

ALASKA LEGISLATURE COMMITTEE FILES 1987-1988 8672

4520 HHEs HB 103 - HB 104

92

HB

103

THE FOLLOWING DOCUMENT HAS
NOT BEEN FILMED BUT IS
AVAILABLE IN THE ORIGINAL
FILE

STATE OF ALASKA



BOARD OF DENTAL EXAMINERS

CENTRALIZED LICENSING STATUTES, AS 08.01—03
DENTAL HYGIENIST STATUTES, AS 08.32
DENTISTRY STATUTES, AS 08.38
OCCUPATIONAL LICENSING REGULATIONS, 12 AAC 02
BOARD OF DENTAL EXAMINERS REGULATIONS, 12 AAC 28

Revised October 1987

HOUSE COMMITTEE REPORT

(7)

Date referred: 2/2/87

FURTHER REFERRALS: Finance

DATE: 2-25-88

The Health, Education and Social Services Committee has considered HB 103

"An Act extending the termination date of the Board of Dental Examiners; and providing for an effective date."

RECOMMENDS:

- replace with _____ the same title
- attached amendment(s) a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(s):

- fiscal impact same as previous fiscal note published _____
- zero fiscal note same as previous zero fiscal note published _____
- zero with analysis

SIGNING DO PASS:

Auto Kopman

J. Ellis

Bill Linds

N. J. ...

Debbie ...

...

Joseph ...

SIGNING OTHER RECOMMENDATIONS:

Auto Kopman

 chairman's signature
J. Ellis

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: An Act extending the termination date of the Board of Dental Examiners;...
Sponsor: Reps. Menard & Gruenberg
Requestor: _____

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

EXPENDITURES/REVENUES: (Thousands of Dollars)

| OPERATING | FY 88 | FY 89 | FY 90 | FY 91 | FY 92 | FY 93 |
|-------------------|-------|-------|-------|-------|-------|-------|
| PERSONAL SERVICES | 0 | 0 | 0 | 0 | 0 | 0 |
| TRAVEL | 0 | 0 | 0 | 0 | 0 | 0 |
| CONTRACTUAL | 0 | 0 | 0 | 0 | 0 | 0 |
| SUPPLIES | 0 | 0 | 0 | 0 | 0 | 0 |
| EQUIPMENT | 0 | 0 | 0 | 0 | 0 | 0 |
| LAND & STRUCTURES | 0 | 0 | 0 | 0 | 0 | 0 |
| GRANTS, CLAIMS | 0 | 0 | 0 | 0 | 0 | 0 |
| MISCELLANEOUS | 0 | 0 | 0 | 0 | 0 | 0 |
| TOTAL OPERATING | 0 | 0 | 0 | 0 | 0 | 0 |

| | | | | | | |
|---------|---|---|---|---|---|---|
| CAPITAL | 0 | 0 | 0 | 0 | 0 | 0 |
|---------|---|---|---|---|---|---|

| | | | | | | |
|---------|---|---|---|---|---|---|
| REVENUE | 0 | 0 | 0 | 0 | 0 | 0 |
|---------|---|---|---|---|---|---|

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

Funding for continuation of the Board of Dental Examiners is included in the department's FY 89 operating budget request.

Prepared by: Jennifer Strickler, Mgnt. Analyst
Division: Occupational Licensing

Phone: 465-2144
Date: January 21, 1988

Approved by Commissioner: J. Anthony South
Agency: Commerce and Economic Development

Date: 1/22/88

Distribution (by preparer):

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

STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

LEGISLATIVE AFFAIRS AGENCY
LEGISLATIVE REFERENCE LIBRARY

May, 1988

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

Mary Van Nimwegen

| | | |
|--------|---------|-----------|
| H HESS | 2-17-88 | 8:30 a.m. |
| " " | 2-25-88 | " " |

A PERFORMANCE REPORT
ON THE BOARD OF
DENTAL EXAMINERS

July 1, 1985 - June 30, 1987

Audit Control Number

08-1316-88-R

Commissioner, Department of
Commerce and Economic Development J. Anthony Smith

Deputy Commissioner, Department of
Commerce and Economic Development John Williams

Members of the
Board of Dental Examiners

| | |
|-----------|---------------------------|
| Chair | Robert E. Warren, DDS |
| Secretary | Christine A. Baxter, RDH |
| Member | Paul S. Buxton, DDS |
| Member | Hubert J Gelbert |
| Member | Timothy J. Woller, DDS |
| Member | H. Douglas Smole, DDS |
| Member | Terrence A. Tauschek, DDS |

STATE OF ALASKA

THE LEGISLATURE BUDGET AND AUDIT COMMITTEE

AUDIT DIVISION
P.O. BOX W
JUNEAU, ALASKA 99811-3300

December 31, 1987

Members of the Legislative Budget
and Audit Committee:

According to the provisions of Titles 24 and 44 of the Alaska Statutes, the Division of Legislative Audit is required to conduct a "Sunset" review of the Board of Dental Examiners.

At the request of the Chairman, during Fiscal Year 1988 budget deliberations, the Audit Division's budget was revised to reflect certain changes in the organization of the Committee's two Divisions. The revised budget of the Audit Division reflected efficiencies that might be obtained by utilizing the staff of the Legislative Finance Division on selected audit assignments during the interim.

As a result, the audit of the Board of Dental Examiners was conducted and this report has been prepared by the Legislative Finance Division. We feel this report discharges our responsibility under Titles 24 and 44. The report is submitted for your review.



Randy S. Welker, CPA
Acting Legislative Auditor
Division of Legislative Audit

STATE OF ALASKA

THE LEGISLATURE

BUDGET AND AUDIT COMMITTEE

FINANCE DIVISION
POUCH WF-STATE CAPITOL
JUNEAU, ALASKA 99811
PHONE: (907) 465-3795

November 5, 1987

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
DENTAL EXAMINERS

July 1, 1985 - June 30, 1987

Audit Control Number

08-1316-88-R

NGREANY

Mike Greany, Director
Division of Legislative Finance

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PURPOSE AND SCOPE 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 Dental Examiners to determine if the Board has been operating in an efficient and effective manner.

As required by legislative intent, this report shall be considered during the legislative oversight function in determining whether the Board of Dental Examiners should be reestablished. The law currently specifies that this Board will terminate on June 30, 1988, but will continue until June 30, 1989 for the purpose of concluding its affairs.

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 licensing examiner.
4. Complaints filed with the Division of Occupational Licensing, Equal Employment Opportunity Office, Attorney General's Office, and the Ombudsman Office.
5. Discussions with Board members.
6. Minutes of Board meetings and Division correspondence files.
7. Attorney General's Opinions applicable to professional boards.

ORGANIZATION AND FUNCTION

The Board of Dental Examiners was created in 1955. The Board consists of nine persons: six licensed dentists, two dental hygienists, and one public member, which are appointed by the Governor subject to confirmation of the Legislature. Board members serve terms of four years.

The Board is organized under the Department of Commerce and Economic Development, Division of Occupational Licensing (DOL). Administrative functions of the Board are provided by DOL, such as processing applications, maintaining licensing files, answering inquiries, and providing investigative support.

The primary function of the Board is to ensure a minimum quality of dental care to Alaskans by licensing qualified applicants and establishing regulations necessary to enforce statutes. The Board regulates dentists, dental specialists, and dental hygienists who perform services in the State.

The responsibility and authority for evaluating the competence of candidates for dental licensure are vested in the Board. Previous to January 1987, candidates had to pass a state administered clinical and written examination to assess a candidate's competency. The Board now accepts the results of the Western Regional Examining Board's clinical and written examination for general dentistry and dental hygienists. Dental hygienists who are licensed in another State and who possess minimum work experience can be licensed through credentials.

Although dental specialists are not required to take an examination, they must be licensed dentists in Alaska and may be required to have completed additional years of education in their specialty area.

REPORT CONCLUSION

Policy Issues

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

Report Conclusion

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

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

FINDINGS AND RECOMMENDATIONS

Recommendation No. 1

The Board should allow for licensure by credentials for dentists and dental specialists.

Alaska Statute 08.36.234 allows but does not mandate the Board to approve dental licenses to applicants with valid dental licenses in other states by reviewing their credentials instead of requiring the applicant to pass a written and clinical examination. In 1984, the Board issued an emergency regulation 12 AAC 28.950, which suspended licensure by credentials after concern was expressed by the Attorney General about the Board's procedures. The Attorney General found that the Board was conducting an "oral test" instead of an "oral interview" as allowed by statute.

The cessation of licensure by credentials restricts entry into the dental profession in Alaska for out-of-state dentists wishing to practice in the State.

As part of the 1986 legislation which continued the Board for two years, the Legislature passed two letters of intent that the Board should repeal the emergency regulation and reinstate licensure by credentials. The Board has not complied with this intent. We recommend that licensure by credentials be made a mandatory function of the Board.

Recommendation No. 2

The Board should review application requirements and recommend changes for procedures which do not have a clear relationship to a public purpose.

Alaska statute requires a personal interview by a board member for licensure by credentials for dental hygienists. The Board also plans to require a personal interview for all dentists who request licensing after taking the Western Regional Examination Board (WREB) tests. The interview requirement is an additional procedure which has not resulted in application denial. The requirement is an added delay in a lengthy licensing procedure.

For licensing as a dental specialist, the Board accepts copies of certificates submitted by the applicant as proof of education attainments instead of requiring confirmation by the school.

We recommend the elimination of the personal interview and the policy of accepting notarized copies of certificates as proof of education achievements to improve efficiency and effectiveness of the licensing process. Instead of accepting copies of certificates, the Board should receive direct confirmation from the appropriate licensing boards.

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ANALYSIS OF PUBLIC NEED

Limited Analysis

The following analyses of board activities relate to the public need factors defined in the "sunset" law. These analyses are not intended to be comprehensive, but address those areas we were able to cover within the scope of our review.

- I. The extent to which the board, commission, or program has operated in the public interest.
 - A. The Board has served the public by examining and licensing qualified applicants and proposing changes in regulations that are necessary to enforce State statutes and enhances quality of dental care to Alaskans. To accomplish these functions, the Board has held an average of four board meetings during the past two fiscal years.
 - B. Legislation was passed in 1987 which allows the Board to participate in the administration of examinations instead requiring the state to conduct its own examination. Using a regional examination has resulted in a cost savings to the state and increases the pool of applicants eligible for licensure.
- 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.

The Board suspended, by regulation in 1984, statutory provision for licensure by credentials because of legal problems surrounding the scope of the interview requirement for applicants. The Attorney General's Office has determined that the personal interview of an applicant by a Board member be limited to verifying credentials and asking questions, rather than requiring case presentations of the applicant's prior work for examination. The Board does not feel that it can adequately measure the qualifications of applicants without examining case presentations for issuing licenses by credentials. There are no plans for reenacting licensure by credentials in the future (see recommendation No. 1).
- III. The extent to which the board, commission, or agency has recommended statutory changes which are generally of benefit to the public interest.

