

ALASKA LEGISLATURE COMMITTEE FILES, 2003-2004 80/2

10913 HOUSE LABOR & COMMERCE



Increasing Access to Out-of-Hospital Maternity Care Services through State-Regulated and Nationally-Certified Direct-Entry Midwives

01/01/2001
20013

THE AMERICAN PUBLIC HEALTH ASSOCIATION,

Reaffirming its position on credentials for health occupations, that there should be alternative routes involving educational systems of selection and preparation, and legal systems of licensing by which people can prepare and qualify for health occupations¹; and

Reaffirming its recognition that many women seek birthing alternatives²; and
Recognizing that pregnancy and birth are normal life events for a majority of women^{3,4,5}; and

Reaffirming its endorsement of the philosophy of family-centered maternity care, the importance of continuity of care, and the use of a variety of licensed care-givers⁶; and
Recognizing that Direct-entry Midwives encompass a diverse group of midwives that have entered the profession directly through midwifery education and training, and not through a prerequisite program such as nursing⁷; and

Recognizing that there are alternative educational systems of selection and preparation for national certification of Direct-entry Midwives that include either the Certified Professional Midwife (CPM) credential and the Certified Midwife (CM) credential; and that both require didactic programs, written examinations and clinical experience.^{8,9} In the case of the Certified Professional Midwives the didactic component consists of education in a program accredited by an agency that is recognized by the US Department of Education or the Portfolio Evaluation Process program, the North American Registry of Midwives competency-based, educational portfolio evaluation, and the clinical component is equivalent to one year of experience which includes more than a thousand contact hours under the supervision of one or more preceptors, some of which must be in out-of-hospital settings, but none of which need to be in hospital settings⁸; and in the case of the CM credential requires education in institutions of higher learning accredited by an agency that is recognized by the US Department of Education to meet the same standards that Certified Nurse Midwives must meet, completing core science requirements similar to those required for a nurse, and fulfilling core midwifery requirements that are a part of all accredited nurse-midwifery education programs, and clinical experience that must include hospital experience, but is not required to include out-of-hospital experience.⁹

Recognizing that individual states interested in incorporating direct-entry midwives into their health care systems are moving toward regulatory models based on national certification⁵; and

Recognizing evidence that many women seek alternatives to hospital care for normal pregnancy and birth, and

Recognizing the evidence that births to healthy mothers, who are not considered at medical risk after comprehensive screening by trained professionals, can occur safely in various settings, including out-of-hospital birth centers and homes¹⁰⁻¹⁴; and

Noting that an epidemiological study of Certified Professional Midwives (CPMs) is ongoing in order to investigate and evaluate practice outcomes, safety, client satisfaction, and practitioner competency¹⁵; and

Recognizing that out-of-hospital settings have the potential for reducing the costs of maternity care^{7,12,16}; and

Recognizing evidence that access to quality maternity caregivers remains an important issue, particularly for underserved urban and rural communities¹⁷; which may be addressed through out-of-hospital maternity services in some communities; and

Reaffirming that the APHA currently recognizes the value of and promotes educational

opportunities for nurse-midwifery,¹⁸ and that many professionals recognize the contributions of direct-entry midwifery; and
 Reaffirming that APHA has been an innovator in public health care by supporting research on alternative and complementary medicine^{1,19} and increased access to midwifery services in the United States,²⁰

Recognizing that there should be alternative routes involving educational systems of selection and preparation, and legal systems of licensing by which people can prepare and qualify for health occupations, including those direct-entry midwives who are nationally-certified and who have successfully completed "a recognized midwifery education process"^{21-23,25}; and

Recognizing evidence that direct-entry midwives have multiple educational routes^{22,24} available to them in order to meet the entry-level requirements of knowledge, skills and experience^{22,24,25};

Recognizing evidence that individual states interested in incorporating direct-entry midwives into the health care system are moving toward regulatory models based on national certifications²²;

Therefore, APHA

1. Supports efforts to increase access to out-of-hospital maternity care services and increase the range of quality maternity care choices available to consumers, through recognition that legally-regulated and nationally certified direct-entry midwives can serve clients desiring safe, planned, out-of-hospital maternity care services, and further:
2. Encourages the development and implementation of guidelines for the licensing, certification and practice for direct-entry midwifery practitioners for use by state and local health agencies, health planners, maternity care providers, and professional organizations;
3. Urges that there be increased opportunities for supervised clinical learning experiences, in a variety of settings, including both high-risk and low-risk, incorporated into direct-entry midwifery education programs;
4. Encourages an increase in cost effective maternal care services for rural and underserved urban populations by advocating for increases in funding of scholarships and loan repayment programs targeted at members of these communities;
5. Urges public and private insurance plans to eliminate barriers to the reimbursement and equitable payment of direct-entry midwifery services in both public and private payment systems;
6. Encourages the National Center for Health Statistics, the US Department of Health and Human Services and State Vital Records Offices to add the CPM as a separate certifier category on birth certificates to enable routine collection of systematic data;
7. Urges HRSA, CDC and state health departments to improve the collection and quality of vital statistics and other data to enhance the monitoring of birth outcomes (e.g., infant and perinatal mortality rates, maternal mortality rates, etc.) resulting from services provided by all practitioners including specific types of midwife practitioners;
8. Urges Congress and appropriate Department of Health and Human Services agencies to increase funding and other support for ongoing research and evaluation of maternal health and birth outcomes, practice outcomes, quality of care outcomes, and safety related to the services provided by direct-entry midwives.

