. Contact lenses cost approximately \$500 and spectacles cost much less. Therefore, if for some reason the consumer received poor quality or useless contacts or spectacles, the loss to the consumer would not be severe. Also, if a consumer is dissatisfied, he/she has recourses available whether a business or individual is licensed or not. The Consumer Protection Unit as well as the court system are there to provide remedies for injured parties.

Thus, we found the Board's existence to be superfluous, especially in light of the scope of the dispensing optician's work. The dispensing optician prepares and dispenses original or duplicate lenses, eyeglasses, contact lenses, and appurtenances to them on written prescription from a licensed physician or optometrist. They also interpret, measure, adapt, and fit the above mentioned. This restricts their scope to a small sphere of duties and limits that amount of harm that could result if they were not licensed.

Therefore, we recommend the Board of Dispensing Opticians be allowed to terminate on June 30, 1985.

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## FINDINGS AND RECOMMENDATIONS

### Recommendation No. 1

The Board of Dispensing Opticians should be allowed to terminate on June 30, 1985.

The primary purpose of a regulatory board with a licensing function is to protect the public. The questions that have to be evaluated to determine if licensing is needed are:

1. Does the unlicensed practice pose a serious risk to the consumers' life, health, safety, or economic well-being?
2. Can the potential users be expected to possess the knowledge needed to properly evaluate the qualifications of those offering services?
3. Do the benefits to the public clearly outweigh the potential harmful effects, such as a decrease in the availability of practitioners, higher costs of services, and restriction on optimum utilization of personnel?

During our review to determine if the Board's licensing function is required and meets the previously mentioned criteria, we examined existing statutes, complaints, and various Board functions. As a result of our examination we found:

- A. The Board performs only minimal functions. The majority of their duties as outlined by AS 08.71.070 are handled by the Division of Occupational Licensing. Those duties that are executed by the Board include conducting meetings, reviewing applications for licensure, reviewing results of investigations and hearings, and determining proper disciplinary actions, and preparing and grading the State examination. These duties are not substantial enough to continue the Board. Conducting meetings is only necessary to the extent that it is easier to take care of business at a meeting as opposed to by mail. The bulk of the work on reviewing applications for licensure is done by the license examiner. He/she gathers the proper documentation and makes sure it is complete. The applications are then presented to the Board, who then votes whether to approve or disapprove licensure. This review tends to be cursory as the majority of it has already been done by the license examiner.

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The only duty requiring the expertise of the Board is the preparation and grading of the State examination. A license examiner does not have the background to formulate those exams. However, it is not necessary to give an exam because the potential physical harm caused by unlicensed dispensing opticians is minimal to non-existent, and the administering of an exam is not essential.

Consequently, there are not enough duties for the Board to justify its existence. The expenses to maintain a Board of 5 members to regulate approximately 60 dispensing opticians is not economical.

- B. An optician cannot cause great physical harm to an individual. Spectacles can cause double vision, distorted vision, and trouble with perception. Yet with these types of troubles, most patients will return to their optometrist or ophthalmologist for verification of the prescription. Improper fitting of contact lenses can result in physical harm. However, AS 08.71.200 requires a licensed physician (ophthalmologist) or optometrist to supervise the fitting of contact lenses and requires the patient to return to the prescribing physician or optometrist. In addition, AS 08.72.275 is adequate to protect the public from harm due to improperly hardened lenses because it requires each lens to be impact resistant under specified test conditions.
- C. Approximately 12 complaints were received by the Division of Occupational Licensing and 2 complaints were received by Consumer Protection over the last few years. Most of the complaints were instigated by licensed practitioners, not consumers, and related to unlicensed individuals dispensing. Of these, none resulted in physical harm. In one case, the Attorney General's Office refused to prosecute a violation because there was no evidence of physical harm.

- D. Several cases were noted where individuals were licensed without adequate documentation of statutory and regulatory requirements (See Recommendation No. 4). These individuals were potentially "unqualified," yet no evidence of physical harm has resulted from their practices.
- E. Only 20 out of the 49 other states deem it necessary to license dispensing opticians. The rest recognize that potential users can evaluate a dispensing optician's qualifications. Free enterprise will take care of those unlicensed practitioners who are not able to provide quality services and competitive prices. Consumers will not continue to patronize a business or individual if they are not satisfied.
- F. Contact lenses cost approximately \$500 and spectacles cost much less. Therefore, if for some reason the consumer received poor quality or useless contacts or spectacles, the loss to the consumer would not be severe. Also, if a consumer is dissatisfied, he/she has recourses available whether a business or individual is licensed or not. The Consumer Protection Unit as well as the court system are there to provide remedies for injured parties.