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

The Human Rights Commission and the Equal Employment Opportunity Office have received no complaints related to the Board's activities.

- 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.

The Human Rights Commission and the Equal Employment Opportunity Office have received no complaints related to the Board's activities.

- 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.

APPENDIXES

APPENDIXES

APPENDIX A
BOARD OF DENTAL EXAMINERS
SCHEDULE OF REVENUES COMPARED WITH EXPENDITURES
For Fiscal Year 1987
(Unaudited)
(Note 1)

| | |
|---|-----------------|
| Average Revenue (Note 2) | \$51,056 |
| Expenditures (Note 3) | <u>57,802</u> |
| Excess of Expenditures Over Revenues | <u>\$ 6,746</u> |

Note 1

The Schedule of Revenues Compared with Expenditures was prepared from available records and discussions with the Division of Occupational Licensing (DOL) personnel. The records were not audited by us and, accordingly, we do not express an opinion on the Board's Schedule of Revenues Compared with Expenditures.

Note 2

A significant portion of revenues is composed of license renewal fees. Licenses were renewed quadrennially. Because of the renewals, revenues varied substantially every fourth year. Therefore, we combined revenues collected in fiscal year 1984, 1985, 1986 and 1987; and calculated a total in order to obtain a representative amount of average annual revenues collected. Licensing fees were increased in November 1986 in response to legislative intent to make the Boards more self supporting. See Appendix B, Schedule 1 for the current fee schedule.

Note 3

Expenditures consist of direct costs resulting from Board activities, which includes travel, per diem, and miscellaneous contractual expenditures incurred by the Board members and the Board's licensing examiner. This amount does not include indirect administrative expenditures of the Division of Occupational Licensing or expenditures for efforts of other departments assisting the Board.

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A. The Board has served the public by examining and licensing qualified applicants and proposing changes in regulations that are necessary to enforce State statutes and enhances quality of dental care to Alaskans. To accomplish these functions, the Board has held an average of four board meetings during the past two fiscal years.

B. Legislation was passed in 1987 which allows the Board to participate in the administration of examinations instead requiring the state to conduct its own examination. Using a regional examination has resulted in a cost savings to the state and increases the pool of applicants eligible for licensure.

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

Legislation was enacted in 1987 to permit the use of a regional examination in place of the state conducted examination. The legislation also increased the size of the board membership to ensure an adequate pool of examiners for the regional examination.

- 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.

The Board advertises proposed regulation changes in major Alaskan newspapers, allows applicants to appeal their examination grades, and holds open meetings.

- 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 its board meetings, examinations, and proposed regulations and regulation amendments in the Anchorage, Fairbanks, and Juneau newspapers as required by law.

B. The Board presents and discusses correspondence related to Board matters which has been received from various persons and associations.

- 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.

The Board processes and addressed complaints in an effective and timely manner.

- 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.

The Board issued 25 dental licenses and 31 dental hygienist licenses in FY86. During FY87, the Board issued 18 dental licenses and 23 dental hygienist licenses.

- 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.

The Human Rights Commission and the Equal Employment Opportunity Office have received no complaints related to the Board's activities.

- 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.

(Intentionally left blank)

APPENDIXES

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APPENDIX A

BOARD OF DENTAL EXAMINERS
SCHEDULE OF REVENUES COMPARED WITH EXPENDITURES
For Fiscal Year 1987
(Unaudited)
(Note 1)

| | |
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Note 3

Expenditures consist of direct costs resulting from Board activities, which includes travel, per diem, and miscellaneous contractual expenditures incurred by the Board members and the Board's licensing examiner. This amount does not include indirect administrative expenditures of the Division of Occupational Licensing or expenditures for efforts of other departments assisting the Board.

APPENDIX B

BOARD OF DENTAL EXAMINERS
SCHEDULE OF ESTIMATED REVENUES
COMPARED WITH BUDGETED EXPENDITURES
For Fiscal Year 1988
(Unaudited)
(Note 1)

| | |
|--------------------------------------|-----------------|
| Average Revenue (Note 2) | \$53,265 |
| Expenditures (Note 3) | <u>76,368</u> |
| Excess of Expenditures Over Revenues | <u>\$23,103</u> |

Schedule 1
Types of Revenues
(Note 4)

| <u>Revenues</u> | <u>Amount</u> | <u>Collection Time</u> |
|----------------------------|---------------|--|
| Filing Fee | | |
| Dentist | \$ 20 | With application |
| Dental Hygienist | \$ 20 | With application |
| Examination Fee | | |
| Dentist | \$375 | Before exam |
| Dental Hygienist | \$150 | Before exam |
| Credential Review Fee | | |
| Dental Hygienist | \$ 50 | Before interview |
| Initial License Fee | | |
| Dentist | \$ 30 | Before licensure |
| Dental Hygienist | \$ 20 | Before licensure |
| Registration/Renewal Fee | | |
| Dentist | \$360 | Before licensure; quadrennially thereafter |
| Dental Specialist | \$100 | " " |
| Dental Hygienist | \$200 | " " |
| Specialty License | \$100 | Before licensure |
| Branch Office Registration | \$ 20 | Quadrennially |
| Local Anesthetic Permit | \$ 20 | With application |

Note 1

The Division of Occupational Licensing (DOL) prepared the above Schedule of Estimated Revenues Compared with Budgeted Expenditures. The schedule is included for informational purposes only and has not been audited by us. Accordingly, we do not express an opinion on the Board's Schedule of Estimated Revenues Compared with Budgeted Expenditures.

APPENDIX D

BOARD OF DENTAL EXAMINERS
SCHEDULE OF ADMINISTRATIVE STATISTICS
As of November 2, 1987

| | |
|---|-----|
| Dentists licensed in State | 316 |
| Out-of-State Dentists licensed in State | 111 |
| Dental Hygienists | 306 |
| Dental Specialists (also have dental license) | 46 |
| Average number of meetings per year | 4 |

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STATE OF ALASKA

STEVE COWPER, GOVERNOR

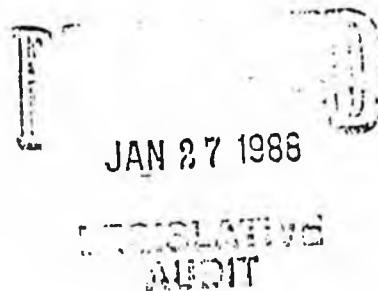
DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

P. O. BOX D
JUNEAU, ALASKA 99811-0800
PHONE: (907) 465-2500

OFFICE OF THE COMMISSIONER

January 21, 1988

Mr. Randy Welker
Acting Legislative Auditor
Division of Legislative Audit
Budget and Audit Committee
P.O. Box W
Juneau, AK 99811



Dear Mr. Welker:

This letter is written in response to the Budget and Audit Committee's (hereinafter "Committee") report of its sunset performance review of the Board of Dental Examiners (hereinafter "Board"). Below is the Department of Commerce and Economic Development's (hereinafter "Department") comments on the Committee's findings and recommendations.

Response to Recommendation No. 1

The Committee, in Recommendation No. 1, finds:

1. that the "cessation of licensure by credentials restricts entry into the dental profession in Alaska for out-of-state dentists wishing to practice in the state"; and
2. that the Board has "not complied" with two letters of legislative intent that the Board should reinstate licensure by credentials.

As a result of these findings, the Committee has recommended "that licensure by credentials be made a mandatory function of the Board."

As the Committee is aware, the issue of admission by credentials is very controversial. Indeed, given the constant pressure to which the Dental Board has been subjected since its cessation of licensure by credentials in 1984, the Department is, itself, admittedly surprised that the Board has not taken action to resolve the dispute. The Board's refusal to take action in this regard is of serious concern to the Department and, more specifically, the Division of Occupational Licensing ("Division").

The Board's inactions in this regard have also received the attention of the Office of the Governor. Governor Steve Cowper recently filled two vacancies on the Dental Board. In making his appointments, Governor Cowper respectfully declined to follow the recommendations of the Alaska Dental Society (which, by and large, opposes credentialling) and, instead, appointed dentists more favorably disposed toward licensure by credential. Given the past make-up of the Board, these new appointments do much to correct the Board's previously rather imbalanced perspective on the issue.

It is also important to recognize that the Board of Dental Examiners has done much to improve its admission procedures, albeit in direct response to previous performance review recommendations by the Budget and Audit Committee. Regardless of the motivation, it must be noted that the Board no longer offers its own exam but, rather, utilizes an exam designed, written and graded by the Western Regional Examination Board (WREB). This action alone has done much to deflect previously oft-expressed criticism that the Board was primarily interested in limiting the number of dentists eligible to practice in Alaska. It should also go far in assuring the public that qualified dentists are being licensed and in divorcing the Board from its protectionist label.

The "protectionist" label is what lies behind the continued controversy over credentialling. The cost of dental care in Alaska is admittedly high. Legislative and Administration concerns for the high cost of dental care has led these entities to conclude that the admission of greater numbers of dentists to Alaska would lower the cost of dental care. Previously, the Alaska-based exam was seen as one of the ways the Board limited the number of dentists able to practice in Alaska. Now, with the new exam procedures in place, the main focus of concern rests on the Board's failure to provide for licensure by credentialling. At its most recent meeting, the Division Director Randall Burns discussed with the Board its apparent unwillingness to back down from its decision not to offer licensure by credential, even in the face of legislative intent to the contrary and the obvious message sent to the Board via the Governor's recent Board appointments. It became clear during these discussions that the Board is in-turn concerned that this issue has become the focus of so much legislative and administration attention.

In its defense, the Dental Board seems confused by these attempts to force the Board to adopt admission criteria that not even a majority of the other states have seen fit to enact into law. In addition, it is the Board's understanding that a number of the states that currently provide for admission by credential are presently reconsidering their decision to provide for licensure in this manner. If so few states are firmly committed to credentialling, and if -- as it appears -- there are a number of real problems with the concept, then the Board wonders from what

source does the interest in credentialing come? In addition, the Board does seem genuinely concerned that failure to require passage of an exam prior to admission will greatly reduce the quality of dental practice in Alaska.

It certainly is a complex issue, and not all of the concerns have been fully addressed by the Legislature or the Administration. For example, licensure by credential in most professions requires that a good, central source of disciplinary information be available, yet no such data bank presently exists on dentists. The American Bar Association, in contrast, maintains a central discipline bank on all disciplinary actions taken against licensed attorneys which can be accessed by any of some 53 jurisdictions.

Because the restructured Board can now more fairly adjudge the public's interests in this matter, the Department is not presently able to agree or disagree with Recommendation No. 1. Rather, it would prefer to see what results from this new make-up of the Board. With a more balanced membership, the issue of licensure by credential will no doubt be debated more fully and the pros and cons of credentialing more thoroughly researched by the Board. Under these circumstances, it seems appropriate to continue to let the Board grapple with this important issue.