References

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2. American Public Health Association Position Paper 8209: Guidelines for Licensing and regulating Birth Centers. APHA Public Policy Statements, 1948 to present, cumulative. Washington, D.C. current volume.
3. Stewart, David: The Five Standards of Safe Childbearing, NAPSAC International, 4th Edition, 1997.
4. Care in Normal Birth: a practical guide, Technical Working Group, World Health Organization. Department of Reproductive Health and Research, Section 1.1-1.6, 1999.
5. Rooks, JR: Midwifery and Childbirth in America. Temple University Press, Philadelphia, 1997.
6. American Public Health Association Position Paper 7924: Alternatives in Maternity Care. APHA Public Policy Statements, 1948 to present, cumulative. Washington, D.C. current volume.

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19. American Public Health Association Position Paper 9714: Support for Research on Alternative and Complementary Practices. APHA Public Policy Statements, 1948 to present, cumulative. Washington, D.C. current volume.
20. American Public Health Association Position Paper 20004: Supporting Access to Midwifery Services in the United States. APHA Public Policy Statements, 1948 to present, cumulative. Washington, D.C. current volume.
21. Charting a course for the 21st century: The future of Midwifery. A joint report of the PEW Health Commission and the University of California, San Francisco Center for the Health Professions, April 1999.
22. Myers-Ciecko J. Evolution and current status of direct-entry midwifery education, regulation, and practice in the United States, with examples from Washington State. *J Nurse-Midwifery*, 1999(Jul-Aug);44(4):384-392.
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24. Haughton P, Windom KL. 1995 Job Analysis of the role of direct-entry midwives. June 1996.
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Additional Info.

<http://www.apha.org/legislative/policy/policysearch/index.cfm?fuseaction=year>

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HB

73

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: CSHB 73 (FIN)
 () Publish Date: _____

Revision Date/Time (Note if correction): _____
 Title An Act extending the termination date of the
State Medical Board
 Sponsor Representative Dahlstrom
 Requester House Rules

Dept. Affected: DCED
 BRU Occupational Licensing (117)
 Component Occupational Licensing
 Component No. 2360

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Personal Services	389.5	389.5	389.5	389.5	389.5	389.5
Travel	33.8	33.8	33.8	33.8	33.8	33.8
Contractual	301.4	301.4	301.4	301.4	301.4	301.4
Supplies	5.0	5.0	5.0	5.0	5.0	5.0
Equipment	0.0	0.0	0.0	0.0	0.0	0.0
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	729.7	729.7	729.7	729.7	729.7	729.7

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES (1156)	729.7	729.7	729.7	729.7	729.7	729.7
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other 1156- Receipt Supported Services	729.7	729.7	729.7	729.7	729.7	729.7
TOTAL	729.7	729.7	729.7	729.7	729.7	729.7

Estimate of any current year (FY2003) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

POSITIONS

Full-time	5	5	5	5	5	5
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

The bill extends the State Medical Board to June 30, 2011. In accordance with AS 08.03.020, funding is extended one year following the termination date allowing the board to conclude its affairs. The information above identifies direct expenditure and revenue information included in the FY 2004 Operating Budget request. New funds are not required to implement this bill.

Prepared by: Jennifer Strickler, Administrative Manager
 Division: Occupational Licensing
 Approved by: Edgar Blatchford, Commissioner
 Agency: Department of Community & Economic Development

Phone (907) 465-2144
 Date/Time 2/28/03 10:35 AM
 Date 2/28/2003

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB 73
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: DCED
 Title An Act extending the termination date of the BRU Occupational Licensing (117)
State Medical Board Component Occupational Licensing
 Sponsor Representative Dahlstrom
 Requester House Labor & Commerce Component No. 2360

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Personal Services	389.5	389.5	389.5	389.5	389.5	
Travel	33.8	33.8	33.8	33.8	33.8	
Contractual	301.4	301.4	301.4	301.4	301.4	
Supplies	5.0	5.0	5.0	5.0	5.0	
Equipment	0.0	0.0	0.0	0.0	0.0	
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	729.7	729.7	729.7	729.7	729.7	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES (1156)	729.7	729.7	729.7	729.7	729.7	
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other 1156- Receipt Supported Services	729.7	729.7	729.7	729.7	729.7	
TOTAL	729.7	729.7	729.7	729.7	729.7	0.0

Estimate of any current year (FY2003) cost: 729.7

Mark this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

POSITIONS

Full-time	5	5	5	5	5
Part-time					
Temporary					

ANALYSIS: (Attach a separate page if necessary)

The bill extends the State Medical Board to June 30, 2007. In accordance with AS 08.03.020, funding is extended one year following the termination date allowing the board to conclude its affairs. The information above identifies direct expenditure and revenue information included in the FY 2004 Operating Budget request. New funds are not required to implement this bill.

Prepared by: Jennifer Strickler, Administrative Manager Phone (907) 465-2144
 Division Occupational Licensing Date/Time 2/10/03 12:01 PM
 Approved by: Edgar Blatchford, Commissioner Date 2/10/2003
 Agency Department of Community & Economic Development

HOUSE COMMITTEE REPORT

(7)

Date Referred to Committee: February 5, 2003

FURTHER REFERRALS: Finance

Date of Committee Action: February 10, 2003

The LABOR AND COMMERCE Committee considered:

HB 73

HOUSE BILL NO. 73

EXTEND STATE MEDICAL BOARD

"An Act extending the termination date of the State Medical Board."