If the Board is not terminated and some control over the occupation is desired, the dispensing opticians should be combined with the Board of Optometry. The optometrists can and do dispense spectacles and contact lenses like the dispensing opticians as well as refracting eyes and diagnosing eye diseases. Thus, the Board of Optometry has experience in the same areas and is an appropriate Board with which to combine the Board of Dispensing Opticians.

However, in the event that the Board is reestablished, we recommend the following changes be made in their operations.

Recommendation No. 2

The Board of Dispensing Opticians and the Office of the Governor should work together to ensure that vacant Board positions are filled.

The Board is responsible for making recommendations to the Office of the Governor, Special Staff Assistant, Boards and Commissions for vacant Board positions. The Office of the Governor is then responsible for following up on those recommendations as well as those from any other interested parties.

There are conflicting stories from the staff of the Office of the Governor and the Board members regarding the lack of recommendations and follow up. There is some dispute as to whether any recommendations have been made in the past several years as there has been no acknowledgement of receipt by the Office of the Governor, except within the last month. Regardless of who has been at fault, there are still vacant Board positions to be filled.

This is particularly crucial since two of the five positions have members who are serving past the expiration dates of their terms. One member has served two years beyond his original term because no one has been appointed to fill his slot. This extension of terms defeats the purpose in setting a specified term length. In addition, the public member slot has been vacant since June 1982. The public member brings a different perspective. They help keep the purpose in mind which is to protect the public, not the economic interest of an occupational group. Therefore, it is crucial that the Board and the Office of the Governor work together to fill these three slots.

### Recommendation No. 3

The Board should review existing statutes and regulations and seek appropriate revision where necessary.

During our examination, we reviewed the Board's statutes and regulations to determine if any were obsolete, vague, or unduly restrictive. Examples of what we found are as follows:

- A. AS 08.71.130(d) and 12 AAC 30.050 set out continuing competency requirements. These requirements were based on biennial licensing. Since then, the profession has changed to quadrennial licensing without a compensating change in the continuing competency requirements.
- B. AS 08.71.150 allows the State to license by reciprocity. However, none of the 20 other states will grant Alaska these rights. And since licensure by credentials accomplishes the same purpose, this Statute is not necessary.
- C. AS 08.71.200 sets out dispensing opticians' constraints for issuing contact lenses. The language used is not specific enough and needs to be further defined as to what is meant by "contact lenses shall be fitted in conjunction with and under the supervision of a licensed physician or an optometrist." The optometrists and dispensing opticians are currently debating changes to this Statute, and a caution should be noted. The Attorney General's Office has found a potential

antitrust issue with regards to where contact lens prescriptions can be filled. Any changes to this Statute should not be to make it more restrictive (i.e., requiring the prescriptions be filled at specified places instead of where the consumer chooses).

- D. The Board still has not received statutory authority to issue temporary permits. These temporary permits would allow a greater influx of qualified individuals to practice while awaiting formal Board approval.

AS 08.71.055 provides that the Board shall exercise general control over dispensing opticians. This cannot be done effectively without clear and concise statutes and regulations. And although the Board has had various obsolete or vague statutory and regulatory requirements repealed or amended, the Board should continue to review them for obsolescence, vagueness, and restrictiveness, and propose appropriate changes where necessary.

Recommendation No. 4

The Board should ensure that requirements are being met and adequately documented prior to licensure.

Statutory and regulatory requirements have been set up to ensure that competent individuals are being licensed. Documentation of these requirements is necessary to show that they have indeed been met.

During our examination, we reviewed several licensing files to determine if statutory and regulatory requirements were being met. Examples of what we found are as follows:

- A. Out of 12 tested, 4 did not have adequate documentation of training hours. Either the hours listed were not signed by the instructor on the application or there weren't enough hours (AS 08.71.110 and 12 AAC 30.070).
- B. For those 2 tested that were licensed by credentials, apprentice hours were not listed at all or those listed were not enough. Also there was no evidence that the applicants had ever taken the national exam either in Alaska or in another state (AS 08.71.145 and 12 AAC 30.100).
- C. One licensee's file did not have any indication of the Board's approval (AS 08.71.055).
- D. Much of the documentation consisted of photocopies and not originals. Photocopies are acceptable but they should be notarized or certified copies and not copies of notarized or certified originals since copies of notarized or certified originals are easy to falsify.