Response to Recommendation No.2

The second recommendation addresses a number of administrative concerns regarding the Board's application procedures. We will address them individually:

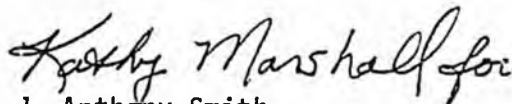
1. There is a recommendation that the Board eliminate the personal interview because it is a procedure "which has not resulted in application denial." The sole purpose of the "personal" interview, as stated in a regulation recently approved by the Board for publication, is to provide for identification of the applicant and to discuss with the applicant the provisions of the Dental Board's statutes. Particularly now that the WREB exam is administered out-of-state, with many of the applicants not personally known to the Board or Division staff, it is important before licensure that the Board be assured that the person who has applied for admission and sat for the exam is the same person who moves to Alaska to set up in the practice of dentistry. In addition, since the WREB exam does not test for knowledge of Alaska's dentistry statutes, this interview provides an opportunity for the Board to bring pertinent provisions of the statutes and regulations to the new admittee's attention.

January 21, 1988

While this may delay admission by a day or two at most, it is surely in the state's best interest to take the time necessary to avoid allowing the unscrupulous to deceive a public desirous of quality dental care, and to assure at least a grudging familiarity with the statutes that will guide that licensee's practice. The Department suggests that the recommendation is not in the public's interest.

2. There is a recommendation that the board should cease accepting copies of certificates submitted by an applicant as proof of educational attainment. "Instead of accepting copies of certificates," the Committee recommends that "the Board should receive direct confirmation from the appropriate licensing boards." The Department absolutely agrees with this recommendation and shall institute this policy immediately. The Division was in error not to insist on direct confirmation.

Sincerely,



J. Anthony Smith
Commissioner

JAS/mst7204m
011988a



Alaska Dental Society

3400 Spenard Road, Suite 10
Anchorage, Alaska 99503
(907) 277-4675

JAN 25 1988

January 22, 1988

Representative Johnny Ellis, Co-Chairman
House Health, Education and Social Services
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Representative Ellis:

The Alaska Dental Society would like to strongly endorse House Bill 103, extending the authorization for the Board of Dental Examiners from June, 1988 to June, 1991. This legislation was introduced by Representatives Curt Menard and Max Gruenberg, Jr.

For the past few years, board members have been successful in accomplishing many positive changes in dentistry for the health and safety of the public - (for example: implementing a regional examination for dental licensure and establishing continuing education requirements for relicensure). Members have been steadfast in their efforts to carry out the "legislative intent" presented to them in 1986.

At this mid-point in constructive change, ending the board's service to the State of Alaska seems counter-productive and certainly unfair to the citizens of Alaska who ultimately benefit from the Board's perceptive direction.

Sincerely

William A. Guy D.D.S.
William A. Guy, President
Alaska Dental Society

HB 103: An Act extending the termination date of the Board of Dental Examiners; and providing for an effective date.

HB 103 proposes the continuation of the Board of Dental Examiners to June 30, 1991.

Currently, there are approximately 740 licensees composed of both dentists and dental hygienists. A number of these licensees also hold additional licenses to practice as dental specialists and dental hygienists authorized to administer local anesthetic agents.

In 1986, the board was extended to June 30, 1988 with letters of intent directing the board to complete its continued competency regulations, develop new procedures for credentialing, restructure the existing examinations, and to evaluate the possibility of joining a regional examination board.

To satisfy these directives, the board has completed and adopted its continued competency regulations, and, in place of restructuring the former State exam, on June 25, 1987, an agreement was signed with the Western Regional Examining Boards (WREB) to join and utilize the examinations offered by the regional boards

Licensure by credentials is a complex issue yet to be fully addressed by the board, identified in Recommendation No. 1 of the current performance audit report. Inaction of the board on this issue received the attention of the Office of the Governor; in response to board inaction, two vacancies on the board were filled with appointees more favorably disposed toward licensure by credentials. Currently, with a more balanced board member perspective on credentialing, it seems appropriate that the board be allowed to continue deliberations on this issue, especially when a thorough public examination of the potential problems surrounding credentialing has not taken place.

In summary, the board is necessary for protection of the public's health, safety and welfare, and is genuinely concerned that Alaskan consumers receive quality dental care services. Therefore, the department and the Division of Occupational Licensing strongly endorse continuation of the Board of Dental Examiners.

Kathy Marshall

J. Anthony Smith, Commissioner
Department of Commerce and
Economic Development

2/24/88

Date

HB 425: "An Act extending the termination date of the State Board of Registration for Architects, Engineers and Land Surveyors; and providing for an effective date."

HB 425 continues the Board of Registration for Architects, Engineers and Land Surveyors (hereinafter "AELS Board") for the maximum allowable period: an additional four (4) years (until June 30, 1992).

The Performance Report on the AELS Board by the Legislature's Budget and Audit Committee concluded that the board "should be reestablished." The report also found that the board: (1) regulates and licenses the practice of architecture, engineering and land surveying in a manner that properly protects the public's health, safety and welfare; and (2) assures that those AELS professionals who are licensed are qualified to practice by providing active investigation and appropriate discipline services.

The Budget and Audit report did find the AELS Board weak in one area: the failure of the board to provide for the mandatory continuing education of the professionals it regulates. Finding that a program of continuing education "provides a reasonable means of assuring continuing competency in a profession," the report recommended that legislation be introduced requiring continuing education of AELS professionals.

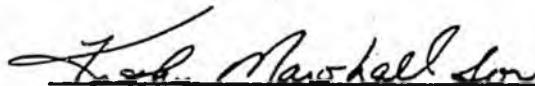
The department is aware that this issue is the subject of considerable discussion within the AELS professions and that the board itself, for a variety of reasons, has not yet acted to set such a program in place through regulation.

The department has, however, gone on record in its response to the performance report as concurring in the Budget and Audit Committee's recommendation. Should the Legislature decide to require continuing education of AELS professionals, the department would request that the language which mandates continuing education also give the board the authority to prescribe the hours, reporting requirements, accreditation procedures, and general provisions in administrative regulation. The department's Division of Occupational Licensing is developing expertise in this area and would like the administrative flexibility to structure the program in the manner most appropriate to the differing professions regulated by the AELS Board.

Regardless of any decision on the continuing education recommendations, it must be remarked that the AELS Board has performed consistently well in a highly professional manner during the four years encompassed by the present performance report. The public's interest is always at the forefront of the board's deliberations and its assistance to the division and its staff has always been professional. Indeed, the board

recently adopted a system of voluntary disciplinary enforcement for consumers and members of the profession in Alaska which, if successful, will do much to further the public trust in the ability of AELS professionals to discipline themselves effectively and with due speed.

The department wholeheartedly supports the continuation of the Board of Registration of Architects, Engineers and Land Surveyors and requests legislative support for passage of this legislation.



J. Anthony Smith, Commissioner
Department of Commerce and Economic
Development

2/24/88

Date

RFB/dgl
022388a

ANNUAL REPORT FOR FISCAL YEAR 1987
BOARD OF DENTAL EXAMINERS

INDEX AND IDENTIFICATION

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BOARD OF DENTAL EXAMINERS

| | |
|-----------------------------|------------------|
| DR. ROBERT WARREN, CHAIRMAN | EXP. DATE 2/1/88 |
| DR. PAUL BUXTON | EXP. DATE 2/1/87 |
| DR. TOM WOLLER | EXP. DATE 2/1/90 |
| CHRISTINE BAXTER, RDH | EXP. DATE 2/1/69 |
| ALGH GELLERT | EXP. DATE 2/1/89 |
| PATRICK GULLUFSEN | RESIGNED 3/1987 |
| DR. JERRY ZEYLICKA | RESIGNED 4/1987 |

KATHY MARSHALL, DIRECTOR
DIVISION OF OCCUPATIONAL LICENSING
DEPARTMENT OF COMMERCE AND ECONOMIC
DEVELOPMENT
P.O. BOX D
JUNEAU, ALASKA 99811

DATE: AUGUST 1, 1987

SUBJECT: ANNUAL REPORT

DEAR MS. MARSHALL:

IN COMPLIANCE WITH AS 08.01, AND ON BEHALF OF THE BOARD OF
DENTAL EXAMINERS, I AM SUBMITTING THE ENCLOSED ANNUAL
REPORT CONCERNING THE BOARD'S ACTIVITIES AND ACCOMPLISHMENTS
FOR FISCAL YEAR 1987.

SHOULD THERE BE ANY QUESTIONS CONCERNING THIS REPORT, PLEASE
FEEL FREE TO CONTACT ME.

THANK YOU.

SINCERELY,

Christine A. Baltus RWH
for

ROBERT WARREN, D.D.S.
CHAIRMAN
ALASKA STATE BOARD OF
DENTAL EXAMINERS

ALASKA BOARD OF DENTAL EXAMINERS
ANNUAL REPORT FY87
AUGUST 1, 1987
NARRATIVE STATEMENT

MAJOR ISSUES- ADDRESSED LETTER OF INTENT FROM THE LEGISLATURE. COMMITTEE FORMED TO DEVELOP POLICIES IN REGARD TO IMPAIRED DENTAL PROFESSIONALS. ADOPTED REQUIREMENTS TO CONFORM TO THE FEE BILL. CONTINUED TO INVESTIGATE LICENSURE BY CREDENTIALS FOR DENTISTS AND DENTAL SPECIALISTS.

A. ADDRESSED LETTERS OF INTENT FROM THE LEGISLATURE:

1. ADOPTED REGULATIONS FOR THE REPEAL OF GOLD FOIL SUBJECT OF THE DENTAL EXAMINATION. 12 AAC 28.160 (1) (A). 12 AAC 28.170 (A) (1). .190 (B) (1). .200 (A) AND .240(A)
2. DRAFTED CONTINUING EDUCATION REGULATIONS WERE AMENDED AND PUT TO PUBLIC NOTICE.
 - (1). 12 AAC 28. 400 IS ADDED TO ESTABLISH THE REQUIRED NUMBER OF CONTINUING EDUCATION HOURS;
 - (2). 12 AAC 28.410 IS ADDED TO IDENTIFY APPROVED CONTINUING EDUCATION COURSES;
 - (3). 12 AAC 28.420 IS ADDED TO ESTABLISH REQUIREMENTS FOR REPORTING CONTINUING EDUCATION;
 - (4). 12 AAC 28.430 IS ADDED TO IDENTIFY EXEMPTIONS TO CONTINUING EDUCATION REQUIREMENTS.THE ABOVE REGULATIONS SERVE TO IMPLEMENT AS 08.32.071. AS 08. 36.070. AS 08.36.250.

B. REGIONAL EXAMINATION AFFILIATION-

DR. ROBERT WARREN AND CHRISTINE BAXTER R.D.H. ATTENDED THE SEPT.28-30, 1986 WESTERN REGIONAL BOARD AS OBSERVERS. IT WAS HELD IN LOMA LINDA, CALIF. AND ALL EXPENSES WERE COVERED BY THE WESTERN REGIONAL BOARD. JANUARY 15, 1987 IT WAS AGREED BY THE BOARD TO AFFILIATE WITH THE WESTERN REGIONAL BOARD. COMPLYING WITH THE LETTERS OF INTENT.