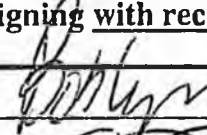
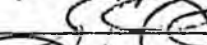
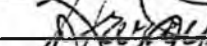
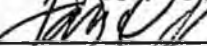

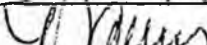
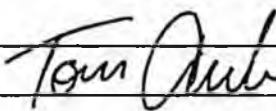
Recommends it be replaced with HCS or CS for _____ (_____)
 For Senate Bills with new title: Technical Title New Title: HCR _____ Same Title New Title

- attach amendments
- add new referral to _____ Committee
- Letter of Intent _____ Committee

List of Abbrev for Depts.:
 ADM
 CED
 COR
 CRT
 EED
 DEC
 DFG
 GOV
 HSS
 LAA
 LAW
 LWF
 MVA
 DNR
 DPS
 REV
 DOT
 UA

<u>NEW FISCAL NOTES</u>				
*Assigned by Chief Clerk's Office				
List by Dept(s):	*FN#	Fiscal	Indet.	Zero
CED		✓		

<u>PREVIOUS FISCAL NOTES</u>				
List by Dept(s):	FN#	Fiscal	Indet.	Zero

<u>Signing with recommendations</u>	Printed Last Name	DP	DNP	NR	AM
	LYNN	X			
	GATTO	X			
	CRAWFORD	✓			
	FITTENBERG	✓			
	ROKKEBERG				✓
	DAHLSTROM	X			
Chair: 	ANDERSON	X			
Chair:					

Alaska State Legislature



Rep. Tom Anderson, Chair
Rep. Bob Lynn, Vice - Chair
Rep. Nancy Dahlstrom, Member
Rep. Carl Gatto, Member
Rep. Norman Rokeberg, Member
Rep. Harry Crawford, Member
Rep. David Guttenberg, Member

State Capitol
Juneau, Ak 99801-1182
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House Labor & Commerce Committee

MEMORANDUM

Date: February 5, 2003
To: Suzi Lowell, Chief Clerk
From: Representative Tom Anderson, Chairman *T.A.*
House Labor & Commerce Committee
Re: House Labor & Commerce Committee Schedule

The House Labor & Commerce Committee has scheduled to hear the following bills:

Monday, February 10th at 3:15 pm. Room 17

- + * HB 71 - EXTENDING BOARD OF MIDWIVES
- + * HB 73 - EXTENDING STATE MEDICAL BOARD
- + * HB 74 - EXTENDING BOARD OF NURSING

- + - Teleconferenced
- * - First Hearing in First Committee of Referral
- = - Bill was Previously Heard/Scheduled

ALASKA STATE LEGISLATURE

Vice Chair:
Joint Armed Services Committee

Member:
Military and Veterans Affairs Committee
Labor and Commerce Committee
State Affairs Committee
Economic Development, Trade, &
Tourism Committee



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REPRESENTATIVE NANCY DAHLSTROM

ELMENDORF AFB • FORT RICHARDSON • BIRCHWOOD • FIRE LAKE • GOVERNMENT HILL • MULDOON
Representative_Nancy_Dahlstrom@legis.state.ak.us

Sponsor Statement for HB 73 An Act extending the termination date of the State Medical Board

AS 08.64.010 established the State Medical Board and provided for the appointment of members by the governor. The board consists of five licensed physicians, one licensed physician assistant, and two persons with no direct financial interests in the healthcare industry. HB 73, if enacted would extend the board operation for another 4 years to June 30, 2007.

The board serves the public interest by establishing the minimum education and work experience requirements that individuals must meet to become licensed physicians, osteopaths, podiatrists, paramedics, and physician assistants. The board further serves the public interest by investigating complaints against licensed professionals and taking disciplinary licensing action when appropriate.

The board has consistently proven to be efficient, therefore I recommend that the State Medical Board be extended to June 30, 2007, and urge you to vote for its passage.



Alaska Division of Legislative Audit

Audit Digest #08-20017-02



* Requires Acrobat Reader

SUMMARY OF: A Special Report on the Department of Community and Economic Development, State Medical Board, Sunset Review, August 15, 2002.

PURPOSE OF THE REPORT

In accordance with the intent of Titles 24 and 44 of the Alaska Statutes, we have reviewed the activities of the State Medical Board. As required by AS 44.66.050(a), the legislative committee of reference shall consider this report during the legislative oversight process to determine whether the board should be reestablished. Currently, AS 44.66.010(12) states that the board will terminate on June 30, 2003, and will have one year from that date to conclude its administrative operations.

REPORT CONCLUSIONS

In our opinion, the termination date for the State Medical Board should be extended. The regulation and licensing of qualified physicians and other health care professionals is essential to protecting the public's health, safety, and welfare. State health care consumers rely on the diligence of the board and staff to promote the provision of quality health care.

The board serves this public interest by establishing minimum educational and work experience requirements that individuals must meet to become licensed physicians, osteopaths, podiatrists, paramedics and physician assistants. The board further serves this public interest by investigating complaints against licensed professionals and taking disciplinary licensing action when appropriate. The board has satisfactorily carried out its responsibilities in a manner consistent with statutes, good administrative practice, and the public interest.

AS 08.03.010(c)(12) requires the State Medical Board be terminated on June 30, 2003. Under AS 08.03.020, the board has a one-year period to conclude its administrative operations.

Based upon our review of the State Medical Board's operations and performance over the past three fiscal years, we recommend the legislature extend the board's termination date to June 30, 2011. While such an extension exceeds the maximum period suggested in statute, it is within legislative discretion. 1

The 1995 legislature, consistent with the recommendation set out in our previous sunset report on the board, extended the State Medical Board's termination date eight years. In our view, this was done because of the manner in which the board had operated, and reflected the confidence the legislature had that the board was acting in the public's interest.