The Board has some flexibility in assuring the requirements are met. They can waive them in order to let a candidate take the exam. However, there should be no exceptions when licensing. All requirements must be met including those that may have been initially waived for the exam. The follow up on those items lacking is the Board's responsibility, and the Board should ensure requirements are being met and adequately documented prior to licensure.

## 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 examination.

- I. The extent to which the board, commission, or program has operated in the public interest.
  - A. The Board has held meetings and exams at least two times a year.
  - B. The Board has passed regulations regarding apprentices, continuing competency, and licensure by credentials.
  - C. The Board has not had a public member since June 1982 (see Recommendation No. 2).
- II. The extent to which the operation of the board, commission, or agency program has been impeded or enhanced by existing statutes, procedures, and practices which it has adopted, and any other matter, including budgetary, resource, and personnel matters.
  - A. The Board has had two vacant Board positions for two years (see Recommendation No. 2).
- III. The extent to which the board, commission, or agency has recommended statutory changes which are generally of benefit to the public interest.
  - A. The Board succeeded in having various obsolete or vague statutory requirements repealed or amended.
  - B. No statutory changes have been made since 1980.
- IV. The extent to which the board, commission, or agency has encouraged interested persons to report to it concerning the effect of its regulations and decisions on the effectiveness of service, economy of service, and availability of service which it has provided.
  - A. The Board has published public notices of all examinations, meetings, and regulation changes. The Board has not actively solicited comments on its effectiveness.

- V. The extent to which the board, commission, or agency has encouraged public participation in the making of its regulations and decisions.
- A. The Board has published notices of its meetings in Anchorage, Fairbanks, and Juneau. However, no public participation appears to have resulted.
- VI. The efficiency with which public inquiries or complaints regarding the activities of the board, commission, or agency filed with it, with the department to which a board or commission is administratively assigned, or with the Office of the Ombudsman have been processed and resolved.
- A. According to the Division of Occupational Licensing's files, there have been approximately twelve investigation cases in the past four years. Two complaints have been filed with the Consumer Protection Unit and none with the Office of the Ombudsman.
- VII. The extent to which a board or commission which regulates entry into an occupation or profession has presented qualified applicants to serve the public.
- A. In the last six years, the number of currently licensed dispensing opticians has increased from 45 to 63.
- B. The Board has not established reciprocal agreements with other states or established statutory authority to issue temporary permits. They have established licensure by credentials which tries to address the same situation.
- VIII. The extent to which State personnel practices, including affirmative action requirements, have been complied with by the board, commission, or agency to its own activities and the area of activity or interest.
- A. Applications for licensure require information and photographs which the Division of Equal Employment Opportunity (EEO) believes may not be necessary to determine the qualifications of the applicant.
- IX. The extent to which statutory, regulatory, budgeting, or other changes are necessary to enable the agency, board, or commission to better serve the interests of the public and to comply with the factors enumerated in this subsection.

Please refer to the previous section, Findings and Recommendations.

APPENDIX

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APPENDIX A

BOARD OF DISPENSING OPTICIANS  
REVENUES COMPARED WITH EXPENDITURES  
For the Fiscal Year Ended 1983  
(UNAUDITED)  
(Note 1)

Average Revenues (Note 2)	\$ 3,853
Expenditures (Note 3)	<u>4,258</u>
Excess of Expenditures over Revenues	<u>\$ (405)</u>

Schedule 1  
Types of Revenues

<u>Revenues</u>	<u>Amount</u>	<u>Collection Time</u>
Examination Fee	\$ 50	With application
Reexamination Fee	\$ 50	With application
Initial License Fee	\$ 50	Before licensure
Renewal Fee	\$ 200	Every four years
Late Renewal Fee	\$ 10	If over 60 days after renewal date

Note 1

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

Note 2

The majority of the revenues collected are composed of license renewal fees. These fees are collected by most boards once every two or four years and causes revenues in one year to be much greater than the revenues collected in the next year. Therefore, we calculated and reported an average for the revenues collected from 1981 to the present in order to obtain a more accurate representation of collected revenues.