4. INVESTIGATION CONTINUED INTO THE LICENSURE BY CREDENTIALS FOR DENTISTS AND DENTAL SPECIALISTS.

- a. TESTIMONY WAS RECEIVED FROM VARIOUS GROUPS INCLUDING: ALASKA DENTAL SOCIETY. U.S. PUBLIC HEALTH SERVICES.

B. COMMITTEE FORMED TO DEVELOP POLICIES IN REGARD TO CHEMICALLY IMPAIRED DENTAL PROFESSIONALS.

THE HIDA (HELPING IMPAIRED DENTISTS ANONIMOUSLY) PROGRAM IS FUNCTIONING IN THE STATE AT THE PRESENT TIME. IT WAS ADVISED BY THE ATTORNEY GENERALS OFFICE THAT LEGAL ACTION WILL BE TAKEN ONLY IN THE EVENT OF FILLED COMPLAINTS AGAINST THE IMPAIRED PROFESSIONAL TO THE STATE INVESTIGATORS OFFICE AND WILL THEN BECOME A MATTER OF CONCERN TO THE BOARD. IT WAS TAKEN UNDER ADVISEMENT THAT IT NOT BE FORMULATED UNDER THE DENTAL PRACTICE ACT.

- D. ADOPTED REQUIREMENTS TO CONFORM WITH THE FEE BILL SB78.
- D. REVISED ALL APPLICATIONS FORMS FOR THE DENTAL AND HYGIENE EXAMINATION.
- E. REVISED THE INFORMATION PACKET FOR THE CANDIDATES TAKING THE DENTAL HYGIENE EXAMINATION.
- F. ADDRESSED ISSUE REGARDING POSSIBLE INFRACTION BY UNLICENSED AUXILIARY PRACTICE AND CO-PAYMENT FORGIVENESS. A LETTER WAS DRAFTED AND SENT TO ALL LICENSED PROFESSIONALS RESIDING IN THE STATE CONCERNING THIS MATTER.
- G. REQUEST FOR AN ASSISTANT ATTORNEY GENERAL AT THE END OF EACH BOARD MEETING TO ANSWER QUESTIONS AND GIVE LEGAL ADVICE. BETTY RAMAGE, ASSISTANT ATTORNEY GENERAL, DEPART. OF LAW, HAS BEEN PRESENT AT THE LAST TWO BOARD MEETINGS AND HAS BEEN VERY INFORMATIVE AND HELPFULL.

G

- 4. NATIONAL MEETINGS: DR. ROBERT WARREN WILL ATTEND THE ANNUAL AMERICAN ASSOCIATION OF DENTAL EXAMINERS MEETING OCT. 8-9, 1987. TOPICS TO BE COVERED:
 - 1. NATIONAL EDUCATION PROGRAM
 - 2. SPECIALTY EXAMINATIONS
 - 3. LEGISLATIVE/LEGAL UPDATE
 - 4. TRUTH-IN-TESTING BILL
 - 5. IN-OFFICE AUDITS
 - 6. DENTAL ASSISTING CERTIFYING BOARD
- 1. IMPACT OF FUNDING: FUNDING CUTS WERE FELT IN FY86.
- 2. WITH THE RESIGNATION OF TWO BOARD MEMBERS AND THE ADDITION OF TWO BOARD MEMBERS BY THE LEGISLATIVE CHANGES BROUGHT FORTH BY HB228. CONSIDERATIONS WERE DISCUSSED AND MADE TO THE GOVERNOR'S OFFICE.
- 4. ANESTHESIA REGULATIONS FOR DENTAL HYGIENISTS: THE BOARD VOTED TO ACCEPT THE RESULTS OF THE WREB ANESTHESIA CLINICAL EXAM AS A REQUIREMENT FOR CERTIFICATION. THIS EXAM IS ADMINISTERED IN CONJUNCTION WITH THE WREB HYGIENE EXAM.
- REGULATIONS WERE ADOPTED TO REPEAL THE EXISTING REGULATIONS GOVERNING THE PASS SCORE FOR THE DENTAL EXAM AND NEW REGULATIONS TO ALLOW FOR A 70% PASSING SCORE OR A PASS ON A PASS/FAIL EXAMINATION.
 - 12 AAC 28.105 REPEALED AND READOPTED
 - 12 AAC 28.260 REPEALED AND READOPTED
 - THE BOARD WILL ACCEPT THE JULY SCORES FROM WREB.
- VI. REGULATIONS ARE BEING DRAFTED TO ADDRESS THE ACCEPTABLE PASSING SCORE FOR THE WREB EXAM FOR HYGIENE CANDIDATES AT THIS TIME. THE BOARD WILL ACCEPT THE WREB EXAM FOR HYGIENE AT THE SEPTEMBER EXAM. (3)

FY 87 STATISTICAL INFORMATION
(Please Type)

Date: July 27, 1987

Method: Check the appropriate method in which licenses are issued (not including Examination), and cite the specific statutory authority.

| | |
|---|-------------------------|
| <u>XX</u> <u>Credentials</u> | AS 08.32.030/08.36.234* |
| <u>Reciprocity</u> | AS 08._____ |
| <u>Comity</u> | AS 08._____ |
| <u>Endorsement</u> *Suspended by 12AAC 28.950 | AS 08._____ |

New Licenses: List each category and the number of licenses issued within each category for the first time in FY 87.

| CATEGORY: | NUMBER OF LICENSES: |
|--|---------------------|
| (1) <u>Dentists</u> | <u>18</u> |
| (2) <u>Dental Hygienists</u> | <u>23</u> |
| (3) <u>Dental Specialists</u> | <u>2</u> |
| (4) <u>Local Anesthetic Permits-Hygienists</u> | <u>28</u> |
| (5) _____ | _____ |
| Total: | <u>71</u> |

Number of **CURRENT** licensees: 911
 Number of **LAPSED** licensees: 469
 Number of **INACTIVE** licensees: 0

Expiration Date: If the expiration date is different for each category, indicate the category after each date.

Expire: 12/31/88 - Dentists & Dental Specialists
12/31/89 - Dental Hygienists & Local Anesthetic Permit Holders

Examination: List each examination separately indicating the licensure category (such as RN, LPN, Dentist, Dental Hygienist), the total number of examinees, number passed and failed.

Exam Statute Authority: AS 08.36.070(a)(1)

| (1) Category: | Total Candidates | #Passed | #Failed |
|---------------|------------------|-----------|----------|
| <u>Dental</u> | <u>20</u> | <u>15</u> | <u>5</u> |

Date and City: August 15-17, 1987 Anchorage, Alaska

| (2) Category: | Total Candidates | #Passed | #Failed |
|--------------------------|------------------|----------|----------|
| <u>Dental Hygienists</u> | <u>4</u> | <u>4</u> | <u>0</u> |

Date and City: January 15-16, 1987 Anchorage, Alaska

| (3) Category: | Total Candidates | #Passed | #Failed |
|-----------------|------------------|----------|----------|
| <u>Dentists</u> | <u>5</u> | <u>2</u> | <u>3</u> |

Date and City: January 16-17, 1987 Anchorage, Alaska

| (4) Category: | Total Candidates | #Passed | #Failed |
|--------------------------|------------------|-----------|----------|
| <u>Dental Hygienists</u> | <u>16</u> | <u>14</u> | <u>2</u> |

Date and City: June 26-27, 1987 Anchorage, Alaska

Total Licensed by Exam: 36

Meetings: List Date(s) and Location(s)

1. August 16, 1986 - Anchorage, Alaska
2. November 13, 1986 - Conference Call
3. January 15, 1987 - Anchorage, Alaska
4. June 26, 1987 - Anchorage, Alaska

Teleconferences: List Date(s) and Site(s)

1. November 13, 1986 - Anchorage, Fairbanks, Soldotna, Juneau
- 2.
- 3.
- 4.

Regulation Hearings: List Date(s) and Site(s)

Investigations: (Attach Case Summary)

SUNSET AUDIT RECOMMENDATIONS

FINDINGS AND RECOMMENDATIONS OF THE 1984 SUNSET AUDIT

RECOMMENDATION NO. 1

THE BOARD OF DENTAL EXAMINERS SHOULD ADOPT REGULATIONS TO PROVIDE REQUIREMENTS FOR PROOF OF CONTINUED PROFESSIONAL COMPETENCE FOR DENTISTS, DENTAL HYGIENISTS, AND DENTAL SPECIALISTS. AS 09.36.070

REGULATIONS FOR CONTINUING EDUCATION HAVE BEEN DRAFTED BY THE BOARD OF DENTAL EXAMINERS OVER THE PAST YEAR AND A HALF. THEY HAVE GONE UP FOR PUBLIC NOTICE AND WILL BE ADOPTED INTO REGULATION AT THE OCT. BOARD MEETING.

RECOMMENDATION NO. 2

THE BOARD SHOULD PURSUE ADOPTING POLICIES ALLOWING FOR LICENSURE BY CREDENTIALS.

FROM THE BOARDS STANDPOINT CREDENTIALLING IS VIEWED AS AN UNACCEPTABLE MEANS OF LICENSURE. VERIFICATION OF CREDENTIALS AND THE ABILITY TO DETERMINE MANUAL SKILLS WERE PRIMARY SHORT COMINGS OF THE CREDENTIALLING PROCESS. THE STATES THAT LICENSE BY CREDENTIALS ARE EASTERN OR MIDWEST STATES. NO WESTERN STATES LICENSE BY CREDENTIALS AT THIS TIME.

THE BOARD HAS RECENTLY JOINED THE WESTERN REGIONAL BOARD (WREB) WHICH TESTS 600-700 DENTAL AND HYGIENE CANDIDATES ANNUALLY. THOSE PASSING THE WREB EXAM WILL BE ELIGIBLE FOR LICENSURE IN THE STATE OF ALASKA. THUS ENSURING A PLENTIFUL SUPPLY OF QUALIFIED PRACTITIONERS. THE JOINING OF THE WESTERN REGIONAL EXAM HAS REDUCED THE BOARDS BUDGET BY \$25,000 ANNUALLY. THIS AMOUNT WAS FORMERLY SPENT ON THE STATE TESTING. THE WREB PAYS ALL TRAVEL AND PER DIEM COSTS. THE COST TO THE STATE IS ZERO.

THE WREB EXAM IS GIVEN FOUR TIMES A YEAR AND EXAMINERS FROM ALASKA MUST ATTEND EACH EXAM. IN ADDITION THERE ARE TWO WREB BOARD MEETINGS ANNUALLY AND AN EXAMINATION REVIEW MEETING WHICH STATE MEMBERS MUST ATTEND. DAYS OUT OF PRACTICE FOR EACH EXAMINER WILL BE 16-19 DAYS PER YEAR.