Consistent with the last sunset review, we have not identified significant deficiencies in the manner in

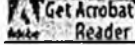
which the board has been operating. Accordingly, we again recommend that the legislature consider extending the termination date for eight years, to June 30, 2011.

footnotes

1. AS 08.03.020 (c) states:

A board scheduled for termination... may be continued or reestablished by the legislature for a period not to exceed four years unless the board is continued or reestablished for a longer period... [emphasis added]

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Audit Report



DEPARTMENT OF COMMUNITY
AND ECONOMIC DEVELOPMENT
STATE MEDICAL BOARD
SUNSET REVIEW

August 15, 2002



Audit Control Number:
08-20017-02

Division of Legislative Audit
P.O. Box 113300, Juneau, Alaska 99811-3300

LEGISLATIVE BUDGET AND AUDIT COMMITTEE

DIVISION OF LEGISLATIVE AUDIT

The Legislative Budget and Audit Committee is a permanent interim committee of the Alaska Legislature. The committee is made up of five senators and five representatives, with one alternate from the Senate and two from the House. The chairmanship of the committee alternates between the two chambers every legislature.

The committee is responsible for providing the legislature with audits of state government agencies. The programs and activities of state government now cost more than \$6 billion a year. As legislators and administrators try increasingly to allocate state revenues effectively and make government work more efficiently, they need information to evaluate the work of governmental agencies. The audit work performed by the Division of Legislative Audit helps provide that information.

As a guide to all their work, the Division of Legislative Audit complies with generally accepted auditing standards established by the American Institute of Certified Public Accountants and with government auditing standards established by the U.S. General Accounting Office.

Audits are performed as mandated by Alaska Statutes or at the direction of the Legislative Budget and Audit Committee. Individual legislators or committees can submit requests for audits of specific programs or agencies to the committee for consideration. Copies of all completed audits are available from the Division of Legislative Audit's offices in Juneau, Anchorage, or at our web site <http://www.legis.state.ak.us/>.

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ALASKA STATE LEGISLATURE

LEGISLATIVE BUDGET AND AUDIT COMMITTEE

Division of Legislative Audit



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August 17, 2002

Members of the Legislative Budget
and Audit Committee:

In accordance with the provisions of Title 24 of the Alaska Statutes, the attached report is submitted for your review.

DEPARTMENT OF COMMUNITY
AND ECONOMIC DEVELOPMENT
STATE MEDICAL BOARD
SUNSET REVIEW

August 15, 2002

Audit Control Number

08-20017-02

This audit was conducted as required by AS 44.66.050 and under the authority of AS 24.20.271(1). Alaska Statute 44.66.050(c) lists criteria to be used to assess the demonstrated public need for a given board, commission, agency, or program subject to the sunset review process. Currently under AS 08.03.010(c)(12), the State Medical Board is scheduled to terminate on June 30, 2003. The board would be allowed one year in which to conclude its administrative operations.

In our opinion, the termination date for the State Medical Board should be extended. The regulation and licensure of physicians, osteopaths, podiatrists, paramedics and physician assistants contributes to the protection of the public's welfare. We recommend the legislature extend the termination date of the State Medical Board to June 30, 2011.

This sunset review was conducted in accordance with generally accepted government auditing standards. Fieldwork procedures utilized in the course of developing this report are set out in the Objectives, Scope and Methodology section.

A handwritten signature in cursive script that reads "Pat Davidson".

Pat Davidson, CPA
Legislative Auditor

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OBJECTIVES, SCOPE, AND METHODOLOGY

In accordance with the intent of Titles 24 and 44 of the Alaska Statutes, we have reviewed the activities of the State Medical Board. As required by AS 44.66.050(a), the legislative committee of reference shall consider this report during the legislative oversight process to determine whether the board should be reestablished. Currently, AS 44.66.010(12) states that the board will terminate on June 30, 2003, and will have one year from that date to conclude its administrative operations.

Objectives

The three central, interrelated objectives of our report are:

1. To determine if the termination date of the board should be extended.
2. To determine if the board is operating in the public interest.
3. To determine if the board has exercised appropriate regulatory oversight of physicians, osteopaths, podiatrists, paramedics and physician assistants.

The assessment of the operations and performance of the board was based on criteria set out in AS 44.66.050(c). Criteria set out in this statute relate to the determination of a demonstrated public need for the board.

Scope and Methodology

Under the direction and supervision of the Division of Legislative Audit, another auditor conducted the majority of this review. We followed professional standards to determine that the other auditor was independent and that their work was competent and sufficient.

The major areas of our review were licensing, examination, and board proceedings. We reviewed and evaluated the following:

1. Applicable statutes and regulations
2. Compliance with statutes and regulations related to the licensing of physicians, osteopaths, podiatrists, paramedics and physician assistants.
3. Files and documentation of individuals licensed as either physicians, osteopaths, podiatrists, paramedics or physician assistants, in addition to files for individuals applying for licensure for each of these professions
4. Files related to investigations carried out by the Division of Occupational Licensing involving allegations of violations of statutes and regulations related to physicians, osteopaths, podiatrists, paramedics and physician assistants.

5. Minutes of board meetings and division correspondence files
6. Annual reports issued by the board

Additionally, we conducted interviews with Division of Occupational Licensing staff, including the executive administrator for the State Medical Board.

ORGANIZATION AND FUNCTION

Alaska Statute 08.64.010 establishes the State Medical Board. The board consists of five licensed physicians "*residing in as many separate geographical areas of the state as possible,*" a licensed physician assistant, and two public members who are to have "*no direct financial interest in the health care industry.*"

The board regulates the following groups of professionals engaged in medical practice in Alaska: physicians, osteopaths, podiatrists, paramedics and physician assistants.

Most licensing requirements are established by statute. However, for unique circumstances, the statutes permit the board to waive some requirements and replace them with special conditions, imposed by the board, for issuing special licenses.

These special licenses include those issued by endorsement, and those permitting temporary practice for up to six months, or until the board meets to consider the application, whichever comes first.