Note 3

Expenditures include those made by board members, such as travel, per diem, and direct administrative expenses of the Division of Occupational Licensing. They do not include indirect administrative expenses of the Division or expenditures for efforts of other departments such as the Department of Law, assisting the boards and the Division.

# STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

## DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

POUCH D  
JUNEAU, ALASKA 99811  
PHONE: 465-2500

OFFICE OF THE COMMISSIONER

October 4, 1984

OCT 05 1984

**LEGISLATIVE  
AUDIT**

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

Dear Mr. Wilkerson:

We have reviewed your preliminary audit report on the Board of Dispensing Opticians, covering the period July 1, 1981 to June 30, 1984.

The position we expressed in response to your interim letter has not changed. We, at that time, concluded the assessment of allowing the board to terminate was accurate and would not subject the public to harm. We concurred in part to your recommendations.

Having now reviewed your preliminary audit report, we continue to maintain our position. We do not know of any reason to change.

For clarification, we will respond to each of your recommendations.

### Recommendation 1

The Board of Dispensing Opticians should be allowed to terminate on June 30, 1985.

We concur with your report and endorse allowing the board to terminate on June 30, 1985. Since establishment (Chapter 45 SLA 1973), the board has licensed 60 practitioners.

We would also suggest the licensing functions by the Division of Occupational Licensing should also terminate. Citizens have other means of redress for harm, and the practitioners would still be required to have a State business license from the Department of Revenue.

Recommendation 2

The Board of Dispensing Opticians and the Office of the Governor should work together to ensure that vacant board positions are filled. Currently, the Office of the Governor is making efforts to increase communication with the boards. The staff has solicited from boards, professional associations and the general public, candidates for board appointments. Vacancy lists are published in the Administrative Journal.

We would not endorse appointing a person to a board when we are suggesting termination of the function. Although the board has not had its full membership, licenses have been issued.

Recommendation 3

The board should review existing statutes and regulations and seek appropriate revisions where necessary.

We concur with your assessment in part. The board has made efforts to change regulations and, in doing so, has developed a better working relationship with the Board of Optometry in subjects of mutual consideration.

We disagree that the board is responsible for statutes that are unnecessary. Their input is necessary, however, they have no control over forcing repeal.

Our position on temporary permits remains unchanged. We disagree that a temporary permit allows for a greater influx of qualified practitioners. Applying for licensure should be a scheduled pursuit, not when an applicant wants immediate licensure by a different set of standards. To protect the public, verification of all documentation should be made. This does take time.

Recommendation 4

The Board should ensure that requirements are being met and adequately documented prior to licensure.

We concur in this recommendation and, if the board is continued, will work with them to ensure your suggestions and the laws are followed. Our position, expressed in response to your interim letter, is still accurate.

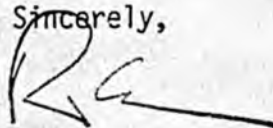
Mr. Gerald L. Wilkerson

-3-

October 4, 1984

Be assured your recommendations will be endorsed to the board pending the determination of the legislative committee. We appreciate your evaluation and thank you for your cooperation.

Sincerely,

A handwritten signature in black ink, appearing to read 'RA', with a long horizontal stroke extending to the right.

Richard A. Lyon  
Commissioner

RAL/1t0668t  
100484b

Offered: 3/7/86  
Referred: Health, Education &  
Social Services

Original sponsor: Rules/Governor

BY THE LABOR AND  
COMMERCE COMMITTEE

1 IN THE HOUSE

2

CS FOR HOUSE BILL NO. 603 (L&C)

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 dispensing opticians; and provid-  
ing for an effective date."

7

8

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

9

\* Section 1. AS 08.03.010(c)(5) is amended to read:

10

<sup>1988(5)</sup> Board of Dispensing Opticians (AS 08.71.010) -- June  
30 1989 [1985].

11

12

\* Sec. 2. AS 08.71.110 is amended to read:

13

Sec. 08.71.110. QUALIFICATIONS OF APPLICANTS FOR EXAMINATION.

14

(a) A person is entitled to take the examination who

15

(1) has had education equivalent to four years attendance

16

at a high school;

17

(2) [(1)] has either

18

(A) completed at least 6,000 hours of training as an  
apprentice, or

19

20

(B) been engaged for at least 6,000 hours as a prac-

21

ticing optician in good standing in a state, territory, district  
or possession of the United States; and

22

23

(3) [(2)] has paid the required examination fee.