LICENSURE BY CREDENTIALING IS NOT ACCEPTABLE FOR THE FOLLOWING REASONS:

- 1). NOT BEING ABLE TO DETERMINE THE ABILITY OF THE PRACTITIONER.
- 2). INADEQUATE VERIFICATION i.e. NO STANDARDIZED MEANS OF EXCHANGE OF INFORMATION BETWEEN STATES ON MATTERS OF PENDING LITIGATION IN MALPRACTICE OR CONVICTIONS.

- 3). COST TO THE STATE. ADDITIONAL BOARD TRAVEL. PER DIEM PLUS COSTS INCURRED IN ATTEMPTING TO VERIFY APPLICATIONS FOR CREDENTIALLING.
- 4). INCREASE IN VOLUNTARY BOARD MEMBERS TIME AWAY FROM THEIR PRACTICES AND FAMILY.
 - FOUR WREB EXAMINATIONS
 - ONE IN STATE HYGIENE EXAM
 - TWO WREB BOARD MEETINGS PER YEAR
 - TWO EXAMINATION REVIEW MEETINGS PER YEAR
 - THREE STATE OF ALASKA BOARD MEETINGS
 - TWO TELECONFERENCES PER YEAR
 - ANNUAL AADE MEETING
- 5). THE "TIME" OF THE CREDENTIALLING PROCESS HAS NOT YET COME TO THE WESTERN STATES. ALASKA WOULD BE THE ONLY WESTERN STATE TO HAVE CREDENTIALLING.
- 6). TESTIMONY BY SPECIALTY GROUPS AND STATE DENTAL SOCIETY GROUPS RESPECTFULLY RECOMMEND THAT THE STATE OF ALASKA NOT LICENSURE DENTISTS BY CREDENTIALS.

REVIEW OF PRIOR YEAR OBJECTIVES

- A. ADOPT FINAL CONTINUING EDUCATION REGULATIONS
FINAL WORDING WAS APPROVED AND WENT OUT TO PUBLIC NOTICE.
ISSUE IS TO BE ADDRESSED AT THE OCT. 23, 1987 MEETING TO
DISCUSS PUBLIC OPINION RECEIVED AND TO ADOPT FINAL DRAFT.
- B. ADDRESS LETTER OF INTENT FROM LEGISLATURE.
TESTIMONY CONTINUES TO BE GATHERED CONCERNING LICENSURE
BY CREDENTIALS FOR DENTISTS AND SPECIALISTS.
PRESENTLY AFFILIATED WITH THE WESTERN REGIONAL BOARD
AND ACCEPTING THE EXAMINATION SCORES FOR WREB
- C. COMMITTEE HAS BEEN FORMED TO ADDRESS THE ISSUE OF CHEMICALLY
IMPAIRED PRACTITIONERS.
- D. DEVELOP A NEW CLINICAL PROCEDURE TO REPLACE THE GOLD FOIL:
NO LONGER PERTINENT.
- E. INVESTIGATE EXPANDED DUTIES FOR DENTAL HYGIENISTS AND
ASSISTANTS: ISSUE HAS NOT BEEN ADDRESSED IN FY87.
- F. PURSUE MANDATORY LEGAL REPRESENTATION AT ALL MEETINGS:
THE PAST BOARD MEETINGS HAVE HAD REPRESENTATION OF AN
ASSISTANT ATTORNEY GENERAL. CONTINUED REPRESENTATION
IS REQUESTED AND GREATLY APPRECIATED.
- G. ENCOURAGE THE DIVISION OF OCCUPATIONAL LICENSING TO DEVELOP
AND STREAMLINE ITS INVESTIGATIVE PROCEDURES TO INSURE MORE
SWIFT RESOLUTION OF CASES AND COMPLAINTS:
THIS ISSUE HAS BEEN SATISFACTORILY ADDRESSED BY THE DIVISION
OF OCCUPATIONAL LICENSING. IT IS ADVISED THAT THE REMAINING
OPEN CASES BE ADDRESSED AND CLEARED IN AN ORDERLY FASHION.
- H. INSURE THAT ADEQUATE FUNDING BE APPROPRIATED FOR NECESSARY
MEETINGS AND EXAMS:
THE AFFILIATION WITH THE WESTERN REGIONAL BOARD GREATLY
REDUCES THE FINANCIAL BURDEN FOR EXAMINATION. THE WREB
EXPENDITURE IS COVERED BY WREB.

NEW GOALS AND OBJECTIVES

1. TO ESTABLISH AND MAINTAIN A GOOD WORKING RELATIONSHIP WITH THE WESTERN REGIONAL BOARD.
 - a.) IT WILL BE THE RESPONSIBILITY OF THE BOARD MEMBERS TO PARTICIPATE IN THE FOUR DENTAL EXAMINATIONS GIVEN BETWEEN MARCH AND SEPTEMBER. EACH EXAM WILL REQUIRE A MINIMUM OF FIVE DAYS PARTICIPATION.
 - b.) THE BOARD WILL BE RESPONSIBLE FOR A DENTAL HYGIENE EXAMINATION TO BE GIVEN IN THE SPRING OF EACH YEAR. ALL BOARD MEMBERS MAY BE INVOLVED IN THIS EXAMINATION. THE HYGIENE MEMBER OR A DENTAL MEMBER WILL ALSO BE INVOLVED IN THE SEPTEMBER EXAM. THIS IS A COMBINED DENTAL/HYGIENE EXAMINATION GIVEN IN LOMA LINDA UNIVERSITY, CALIF.
 - c.) A DENTAL MEMBER WILL ALSO REPRESENT ALASKA AT TWO YEARLY BOARD MEETING OF WREB. MEMBER TO BE DECIDED BY THE BOARD. A BOARD MEMBER WILL ALSO PARTICIPATE IN THE EXAMINATION WORKSHOP HELD EACH YEAR TO REVIEW THE EXAMINATION PROCESS. DENTAL AND HYGIENE.
2. FINALIZE ADOPTION OF THE CONTINUING EDUCATION REGULATIONS. THE FINAL DRAFT OF THE CONTINUING EDUCATION REGULATIONS HAVE BEEN COMPLETED BY THE REGULATION SPECIALIST AND HAVE BEEN PRESENTED FOR PUBLIC NOTICE. ADOPTION SHOULD BE AT THE OCT. BOARD MEETING.
3. FINALIZE POLICY IN REGARD TO CHEMICALLY IMPAIRED PRACTITIONERS.
4. CLARIFY AND DEFINE THE PRACTICE OF DENTAL HYGIENE AND THOSE PROCEDURES DELEGATED BY PRACTICING DENTISTS. THIS WILL ALSO INCLUDE CONTINUED INVESTIGATION INTO EXPANDED DUTIES FOR DENTAL HYGIENISTS AND ASSISTANTS.
5. GUIDE THE DEPARTMENT OF OCCUPATIONAL LICENSING IN STREAMLINING THE INVESTIGATIVE PROCESS.
6. DEVELOP WAYS THE BOARD CAN EXERCISE ITS DISCIPLINARY POWERS.
7. DEVELOP REGULATIONS INVOLVING IV SEDATION.
8. DEVELOP A COOPERATIVE RELATIONSHIP WITH THE ATTORNEY GENERAL'S OFFICE.

BUDGET RECOMMENDATIONS

PROPOSED BOARD MEETINGS FY88

| | |
|---------------|--|
| OCT. 23. 1987 | ANCHORAGE |
| JAN. . 1988 | JUNEAU |
| APR. . 1988 | ANCHORAGE TO BE HELD IN CONJUNCTION WITH THE WREB EXAM. DATE TO BE DETERMINED BY WREB. |

REQUEST 2 TELECONFERENCES

REQUEST FUNDING TO THE ANNUAL AADE MEETING FOR 1988
1 DENTAL MEMBER
1 HYGIENE MEMBER

REQUEST FUNDING TO SEND CHAIRMAN TO THE 104 ANNUAL AADE
MEETING TO BE HELD OCT. 8-9. 1987.

BOARD RECOMMENDATIONS FOR
PROPOSED LEGISLATION

PROPOSED LEGISLATION HAS NOT BEEN ADDRESSED BY THE
BOARD OF DENTAL EXAMINERS.

BOARD RECOMMENDATIONS FOR
PROPOSED REGULATIONS

PROPOSED REGULATION:

REGULATION TO ADDRESS THE CERTIFICATION OF
LOCAL ANESTHESIA FOR HYGIENISTS

INTENTION: TO REQUIRE SUCCESSFUL PASSAGE OF THE
ANESTHESIA CLINICAL EXAMINATION
ADMINISTERED BY WESTERN REGIONAL BOARD.

12 AAC 28.320 CERTIFICATION REQUIRED

- (a) same
- (b) same
- (c) same
- (d) Certificate from the Western Regional Board
stating successful passage of the clinical
anesthesia examination is required for certi-
fication in the state of Alaska.

REGULATION CHANGE ADDRESSES THE PROBLEM MENTIONED BELOW;
IT HAS BEEN A CONCERN OF THE BOARD THAT AN APPLICANT
WHO HAS COMPLETED A COURSE IN LOCAL ANESTHESIA BUT HAS NOT
APPLIED FOR CERTIFICATION IN MORE THAN SIX MONTHS FROM
THE TIME OF COMPLETION HAS LOST VITAL SKILLS IN THE
ADMINISTRATION OF LOCAL ANESTHESIA. FOR THE SAFETY
OF THE PATIENT IT IS IN THEIR BEST INTEREST TO ACCEPT
THE RESULTS OF THE CLINICAL ANESTHESIA EXAM ADMINISTERED
BY THE WESTERN REGIONAL BOARD.

THE BOARD VOTED TO ACCEPT THE RESULTS OF THE CLINICAL
ANESTHESIA EXAM AT THE SEPT. 1987 EXAM GIVEN AT LOMA LINDA
UNIVERSITY.

PROPOSED REGULATION:

REGULATION TO ADDRESS I.V. SEDATION FOR DENTISTS

INTENTION: TO STATE THE REQUIRED EDUCATION AND
CERTIFICATION TO ADMINISTER/MONITOR
I.V. SEDATION. 12 AAC 28.320

CONCERN FOR PATIENT SAFETY WAS BROUGHT TO THE BOARDS
ATTENTION BY A REPRESENTATIVE OF THE ORAL SURGEONS.
A COMMITTEE WAS FORMED TO REVIEW REGULATIONS FROM OTHER
STATES REGARDING I.V. SEDATION. PROPOSED WORDING WILL
WILL BE FORTH COMING.