The board also issues a temporary *locum tenens* permit which is valid for 120 consecutive days, but not more than 240 days during any two-year period.

Department of Community and Economic Development. Division of Occupational Licensing

State Medical Board

(As of June 30, 2002)

Irvin A. Rothrock, M.D., Chair

Keith M. Brownsberger, M.D.

Martha Tillion Cotton, M.D.

David M. Head, M.D.

Constance E. Livsey, Esq.

Sheila Means

Allan G. Schlicht, M.D.

Thomas H. Wilson, AP-C

The Department of Community and Economic Development, Division of Occupational Licensing provides administrative and investigative assistance to the State Medical Board. Administrative assistance includes budgetary services and functions such as collecting fees, maintaining files, receiving and issuing application forms, and publishing notices of examinations and meetings.

Alaska Statute 08.01.065 mandates the Department of Community and Economic Development, with the concurrence of the board, adopt regulations to establish the amount and manner of payment of application fees, examination fees, license fees, registration fees, permit fees, investigation fees, and all other fees as appropriate for the occupations covered by the statute.

Alaska Statute 08.01.087 empowers the Division of Occupational Licensing with the authority to act on its own initiative, or in response to a complaint. The division may:

1. Conduct an investigation if it appears a person is engaged in, or is about to engage in, a prohibited professional practice.
2. Bring an action in superior court to enjoin the act.
3. Examine the books and records of an individual.
4. Issue subpoenas for the attendance of witnesses and records.

REPORT CONCLUSIONS

In our opinion, the termination date for the State Medical Board should be extended. The regulation and licensing of qualified physicians and other health care professionals is essential to protecting the public's health, safety, and welfare. State health care consumers rely on the diligence of the board and staff to promote the provision of quality healthcare.

The board serves this public interest by establishing minimum educational and work experience requirements that individuals must meet to become licensed physicians, osteopaths, podiatrists, paramedics and physician assistants. The board further serves this public interest by investigating complaints against licensed professionals and taking disciplinary licensing action when appropriate. The board has satisfactorily carried out its responsibilities in a manner consistent with statutes, good administrative practice, and the public interest.

AS 08.03.010(c)(12) requires the State Medical Board be terminated on June 30, 2003. Under AS 08.03.020, the board has a one-year period to administratively conclude its affairs. Based upon our review of the State Medical Board's operations and performance over the past three fiscal years, we recommend the legislature extend the board's termination date to June 30, 2011. While such an extension exceeds the maximum period suggested in statute, it is within legislative discretion.¹

The 1995 legislature, consistent with the recommendation set out in our previous sunset report on the board, extended the State Medical Board's termination date eight years. In our view, this was done because of the manner in which the board had operated, and reflected the confidence the legislature had that the board was acting in the public's interest.

Consistent with the last sunset review, we have not identified any significant deficiencies in the manner in which the board has been operating. Accordingly, we again recommend that the legislature consider extending the termination date for eight years, to June 30, 2011.

¹ AS 08.03.020 (c) states:

A board scheduled for termination... may be continued or reestablished by the legislature for a period not to exceed four years unless the board is continued or reestablished for a longer period... [emphasis added]

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ANALYSIS OF PUBLIC NEED

The following analyses of board activities relate to the public need factors defined in AS 44.66.050. These analyses are not intended to be comprehensive, but address those areas we were able to cover within the scope of our review.

Determine the extent to which the board has operated in the public interest.

The State Medical Board has served the public by examining and licensing qualified applicants and proposing changes in regulations that are necessary to enforce state statutes and enhance the quality of medical care available to Alaskans.

The board proposed and adopted regulations governing courtesy licenses. Courtesy licenses are generally issued to physicians to temporarily practice medicine in Alaska at specialty clinics, or during times of emergency or disaster relief. Physicians operating under a courtesy license are generally barred from charging for their services.

The board also proposed and adopted regulations further defining unprofessional conduct as described at AS 08.64.240(b) and AS 08.64.326. New regulations define and enumerate specific examples of conduct that may be considered unprofessional.

The board has adopted regulations defining the requirements for reporting the outcome of malpractice claims or actions. Physicians are now required to report any malpractice settlements to the board within 30 days of settlement. The report must explain the outcome of each malpractice claim or action in which damages have been or are to be paid, whether the payment amounts were established through judgment or out-of-court settlement. Receipt of such reports may result in further investigation by the board for malpractice.

Standards of practice for record keeping were adopted into regulation by the board. The new standard more specifically sets out what information must be kept in each patient's records.

The board also adopted regulations pertaining to the following:

- Application for license by credentials
The board amended to include verification by international licensing authorities.
- Review of applications and checklists
The board adopted new regulations defining the application process.
- Lapsed licenses
The board added regulations defining the process that physicians, osteopaths, podiatrists, paramedics or physician assistants must follow to reinstate licenses that have been allowed to lapse.

- Qualifications for initial licensure of paramedics
The board further defined the qualifications for licensure of paramedics, specifically in regard to verification of education and licensure from other jurisdictions.
- Inactive licenses
The board adopted regulations that define the process allowing licensees who are not practicing within the state of Alaska, to allow their licenses to become inactive, subject to renewal at a later date.
- Verifications for licensure
Regulations were added to define the date requirements for various documents contained within application files. Certain documentation is now considered to be stale dated after six months and must be resubmitted.

Determine the extent to which the operation of the board 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.

AS 08.64.255 formerly required that *“all applicants for licensure shall be interviewed in person by at least one member of the board before a license will be issued.”* The geographic vastness of the state of Alaska required many license applicants to travel in order to meet with a board member. Current statutes state that applicants *“may”* be interviewed by the board. Regulations define when an interview will be required, as well as what may or may not be discussed during the interview. In addition to relaxing the interview requirements, the board has increased the geographic diversity of its membership, and now holds its meetings at various locations throughout the state, including rural Alaska.