24

(b) Graduation from an associate degree program in a recognized

25

school or college of opticianry may be substituted for 4,000 of the  
6,000 hours of experience required by (a)(2) of this section.

26

27

\* Sec. 3. AS 08.71.130(d) is amended to read:

28

(d) Before a license may be renewed the licensee shall submit to

29

the board evidence of 30 [15] hours of continuing competence in

1        optical dispensing as prescribed by regulations of the board.  
2        \* Sec. 4. This Act takes effect immediately in accordance with AS 01.-  
3        10.070(c).

STATE OF ALASKA 1986 LEGISLATIVE SESSION  
FISCAL NOTE

Revision Date: \_\_\_\_\_

**REQUEST**

Bill/Resolution No. CS HB 603 (L&C)  
 Title: An Act relating to dispensing opticians; and providing for an effective date  
 Sponsor: \_\_\_\_\_  
 Requester: \_\_\_\_\_  
 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		-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						
<b>TOTAL OPERATING</b>		-0-	-0-	-0-	-0-	-0-

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

REVENUE		1.0	1.0	-0-	-0-	-0-
---------	--	-----	-----	-----	-----	-----

**FUNDING: (Thousands of dollars)**

GENERAL FUND		-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>		-0-	-0-	-0-	-0-	-0-

**POSITIONS:**

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

**ANALYSIS:** Attach a separate page if necessary. This bill extends the Board of Dispensing Opticians to June 30, 1988, expands the requirements for licensure, and increases the number of continuing education hours required to satisfy the quadrennial renewal period. This bill is not expected to generate new costs or revenues. Funding for the board is already included in the department's FY 87 operating budget. Revenues indicated are based on the assumption that 10 new licenses will be issued each fiscal year.

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

Phone: 465-2144  
 Date: 3/5/86

Approved by Commissioner: \_\_\_\_\_  
 Agency: Commerce and Economic Development

Date: \_\_\_\_\_

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget



# 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

11/24/89  
Date

HPB

6411

# STATE OF ALASKA 1986 LEGISLATIVE SESSION FISCAL NOTE

Revision Date : \_\_\_\_\_

**REQUEST**

Bill/Resolution No. : HB641  
 Title : An act relating to generic drug pharmaceuticals and Board of Pharmacy and providing for an effective date.  
 Sponsor : Gruenburg  
 Requestor : \_\_\_\_\_  
 Date of Request : \_\_\_\_\_

**FISCAL DETAIL**

Agency Affected : Dept. of Health & Social Services  
 BRU : Medical Assistance Non-Facility  
 \_\_\_\_\_  
 Components : GRM Non-Facility  
 \_\_\_\_\_

**EXPENDITURES/REVENUES : (Thousands of Dollars)**

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

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

REVENUE						
---------	--	--	--	--	--	--

**FUNDING : (Thousands of Dollars)**

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>		-0-	-0-	-0-	-0-	-0-

**POSITIONS :**

FULL-TIME						
PART-TIME						
TEMPORARY						

**ANALYSIS :** Attach a separate page if necessary

The Department has submitted to the Governor an FY87 budget Amendment of \$2.5 million for an FY87 Pharmacy Program. One of the assumptions included in the amendment was the substitution of generic drug products for more expensive brand name products.

Prepared by : Rod Betit, Director *R Betit* Phone : 465-3355 *JCC*  
 Division : Medical Assistance Date : 3/4/86

Approved by Commissioner : *J. R. ...* Date : 3/6/86  
 Agency : Department of Health & Social Services

**Distribution (by Agency preparing fiscal note):**

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget

STATE OF ALASKA 1986 LEGISLATIVE SESSION  
FISCAL NOTE

Revision Date: \_\_\_\_\_

**REQUEST**

Bill/Resolution No.: CSHB 641  
 Title: An Act relating to generic drugs, pharmaceuticals, and the Board of Pharmacy;  
 Sponsor: Rep. Gruenberg  
 Requester: House HESS  
 Date of Request: \_\_\_\_\_

**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						
<b>TOTAL OPERATING</b>		-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						
<b>TOTAL</b>		-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 Board of Pharmacy to June 30, 1989, grants pharmacists the authority to fill prescriptions using generic drugs, and repeals the Marijuana Therapeutic Research Program.