OCCUPATIONAL LICENSING
ENFORCEMENT STATISTICS
FY 87

Dental
Board

Investigations

| | |
|------------------------------|-----------|
| Cases Pending Start of FY 87 | <u>2</u> |
| New Cases Opened | <u>10</u> |
| Cases Closed | <u>6</u> |
| Cases Pending End of FY 87 | <u>6</u> |

Litigation

| | |
|------------------------------|----------|
| Cases Pending Start of FY 87 | <u>2</u> |
| New Cases Opened | <u>1</u> |
| Cases Closed | <u>2</u> |
| Cases Pending End of FY 87 | <u>1</u> |

Enforcement Activity

| | |
|-------------------------|----------|
| Accusations | <u>0</u> |
| Statement of Issues | <u>0</u> |
| Cease and Desist Orders | <u>0</u> |
| Hearings | <u>0</u> |

Disciplinary Actions

| | |
|--------------------------|----------|
| Cases Dismissed | <u>1</u> |
| Licenses Denied | <u>0</u> |
| Licenses Suspended | <u>0</u> |
| Probation | <u>0</u> |
| Licenses Revoked | <u>0</u> |
| Stipulations/Settlements | <u>2</u> |

AGD IMPACT

THE NEWSMAGAZINE OF THE ACADEMY OF GENERAL DENTISTRY

VOLUME 16 NUMBER 2

LICENSURE BY CREDENTIALS

Dentists face battles crossing state lines

By Silvia Folt

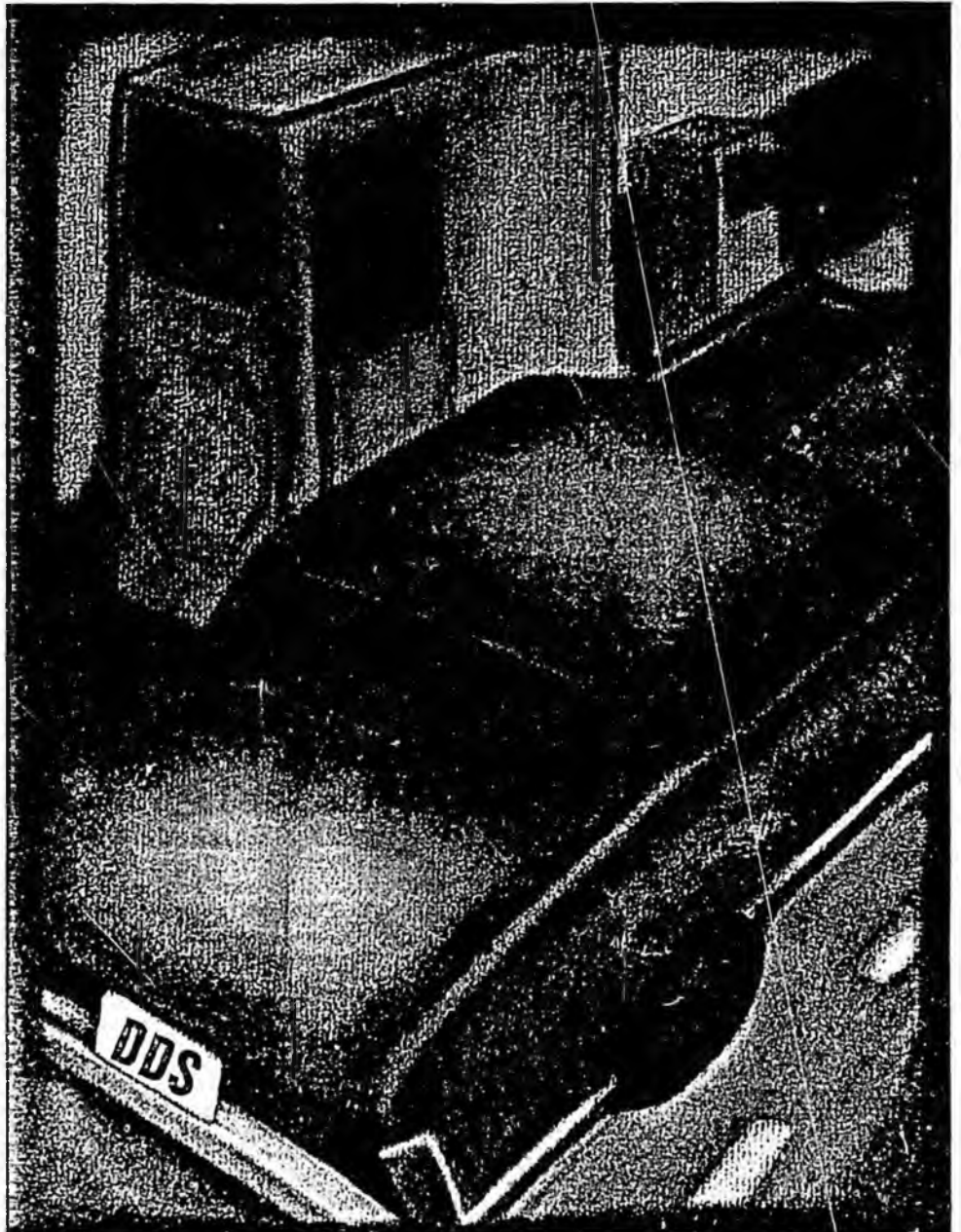
A dentist from New York decides he wants to practice in Hawaii, but finds that he first must pass the Hawaii dental exam. If a Hawaiian dentist, however, wants to move to New York, he has only to prove that he has a license to practice dentistry, has been practicing for five years, and has a clean record.

The New York policy is called licensure by credentials, which means that a dentist doesn't have to take another examination to prove he is competent. His experience and credentials are enough.

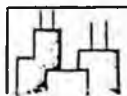
In some states, licensure by credentials is extended only to those dentists from states with a mutually cooperative licensure agreement. For example, Pennsylvania will accept Utah dentists based on their credentials only if Utah will accept Pennsylvania dentists on the same terms. This is called licensure by reciprocity, sometimes referred to as "blackmail reciprocity."

According to the American Dental Association (ADA), the District of Columbia, Connecticut, Illinois, Indiana, Iowa, Kansas, Maine,

Continued on page 10



My kind of town
Participants will be "Reaching New Heights" at this



211 E. Chicago Ave. Suite 200 Chicago, IL 60611-2570
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Congressional review

The first session of the 100th Congress will be for its

research... many issues.
sumption of su... carbohydrates fac...
ment of plaque, der

For he's a jolly good Fellow

More than 60 percent of AGD members indicated that they intend to pursue the prestigious Fellowship Award.



Stalemates make for slow year in Congress

Deficit, taxes and AIDS will dominate next session

By Zev Remba

The first session of the 100th Congress probably will be remembered for the host of bills that didn't pass rather than for those that won approval.

It was a year when Congress, through negotiations with the White House, made the first real inroads into trimming the \$148 billion federal deficit.

It also was a year when Democrats, having won control of both the House and Senate, clashed with the White House and Congressional Republicans over issues including the federal budget, tax increases and AIDS policies. The result: legislative stalemates on many issues.

The second session of the 100th Congress, which opens Jan. 19, likely will see the passage of some important health care legislation—particularly in the areas of AIDS testing and anti-discrimination, mandated health benefits and the Federal Trade Commission.

New public laws

Federal data bank on malpractice. Although a 1986 law directed the Department of Health and Human Services (HHS) to develop a nationwide data bank on malpractice claims and disciplinary actions against health care providers, Congress failed to fund the data bank in time for its November 1987 startup. In the last days of December 1987, Congress finally came up with \$3.2 million to launch the project, but the new startup date—sometime in 1988—is anybody's guess.

Sanctions against unfit doctors.

Under the Medicare and Medicaid Patient Protection Act, signed by the President in August, HHS now can bar unscrupulous or unfit dentists, physicians, or other providers from taking part in Medicare, Medicaid, or other federal health programs. Health care providers convicted of fraud, patient abuse or neglect under one program may not take part in any federal health program for at least five years. The law allows HHS to

exclude doctors who provide unnecessary or substandard care.

New tax measures. A package of spending cuts and revenue-raisers, based on agreements forged between Congress and the White House in November 1987, wound its way through Congress in the last few days of the 1987 session. The new law raises \$9 billion in fiscal 1988 and \$14 billion in fiscal 1989 by tightening tax provisions for businesses and wealthy individuals. About one-fourth of the savings comes from cutting or capping Medicare payments to physicians and hospitals.

Among the new tax provisions:

- Professional corporations with taxable income below \$335,000 will pay the flat 34 percent corporate tax rate rather than use graduated tax rates.

- Employers no longer will be permitted to deduct new contributions to vacation reserves or to certain pension funds.

- Owners of family businesses may no longer take FICA tax exemptions for children and spouses working for them.

Bills expected to pass

Two bills that could impact on dental practices are near passage, and will likely become law in 1988.

The House and Senate versions of a bill redefining the scope of the Federal Trade Commission (H.R. 2897) are before negotiators who will work out differences between the two chambers. The bills direct the FTC to study the causes of liability premium hikes for dentists, physicians, day care centers and other groups. If approved, the bills would allow Congress to veto FTC rulings within 90 days and limit the FTC's ability to interfere in state-regulated professions such as dentistry.

In October, the House approved the High Risk Occupational Disease Notification and Prevention Act (H.R. 162), which would require the federal government to notify workers of possible exposure to disease-causing chemicals. An amendment to

the bill by Rep. William Dannemeyer (R-Calif.) would require 3-4 million dental, medical and emergency care workers to be warned that they are at risk of contracting the virus that causes AIDS. The bill also would require employers of these "at-risk" workers to provide and pay for medical monitoring of the conditions of workers.

Sen. Jesse Helms (R-N.C.) has agreed to offer a similar amendment to the Senate version of the bill (S. 79), which won approval from a Senate Labor Committee in September and is ready for action on the Senate floor.

Bills to watch

Mandated health benefits. The Senate Labor Committee held extensive hearings on a proposal by Sen. Edward Kennedy (D-Mass.) to require employers to pay 80 percent of the cost of health benefits for their workers (S. 1265). Organized labor and the American Hospital Association say the bill would provide access to health care for about two-thirds of the nation's 37 million uninsured.

AIDS testing and confidentiality.

Democrats and liberal Republicans reached a stalemate with conservative members of Congress in 1987 over legislation (H.R. 3071) that would fund voluntary AIDS testing and counseling. The bill, drafted by Rep. Henry Waxman (D-Calif.), also would ensure confidentiality of test results and extend anti-discrimination protection to those carrying the AIDS virus.

Insurance reform. Interest of Congressional Democrats in insurance reporting legislation picked up in late 1987 when a House panel approved product liability legislation. Rep. Al Swift (D-Wash.) hopes to see his bill (H.R. 3643)—which would require insurers to report data on payouts, premiums and investment income for each line of insurance—attached to a product liability bill on the House floor.