Under state law all professional licensing boards must be self-sufficient. Alaska Statute 08.01.065 requires that *“the total amount of fees collected for an occupation approximately equals the actual regulatory costs for the occupation.”* Although the statute calls for fees to be set at the occupational level, the division has only tracked expenditures and revenues at the board level, leaving it to the board to set licensing fees for the various professions it may regulate in order to meet the general, if not specific intent of the statute.

We reviewed the internal records maintained by the Division of Occupational Licensing related to revenues and related expenditures associated with the State Medical Board. We did not audit this information, and present it here for general information purposes. As the schedule on the following page reflects, the State Medical Board has been running a deficit for the 1997-98 and 1999-2000 license renewal periods. To address these ongoing deficits, license renewal fees were increased for the various professions regulated by the board for the most recent license renewal period, although it appears likely that the board will be in a deficit position at the end of FY 02.

State of Alaska
State Medical Board
Schedule of License Revenues and Board Expenditures
FY 98 - FY 01
(Unaudited)

	FY01	FY00	FY99	FY98
<i>Total Revenues:</i>	\$1,474,652	\$209,675	\$839,941	\$182,043
<i>Board/Occupation Direct Expenditures:</i>				
Personal Services	\$ 351,437	\$ 407,055	\$ 319,628	\$ 237,062
Travel	28,606	27,423	21,138	24,481
Contractual	252,506	242,748	133,512	163,096
Supplies	4,471	3,262	3,666	5,079
Equipment	1,738	-0-	56	-0-
<i>Total Board/Occupation Direct Expenditures</i>	638,758	680,488	478,000	429,718
<i>Total Administrative Indirect Expenditures</i>	120,766	101,432	103,976	99,870
 <i>Total Direct and Indirect Expenditures</i>	 \$ 759,524	 \$ 781,920	 \$ 581,976	 \$ 529,588
 <i>Revenues Compared to Expenditures</i>	 \$ 715,128	 \$ (572,245)	 \$ 257,965	 \$ (347,545)
 <i>Cumulative Surplus or (Deficit) for Board Operations</i>	 \$ 281,803	 \$ (433,325)	 \$ 138,920	 \$ (119,045)

Determine the extent to which the board has recommended statutory changes that are generally of benefit to the public interest.

In 1999, in large part at the request of the State Medical Board, the legislature adopted legislation that made several important revisions to the board's statutes. The chair of the board testified repeatedly before the various committees of reference in support of SB 71 which became Chapter 66, SLA 1999. More specifically, this legislation accomplished the following important revisions to the State Medical Board statutes:

1. Allowed board to sanction licensees for all felony convictions Prior to adoption of the 1999 legislation, the board could only consider sanctioning licensees for felony convictions if the individual involved committed the offense in the course of practicing medicine. Under AS 08.64.326, after due process, the board may now impose a sanction of individuals who have been convicted (including pleas of guilty and *nolo contendere*) of Class A, B, C, or unclassified felonies in either Alaska, or another jurisdiction.
2. Allowed board to delegate to staff extensions of board-issued temporary permits In order to replace local physicians who may take a vacation or be away due to extended medical or other emergencies, the board is sometimes asked to issue temporary permits to practicing visiting physicians or osteopaths. Such permits are valid for a period of 60 consecutive days. Prior to the 1999 legislation, statutes required such permits be both issued, and if necessary extended, by the board. Now the board can, and has, delegated extensions of such permits to its executive administrator.
3. Allowed licensure of physicians who were not citizens Prior to the 1999 amendments, state law required physicians to "*be a citizen of the United States or be lawfully admitted for permanent residence.*" This prohibited even temporary licensure of physicians who may be legally in the United States under visas allowing them to practice medicine. Under revised statutes, such physicians can be licensed by the board.
4. Allowed the board to consider all sanctions and restrictions that may have been placed on an individual by another jurisdiction Prior to adoption of the 1999 legislation, the board could consider sanctioning individuals only if they had had a medical license that had been suspended or revoked by another jurisdiction. The 1999 legislation allowed the board to consider other actions another licensing jurisdiction may have taken such as: (1) denial of a license application, (2) surrender of a license pending investigation for an alleged violation, (3) restrictions or conditions placed on an individual's license to practice, or (4) placement of the individual on probation.
5. Requires applicants for licensure as physicians to have two years experience as a resident or intern Prior to the 1999 amendments, an individual applying to be licensed as a physician had to provide evidence that they had satisfactorily completed at least one year as a resident physician or an intern. Most states and provinces have adopted a three-year requirement. Most teaching facilities and programs no longer offer one-year rotating internship programs. Under the previous statutory requirements, an individual who only had one year of residency or internship training could qualify for licensure in Alaska, but in actuality, had not completed a full study rotation. In an effort to be fair to individuals seeking licensure who may have graduated from medical schools at a time when the requirements were less restrictive, the 1999 legislation did phase in the increased requirements, making it effective for all individuals graduating from medical school after 1994.

These changes to the State Medical Board statutes provided improved public protection by promoting greater competency and giving the board more extensive authority to discipline license holders, while at the same time allowing for greater access to the profession for aspiring applicants.

Determine the extent to which the board has encouraged interested persons to report to it concerning the effect of its regulations and decisions on the effectiveness of services, economy of service, and availability of services that it has provided.

The location, date, and time of board meetings are published in the appropriate prominent publications within the State. The Department of Law defines adequate public notice as advertising at least three days, excluding weekends and holidays, and ten days when possible, prior to a meeting. We reviewed advertising confirmations for the period under review, and the department's policy on public notice requirements, and found the board to be in full compliance with these public notice requirements.