This bill is not expected to generate new costs or revenues.

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

Phone: 465-2144

Date: 3-25-86

Approved by Commissioner: Loren H. Lounsbury  
 Agency: Commerce and Economic Development

Date: 3/25/86

Distribution (by Agency preparing fiscal note):

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



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

OFFICIAL BUSINESS

FOUCH  
JUNEAU, AK 998  
465-375

March 25, 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 Board of Pharmacy, and recommends that the board be continued. Representative Max Gruenberg, Co-Chair of the committee, has introduced HB 641, to fulfill some of 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 held three public meetings a year, administers a yearly licensing examination and has passed regulations concerning dangerous drugs, continuing education as proof of continued competency, false or misleading advertising of drugs and prepackaging of drugs in hospital drug rooms.

(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.

Prior audit recommendation (1983) was that continuing competency regulations are too stringent and should be changed. The regulations require nonacademic programs to have an examination or another method of assuring satisfactory completion of the program before credit will be given. Continued competency regulations may also be waived for chronic illness, retirement, military service or hardship.

The 1985 audit states that the board believes the regulations to be arbitrary or unreasonable and should be changed since the board has deviated from their written policy in accepting nonregulation credits. Legislative Audit also believes it is more reasonable to require

individuals who have been chronically ill, retired or in the military to demonstrate continued competency than those who have not interrupted their practice. These recommendations were accomplished by the board in August of 1985.

(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 succeeded in having various obsolete or vague statutory requirements repealed which provided for smoother operation of the board. The board also was instrumental in passage of the controlled substances registration and the Marijuana Therapeutic Research Program which are currently recommended, by Legislative Audit, for repeal.

(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.

Board meetings are announced to the public. Comments on regulation changes are solicited by announcement in public newspapers. The board does not actively solicit comments on its effectiveness.

(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 regulation changes or additions in newspapers 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.

No problems were found by Legislative Audit.

(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.

The board has licensed 83 pharmacists in the last three years, all but eight were licensed by credentials. Legislative Audit found no instances where the board licensed unqualified practitioners.

(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.

Applications for licensure as a pharmacist require information and photographs which the Division of Equal Employment Opportunity believes may not be necessary to determine the qualifications of the applicant.

(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.

Legislative Audit found that state registration under the Controlled Substances Act is duplicative of the Federal Drug Enforcement Agency, unnecessary for litigation and costly for the state and that the board should recommend legislation to eliminate state registration.

The 1983 Audit recommendation that legislation be introduced to clarify the investigatory powers of the board and the Division was never accomplished, but has been incorporated into CSHB 641 (HESS)

The Audit also recommends repeal of the Marijuana Therapeutic Research Program since it was not accomplished in a timely fashion. The repeal is included in CSHB 641.

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 should recommend legislation to regulate pharmacy technicians. Although the Legislative Audit recommended the repeal of controlled substances registration, the committee has not addressed that issue, feeling that it will require further study.

(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 applicants, inspect pharmacies and adopt needed regulations.

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

There are no other agencies which license pharmacists. The Department of Public Safety is the lead agency in enforcement of the Controlled Substances Act, and should be given the responsibilities currently assigned to the Board of Pharmacy which are necessary and do not duplicate federal DEA activity.

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

The Committee did not consider any alternatives for licensure. The Committee did consider the recommendations of the Departments of Law, Public Safety and Commerce and Economic Development for rewriting aspects of the Controlled Substances Act, but did not adopt these provisions because of opposition from members of the board, reserving the issue for possible future legislation.

(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.

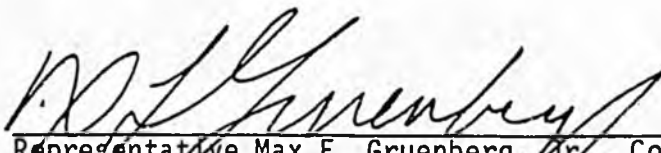
Eliminating the board would remove licensing mechanisms, which are designed to assure that practitioners are competent to practice. The Committee did not consider funding for the board since legislation was passed last year to require licensing boards to alter fees in order to support board expenses.

(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 should be continued because the regulation and licensing of qualified professional pharmacists is necessary to protect the public's health, safety and welfare. There are no other agencies which regulate pharmacists.

(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 has no further recommendations.



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



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