P.L.
99-660

H B

104

FISCAL NOTE

REQUEST:

Revision Date: _____ Agency Affected: Public Safety
 Title: An Act relating to confidential BRU: Council on Domestic Violence
communications between victims etc. and Sexual Assault
 Sponsor: Davidson, Barnes, et.al. Components: _____
 Requestor: House HESS

EXPENDITURES/REVENUES: (Thousands of Dollars)

| OPERATING | FY 88 | FY 89 | FY 90 | FY 91 | FY 92 | FY 93 |
|-------------------|-------|-------|-------|-------|-------|-------|
| PERSONAL SERVICES | | | | | | |
| TRAVEL | | | | | | |
| CONTRACTUAL | | | | | | |
| SUPPLIES | | | | | | |
| EQUIPMENT | | | | | | |
| LAND & STRUCTURES | | | | | | |
| GRANTS, CLAIMS | | | | | | |
| MISCELLANEOUS | | | | | | |
| TOTAL OPERATING | 0 | 0 | 0 | 0 | 0 | 0 |

| | | | | | | |
|---------|--|--|--|--|--|--|
| CAPITAL | | | | | | |
|---------|--|--|--|--|--|--|

| | | | | | | |
|---------|--|--|--|--|--|--|
| REVENUE | | | | | | |
|---------|--|--|--|--|--|--|

FUNDING: (Thousands of Dollars)

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

POSITIONS:

| | | | | | | |
|-----------|--|--|--|--|--|--|
| FULL-TIME | | | | | | |
| PART-TIME | | | | | | |
| TEMPORARY | | | | | | |

ANALYSIS : (Attach a separate page if necessary)

[Empty box for analysis]

Handwritten initials: JME 11/25/88

Prepared by: Barbara Miklos, Executive Director *BAM* Phone: 465-4356
 Division: Council on Domestic Violence & Sexual Assault Date: 1/20/88
 Approved by Commissioner: David O. Hartke, Dep. Comm. Date: 1-28-88
 Agency: Public Safety

- Distribution (by preparer):
- Legislative Finance
 - Legislative Sponsor
 - Requestor
 - Office of Management and Budget
 - Impacted Agency(ies)

Alaska State Legislature

REPRESENTATIVE BILL HUDSON

P.O. BOX V
Juneau, Alaska
99811
(907)465-3744 or 4991

COMMITTEES:

Transportation
HESS
Telecommunications
Fisheries
International Trade

February 5, 1987

Representative Koponen
Representative Ellis
Co-Chair - House Health, Education
and Social Services Committee
Alaska State Legislature
Juneau, Alaska 99811

Dear Representatives Koponen and Ellis:

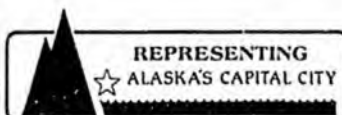
Enclosed is a copy of a letter from Mr. Jon B. Wolfe, Executive Director of the Older Alaskans Commission, in which he suggests an amendment to HB 104.

I submit the suggestion to you for the Committee's consideration.

Respectfully yours,


Bill Hudson

Enclosure



society deems worthy of protecting; and (4) disclosure must injure the relationship more than it benefits the litigation. Using Wigmore's test, considerable arguments can be made for protecting counselor-victim communications through passage of HB 104.

Counselor-victim communications originate in confidence. Counseling generally takes place in private, one-on-one meetings between the counselor and victim. Some clients are informed that their communications will remain confidential; others assume such confidentiality.

Confidentiality is essential to the proper maintenance of the counselor-victim relationship. Counseling requires a trusting, supportive relationship to be effective, and confidentiality is an essential feature of this relationship. Without it, few victims would discuss fully sensitive and intimate matters essential for successful treatment.

The counselor-victim relationship is one society deems worthy of protection. At least 15 states already extend a privilege of confidentiality to sexual assault counselors and six states to family violence counselors. Many states and local communities support counseling programs for crime victims. In addition to benefiting victims directly, these programs benefit society when they result in shorter term welfare, disability, and unemployment payments to victims whose psychological injuries inhibit their return to a productive life. Other benefits include increased victim participation and cooperation in reporting and prosecuting crime.

Disclosure injures the counselor-victim relationship more than it benefits litigation. On the one hand, the potential of disclosure is likely to deter victims from seeking assistance or from being as open with their counselors as effective counseling requires. The sense of betrayal of those victims who do undertake counseling and find their confidences subsequently disclosed by their counselors may negate or significantly set back their treatment. On the other hand, there is little relevant information which disclosure could produce. Much of the information counselors could provide would be hearsay and thus inadmissible as evidence. Moreover, since detailed factual information about the crime is generally not germane to the treatment process and is therefore not pursued during counseling, the counselor's knowledge about the facts and circumstances of the crime is likely to be incomplete and more reflective of the victim's fears than the realities of the situation. Finally, because the privilege only protects the communication of facts, but not the underlying facts, admissible evidence which the counselor could provide (e.g., independently observable facts) can usually be furnished by other witnesses.

The Council on Domestic Violence and Sexual Assault, Department of Public Safety, supports HB 104.



William R. Nix
Acting Commissioner

**STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE**

REQUEST: _____

Bill Version : HB 104
Publish Date : _____

Revision Date: _____
Title: An Act relating to confidential communications between victims etc.
Sponsor: Davidson, Barnes, etc.
Requestor: House HESS

Agency Affected: Public Safety
BRU: Council on Domestic Violence and Sexual Assault
Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

| OPERATING | FY 87 | FY 88 | FY 89 | FY 90 | FY 91 | FY 92 |
|-----------------------------|----------|----------|----------|----------|----------|----------|
| PERSONAL SERVICES | | | | | | |
| TRAVEL | | | | | | |
| CONTRACTUAL | | | | | | |
| SUPPLIES | | | | | | |
| EQUIPMENT | | | | | | |
| LAND & STRUCTURES | | | | | | |
| GRANT ^s , CLAIMS | | | | | | |
| MISCELLANEOUS | | | | | | |
| TOTAL OPERATING | 0 | 0 | 0 | 0 | 0 | 0 |
| CAPITAL | | | | | | |
| REVENUE | | | | | | |

FUNDING: (Thousands of Dollars)

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

POSITIONS:

| | | | | | | |
|-----------|--|--|--|--|--|--|
| FULL-TIME | | | | | | |
| PART-TIME | | | | | | |
| TEMPORARY | | | | | | |

ANALYSIS : (Attach a separate page if necessary)

Prepared by: Barbara Miklos, Executive Director *BGM* Phone: 465-4356
Division: Council on Domestic Violence & Sexual Assault Date: 2/17/87
Approved by Commissioner: [Signature] Date: 2/17/87
Agency: Public Safety

Distribution (by preparer):

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

JMR
2/17/87

STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE

REQUEST: _____

Bill Version: HB 104
Publish Date: _____

Revision Date: _____
Title: "An Act relating to confidential communication between victims..."
Sponsor: Representative Davidson
Requestor: House HESS Committee

Agency Affected: Department of Law
BRU: Prosecution
Legal Services
Components: Prosecution -- All
Legal Services Operations

EXPENDITURES/REVENUES: (Thousands of Dollars)

| OPERATING | FY 87 | FY 88 | FY 89 | FY 90 | FY 91 | FY 92 |
|-------------------|-------|-------|-------|-------|-------|-------|
| PERSONAL SERVICES | | | | | | |
| TRAVEL | | | | | | |
| CONTRACTUAL | | | | | | |
| SUPPLIES | | | | | | |
| EQUIPMENT | | | | | | |
| LAND & STRUCTURES | | | | | | |
| GRANTS, CLAIMS | | | | | | |
| MISCELLANEOUS | | | | | | |
| TOTAL OPERATING | -0- | -0- | -0- | -0- | -0- | -0- |

| | | | | | | |
|---------|--|--|--|--|--|--|
| CAPITAL | | | | | | |
|---------|--|--|--|--|--|--|

| | | | | | | |
|---------|--|--|--|--|--|--|
| REVENUE | | | | | | |
|---------|--|--|--|--|--|--|

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

Please see attached analysis.

Prepared by: Richard I. Pegus, Director Phone: 465-3672
Division: Administrative Services Date: February 27, 1987
Approved by Commissioner: Richard I. Pegus/For
Grace Berg Schaible, Attorney General Date: Feb. 27, 1987
Agency: Department of Law

Distribution (by preparer):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)
Senate Secretary

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. HB 104

This bill amends AS 12.61 by adding a new section that provides for the confidentiality of communications between the victims of domestic violence and sexual abuse and victim counselors. The bill is intended to prevent the prolongation of the harmful psychological trauma experienced by victims that sometimes occurs when the personal feeling of victims, expressed during abuse counseling, are later recited during the trials of abusers.

The bill will probably affect the admissibility of evidence that the state uses in abuse cases, sometimes making it more difficult to obtain convictions in criminal prosecutions. Child in Need of Aid proceedings, where the victim is a young child, and where the evidence provided by a counselor is useful in corroborating the child's testimony, will also be affected. On the other hand, prohibiting counselor testimony will limit otherwise extraneous personal information that the defense sometimes attempts to get into evidence that can have a detrimental effect on a victim's willingness and ability to testify. Consequently, it is our view that this bill will not cause a marked increase or decrease in the resources needed by the Department of Law to prosecute abuse cases, although it may result in fewer criminal convictions and fewer CINA proceedings being brought due to insufficient evidence.

STATE OF ALASKA

DEPARTMENT OF ADMINISTRATION

OLDER ALASKANS COMMISSION

STEVE COWPER, GOVERNOR

POUCH C, M.S. 0209
JUNEAU, ALASKA 99811
PHONE: (907) 465-3250

February 3, 1987

Representative Bill Hudson
Alaska State Legislature
Post Office Box V
Juneau, Alaska 99811

Dear Representative Hudson:


I am writing to you as a member of the House Health Education and Social Services Committee in regard to HB 104. This bill will establish confidentiality requirements for counselors of the victims of domestic violence and sexual assault. We believe this is a very important bill but are concerned that an unintended result may be that persons required to report elder abuse under AS 47.24 may not report due to their belief that to do so would violate this proposed legislation.

This potential problem was apparently considered in the case of child abuse. Page two line 19 paragraph (c) states, "This section does not relieve victim counselors of the duty to report suspected child abuse or neglect under AS 47.17.020 or any evidence that the victim is about to commit a crime." We would like to offer as a simple amendment to this paragraph the following insertion following line 20; "AS 47.17.020 or the duty of persons mandated to report elder abuse under AS 47.24 or any evidence that the victim is about to commit a crime..."

With this amendment or one of similar impact, the Older Alaskans Commission would offer their support for HB 104.

Thank you for your consideration.

Sincerely,



Jon B. Wolfe
Executive Director

cc: Representative Cliff Davidson
Peggy Burgin, OAC Chair

ALASKA COURT SYSTEM
FISCAL OPERATIONS

TELEFACSIMILE TRANSMITTAL SHEET

TO: LISA MCLAREN

DATE: 2/25/87

FROM: BOB FISHER

TOTAL NUMBER OF PAGES: _____
(Not including cover sheet)

MESSAGE: PLEASE DELIVER TO LISA MCLAREN
(~~WAS NOT COMMITTED~~)

HR 104

If you do not receive the above document(s), please call 264-8215.
Alaska Court System telecopier phone number 276-6342.

STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE

Bill Version: HB 104
Publish Date:

REQUEST:

Revision Date:
Title: Confidential communications
between victims and victim counselors
Sponsor: Davidson, Barnes ...
Requestor: House HESS Committee

Agency Affected: Alaska Court System
BRU: Trial Courts
Components:

| <u>EXPENDITURES/REVENUES:</u> | | (Thousands of Dollars) | | | | | |
|-------------------------------|---------|------------------------|---------|---------|---------|---------|--|
| OPERATING | FY 87 | FY 88 | FY 89 | FY 90 | FY 91 | FY 92 | |
| Personal Services | | | | | | | |
| Travel | | | | | | | |
| Contractual | | | | | | | |
| Supplies | | | | | | | |
| Equipment | | | | | | | |
| Land & Structures | | | | | | | |
| Grants & Claims | | | | | | | |
| TOTAL OPERATING | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | |
| <hr/> | | | | | | | |
| CAPITAL | | | | | | | |
| <hr/> | | | | | | | |
| REVENUE | | | | | | | |

| <u>FUNDING:</u> | | (Thousands of Dollars) | | | | | |
|-----------------|---------|------------------------|---------|---------|---------|---------|--|
| General Funds | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | |
| Federal Funds | | | | | | | |
| Other | | | | | | | |
| TOTAL | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | |

| <u>POSITIONS:</u> | | | | | | | |
|-------------------|---------|---------|---------|---------|---------|---------|--|
| Full-time | | | | | | | |
| Part-time | | | | | | | |
| Temporary | | | | | | | |

ANALYSIS: (Attach a separate page if necessary)

No fiscal impact.

Prepared by: Karla Forsythe, General Counsel
Division: Alaska Court System
Approved by: *Stephanie J. Cole*
Stephanie J. Cole, Deputy Director
Agency: Alaska Court System

Phone: 264-8230
Date: 2-25-87
Date: 2-25-87

Distribution (by preparer):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management & Budget
Impacted Agency(ies)
Senate Secretary

A M E N D M E N T

FEB 05 1987

Offered in the HOUSE

By ELLIS

TO: HB 104

Page 2, line 20, following "AS 47.17.020":

Insert ", suspected harm to an elderly person under AS 47.24.010,"

HB 104 - An Act relating to confidential communications between victims and victim counselors; and amending Alaska Rules of Evidence 504 and 510.

FILE CONTENTS

1) HB 104

1 IN THE HOUSE

HB 104

BY DAVIDSON

2 HOUSE BILL NO.

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to confidential communications
7 between victims and victim counselors; and amending
8 Alaska Rules of Evidence 504 and 510."

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

10 * Section 1. FINDINGS AND PURPOSE. (a) The legislature finds that:

11 (1) the emotional and psychological injuries that are inflicted
12 on victims of domestic violence and sexual assault are often more serious
13 than the physical injuries suffered;

14 (2) counseling is often a successful treatment to ease the real
15 and profound psychological trauma experienced by these victims and their
16 families;

17 (3) in the counseling process, victims of domestic violence and
18 sexual assault openly discuss their emotional reactions to the crime; these
19 reactions are often highly intertwined with their personal histories and
20 psychological profiles;

21 (4) counseling of domestic violence and sexual assault victims
22 is most successful when the victims are assured their thoughts and feelings
23 will remain confidential and will not be disclosed without their permis-
24 sion; and

25 (5) confidentiality should be accorded all victims of domestic
26 violence and sexual assault who require counseling whether or not they are
27 able to afford the services of private psychiatrists or psychologists.

28 (b) The purpose of this Act is to extend to all victims of domestic
29 violence and sexual assault a testimonial privilege encompassing the

1 contents of communications with a victim counselor and to render immune
2 from discovery or legal process the records of such communications main-
3 tained by the counselor.

4 * Sec. 2. AS 12.61 is amended by adding new sections to read:

5 ARTICLE 2. VICTIM/COUNSELOR CONFIDENTIALITY.

6 Sec. 12.61.100. COMPULSORY DISCLOSURE OF COMMUNICATIONS PRO-
7 HIBITED. (a) A victim, victim counselor without the consent of the
8 victim, or a minor or incapacitated victim without the consent of a
9 custodial guardian or a guardian ad litem appointed upon application
10 of either party, may not be compelled to give testimony or to produce
11 records concerning confidential communications for any purpose in a
12 criminal, civil, legislative, or administrative proceeding.

13 (b) A victim or victim counselor may not be compelled to provide
14 testimony in a civil or criminal proceeding that would identify the
15 name, address, location, or telephone number of a safe house, abuse
16 shelter, or other facility that provided temporary emergency shelter
17 to the victim of the offense or transaction that is the subject of the
18 proceeding, unless the facility is a party to the proceeding.

19 (c) This section does not relieve victim counselors of the duty
20 to report suspected child abuse or neglect under AS 47.17.020 or any
21 evidence that the victim is about to commit a crime. This section is
22 not intended to limit any other testimonial privilege available under
23 law.

24 Sec. 12.61.110. WAIVER. (a) A victim does not waive the pro-
25 tections provided in AS 12.61.100 by testifying in court about the
26 crime except that, if the victim partially discloses the contents of a
27 confidential communication in the course of testifying, then either
28 party may request the court to rule that justice requires the protec-
29 tions of AS 12.61.100 be waived, to the extent they apply to that

1 portion of the communication. A waiver under this subsection applies
2 only to the extent necessary to require a witness to respond to
3 counsel's questions concerning the confidential communication that are
4 relevant to the facts and circumstances of the case.

5 (b) A victim counselor may not waive the protections afforded to
6 a victim under AS 12.61.100 without the consent of the victim. How-
7 ever, if a victim brings suit against a victim counselor or the facil-
8 ity in which the victim counselor was employed or served as a volun-
9 teer at the time of the counseling relationship and the suit alleges
10 malpractice during the counseling relationship, the victim counselor
11 may testify or produce records regarding confidential communications
12 with the victim and is not liable for doing so.

13 Sec. 12.61.120. DEFINITIONS. In AS 12.61.100 - 12.61.120,

14 (1) "confidential communication" means information ex-
15 changed between a victim and a victim counselor in private or in the
16 presence of a third party who is necessary to facilitate communication
17 or further the counseling process and that is disclosed in the course
18 of the counselor's treatment of the victim for an emotional or psycho-
19 logical condition resulting from a sexual assault or domestic vio-
20 lence;

21 (2) "domestic violence" has the meaning given in AS 25.-
22 35.060;

23 (3) "sexual assault" means an offense under AS 11.41.410 -
24 11.41.470;

25 (4) "victim" means a person who consults a victim counselor
26 for assistance in overcoming adverse emotional or psychological
27 effects of a sexual assault or domestic violence;

28 (5) "victim counseling" means assessment, diagnosis, and
29 treatment to alleviate the adverse emotional or psychological impact

1 of a sexual assault or domestic violence on the victim, including
2 crisis intervention;

3 (6) "victim counseling center" means a private organization
4 or unit of a government agency that has as one of its primary purposes
5 the treatment of victims for emotional or psychological conditions
6 resulting from a sexual assault or domestic violence;

7 (7) "victim counselor" means an employee or supervised
8 volunteer of a victim counseling center or other facility that pro-
9 vides counseling to victims who is not affiliated with a law enforce-
10 ment agency or a prosecutor's office and whose duties include treating
11 victims for emotional or psychological conditions resulting from a
12 sexual assault or domestic violence.

13 * Sec. 3. (a) AS 12.61.100 and 12.61.120, added by sec. 2 of this Act,
14 have the effect of amending Alaska Rule of Evidence 504 by extending an
15 evidentiary privilege to certain individuals who would not be entitled to
16 the privilege under Rule 504. Alaska Rule of Evidence 504(a)(3) limits the
17 psychotherapist-patient privilege to persons authorized to practice medi-
18 cine, while engaged in diagnosis or treatment of a mental or emotional
19 condition, or persons licensed or certified as a psychologist or psycho-
20 logical examiner. AS 12.61.100 and 12.61.120 extend the privilege to
21 employees or supervised volunteers of certain counseling centers if the
22 person's duties include counseling, even if the person is not licensed or
23 certified as a physician or counselor.

24 (b) AS 12.61.110, added by sec. 2 of this Act, has the effect of
25 amending Alaska Rule of Evidence 510 by providing that, by testifying in
26 court, a patient does not waive the evidentiary privilege provided for in
27 AS 12.61.100, added by sec. 2 of this Act, unless the court orders that
28 there be a waiver.
29

STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE

REQUEST: _____

Bill Version: HB 104
Publish Date:

Revision Date:
Title: Confidential communications
between victims and victim counselors
Sponsor: Davidson, Barnes ...
Requestor: House HESS Committee

Agency Affected: Alaska Court System
BRU: Trial Courts
Components:

| EXPENDITURES/REVENUES: | | (Thousands of Dollars) | | | | |
|-------------------------------|---------|------------------------|---------|---------|---------|---------|
| | FY 87 | FY 88 | FY 89 | FY 90 | FY 91 | FY 92 |
| OPERATING | | | | | | |
| Personal Services | | | | | | |
| Travel | | | | | | |
| Contractual | | | | | | |
| Supplies | | | | | | |
| Equipment | | | | | | |
| Land & Structures | | | | | | |
| Grants & Claims | | | | | | |
| TOTAL OPERATING | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| CAPITAL | | | | | | |
| REVENUE | | | | | | |

| FUNDING: | | (Thousands of Dollars) | | | | |
|-----------------|---------|------------------------|---------|---------|---------|---------|
| | FY 87 | FY 88 | FY 89 | FY 90 | FY 91 | FY 92 |
| General Funds | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| Federal Funds | | | | | | |
| Other | | | | | | |
| TOTAL | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |

| POSITIONS: | | | | | | |
|-------------------|---------|---------|---------|---------|---------|---------|
| Full-time | | | | | | |
| Part-time | | | | | | |
| Temporary | | | | | | |

ANALYSIS: (Attach a separate page if necessary)

No fiscal impact.

Prepared by: Karla Forsythe, General Counsel
Division: Alaska Court System

Phone: 264-8230
Date: 2-25-87

Approved by: *Stephanie J. Cole*
Stephanie J. Cole, Deputy Director
Agency: Alaska Court System

Date: 2-25-87

- Distribution (by preparer):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management & Budget
Impacted Agency(ies)
Senate Secretary

HOUSE COMMITTEE REPORT

(7)

Date referred: 2/2/87

FURTHER REFERRALS: Judiciary

DATE: _____

The Health, Education and Social Services Committee has considered HB 104

"An Act relating to confidential communications between victims and victim counselors; and amending Alaska Rules of Evidence 504 and 510."

RECOMMENDS:

- replace with _____ the same title
- attached amendment(s) a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(S):

- fiscal impact same as previous fiscal note published _____
- zero fiscal note same as previous zero fiscal note published _____
- zero with analysis

SIGNING DO PASS:

SIGNING OTHER RECOMMENDATIONS:

Chairman's signature