In addition to the required public notices, the board also maintains a web site on the Internet that contains notices of regular board meetings, actions taken by the board, and proposed regulations. Also posted on their web site are the two most recent issues of the *BoardNews*, the newsletter of the Alaska State Medical Board.

Determine the extent to which the board has encouraged public participation in the making of its regulations and decisions.

The board has consistently allotted time at all regular board meetings for public testimony. Many diverse interests have been presented during this public comment period, including testimony solicited by the board regarding various public policy issues. The records do not indicate that any public testimony was inappropriately restricted by the board.

Determine the efficiency with which public inquiries or complaints regarding the activities of the board filed with it, with the department to which a board is administratively assigned, or with the Office of the Ombudsman have been processed and resolved.

For the 45 month period from June 1, 1998, through March 31, 2002, the Division of Occupational Licensing opened 413 investigative cases related to individuals licensed by, or seeking licensure, from the State Medical Board. Over half of the cases (210) involved complaints made by patients or individuals from the general public. Most typically these complainants were relatives of patients. Coincidentally, 210 of the complaints involved alleged incompetence or malpractice on the part of physicians and physician assistants.

Of the 292 cases that had been closed as of the date of our review, 86 involved licensure action such as revocation or suspension. It should be noted that 55 of these complaints involved one physician whose license was summarily suspended by the State Medical

Board. The physician eventually surrendered his license voluntarily in the course of subsequent due process proceedings.

Another 31 cases were settled through fines or legally binding agreements between the board and the licensed individual. These agreements set out a course of remedial action or conditions on the individual's practice. Of the remaining cases, 112 were closed with a finding of no violation, 4 were closed with warning letters issued by the board, while another 59 cases were closed through referrals to other investigative agencies (such as the federal Drug Enforcement Agency) or for miscellaneous other reasons.

Of the 121 cases not closed as of the date of our review, most (89) had been opened within the previous 120 days. The remaining 32 were still being actively investigated by the Division of Occupational Licensing, and more than 20 of the complaints involved a single licensed physician.

We have reviewed the nature and extent of complaints filed involving physicians, osteopaths, podiatrists, physician assistants, and paramedics. In our view, the Division of Occupational Licensing, in conjunction with the board, proceeded in a manner consistent with the potential threat the complaints posed to the public welfare.

There were no complaints filed with the Office of the Ombudsman for the period under review.

Determine the extent to which the board regulates entry into an occupation or profession and whether it has presented qualified applicants to serve the public.

The board and their staff have developed a checklist system to record each licensing or renewal requirement. The checklist is updated each time a required document is submitted to the board or licensing examiner. The board and their staff are very meticulous and thorough in their use of this checklist. The application is considered complete and is forwarded to the board for approval only when all requirements have been properly fulfilled. Evidence indicates the board reviews all documentation on a thorough and consistent basis before approving licensure or renewal.

The records indicate the board base licensing decisions solely on information contained within the applicant files in a fair and consistent manner, in accordance with statute and regulation. The board feels free to contact the applicant for further information or clarification as necessary. All licensing decisions are reported to the applicant in writing.

For fiscal year 2002, the most recent year for which statistics are available, the board issued a total of 272 licenses for physicians, osteopaths, podiatrists, paramedics and physician assistants. The table below summarizes licensure activity by profession for the past three fiscal years

New Licenses Issued	FY 00	FY 01	FY 02	Total	Current Licenses as of June 30, 2002
Physicians	184	151	197	532	1,947
Osteopaths	13	10	13	36	133
Podiatrists	1	-0-	1	2	17
Paramedics	33	36	20	89	255
Physician Assistants	20	22	41	83	275

Determine the extent to which state personnel practices, including affirmative action requirements, have been complied with by the board to its own activities and the area of activity or interest.

We found no evidence that the board was not complying with state personnel practices, including affirmative action, in qualifying applicants. Each time the board has denied an applicant a license, the reason has been based on requirements set out in statute and regulation, and not on personal attributes of the applicant. The reasons for denials are stated in writing and the applicant is always informed of their rights, and the process to contest or appeal any denial of licensure.

Determine the extent to which statutory, regulatory, budgeting or other changes are necessary to enable the board to better serve the interest of the public and to comply with the factors enumerated in AS 44.66.050.

The board continues to be very active in recommending statutory and regulatory changes in order to better serve the interest of both the public and the profession.

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Tony Knowles, Governor



Division of Occupational Licensing

P.O. Box 110806, Juneau, AK 99811-0806

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Email: License@dced.state.ak.us • Website: www.dced.state.ak.us/occl

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SEP 26 2002

LEGISLATIVE AUDIT

September 24, 2002

Ms. Pat Davidson
Legislative Auditor
Division of Legislative Audit
Juneau, AK 99811

Dear Ms. Davidson,

Thank you for the opportunity to respond to the preliminary audit of the State Medical Board.

The Division of Occupational Licensing agrees with the audit recommendation to extend the board until 2011. The licensing and regulation of physicians and associated professionals is essential for the protection of public health. The board and staff do an excellent job.

In regard to the comments about license fees on page 8 of the preliminary audit, I would like to make two clarifications.

The Department of Community and Economic Development sets license fees, rather than the board. It is true that the division sets fees so that the revenue from all occupations under the State Medical Board equals the combined cost of regulating those occupations. However, the division does track the expenditures and revenue at the occupation level.

The program has a deficit, but it made significant progress toward paying back that deficit in the FY01-02 license period despite unusually high enforcement costs. The division expects most, if not all, of the deficit to be repaid by FY04, which is the end of the upcoming license period. I have attached a chart showing the expenses and revenue of the State Medical Board from FY97 through FY02.

I appreciate your consideration of these comments.

Sincerely,

A handwritten signature in black ink, appearing to read "Catherine Reardon". The signature is fluid and cursive, written over the printed name.

Catherine Reardon, Director

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DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT
OCCUPATIONAL LICENSING

BUDGET REPORT FOR THE MEDICAL BOARD

As of February 8, 2001

MEDICAL <i>(In Thousands)</i>		FISCAL YEAR 1997	FISCAL YEAR 1998	FISCAL YEAR 1999	FISCAL YEAR 2000
PERSONAL SERVICES EXPENSES (71000)	Direct	232.3	237.1	319.6	407.1
	Indirect	64.0	66.6	61.4	57.8
	Total:	\$296.3	\$303.7	\$381.0	\$464.9
Personal service expenses are employee salaries and benefits. In Fiscal Year 1994 the Division began using detailed time sheets to record actual time spent on the various licensing areas.					
TRAVEL EXPENSES (72000)	Direct	19.9	24.5	21.1	27.4
	Indirect	1.5	0.6	0.9	0.5
	Total:	\$21.4	\$25.1	\$22.0	\$27.9
Travel expenses include transportation, food and lodging for board meetings, complaint investigations, disciplinary hearings and national meetings.					
CONTRACTUAL SERVICES EXPENSES (73000)	Direct	121.7	163.1	133.5	242.7
	Indirect	26.3	24.9	34.3	38.4
	Total:	\$148.0	\$188.0	\$167.8	\$281.1
Contractual services are services purchased from sources outside the Division and include telephone calls, postage, expert witnesses and Department of Law legal work, and other costs.					
SUPPLIES EXPENSES (74000)	Direct	4.0	5.1	3.7	3.3
	Indirect	3.5	4.7	4.3	3.3
	Total:	\$7.5	\$9.8	\$8.0	\$6.6
Supply expenses include paper, envelopes, cassette tapes, and other office supplies.					
EQUIPMENT EXPENSES(75000)	Direct	0.1	0.0	0.1	0.0
	Indirect	12.8	3.1	3.1	1.4
	Total:	\$12.9	\$3.1	\$3.2	\$1.4
Equipment expenses include purchase and repair of computers, software, copy machines, telephones and other office equipment.					
	Total Direct:	\$378.0	\$429.8	\$478.0	\$680.5
	Total Indirect:	\$108.1	\$99.9	\$104.0	\$101.4
TOTAL EXPENSES:		\$486.1	\$529.7	\$582.0	\$781.9
TOTAL REVENUE:		714.6	182.0	840.0	209.7
BALANCE (Revenue - Expenses) :		\$228.5	(\$347.7)	\$258.0	(\$572.2)

This chart shows the figures in the state accounting system on the day the chart was prepared. Some bills are not received and entered in the system for several months after the expense occurs. Direct costs are expenditures which can be specifically attributed to distinct occupations. Indirect costs are collective expenses which are shared equally by all division license holders on a per capita basis. Fiscal Years for Alaska's state government begin July 1 and end June 30. Figures are in thousands of dollars and are rounded to the nearest hundred. For example, \$1.3 means \$1,300.00.

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DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT
OCCUPATIONAL LICENSING

EXPENDITURE AND REVENUE REPORT FOR THE MEDICAL BOARD

As of September 23, 2002

MEDICAL <i>(In Thousands)</i>		FISCAL YEAR 2001	FISCAL YEAR 2002
PERSONAL SERVICES EXPENSES (71000)	Direct	351.4	389.5
	Indirect	72.0	76.8
	Total:	\$423.4	\$466.3
Personal service expenses are employee salaries and benefits. In Fiscal Year 1994 the Division began using detailed time sheets to record actual time spent on the various licensing areas.			
TRAVEL EXPENSES (72000)	Direct	28.6	33.4
	Indirect	1.0	1.1
	Total:	\$29.6	\$34.5
Travel expenses include transportation, food and lodging for board meetings, complaint investigations, disciplinary hearings and national meetings.			
CONTRACTUAL SERVICES EXPENSES (73000)	Direct	252.5	301.4
	Indirect	36.3	47.2
	Total:	\$288.8	\$348.6
Contractual services are services purchased from sources outside the Division and include telephone calls, postage, expert witnesses and Department of Law legal work, and other costs.			
SUPPLIES EXPENSES (74000)	Direct	4.5	5.0
	Indirect	4.0	4.2
	Total:	\$8.5	\$9.2
Supply expenses include paper, envelopes, cassette tapes, and other office supplies.			
EQUIPMENT EXPENSES(75000)	Direct	1.7	0.0
	Indirect	7.6	2.1
	Total:	\$9.3	\$2.1
Equipment expenses include purchase and repair of computers, software, copy machines, telephones and other office equipment.			
	Total Direct:	\$638.7	\$729.3
	Total Indirect:	\$120.9	\$131.4
TOTAL EXPENSES:		\$759.6	\$860.7
TOTAL REVENUE:		1,474.7	372.6
BALANCE (Revenue - Expenses) :		\$715.1	(\$488.1)

This chart shows the figures in the state accounting system on the day the chart was prepared. Some bills are not received and entered in the system for several months after the expense occurs. Direct costs are expenditures which can be specifically attributed to distinct occupations. Indirect costs are collective expenses which are shared equally by all division license holders on a per capita basis. Fiscal Years for Alaska's state government begin July 1 and end June 30. Figures are in thousands of dollars and are rounded to the nearest hundred. For example, \$1.3 means \$1,300.00.

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ALASKA STATE LEGISLATURE

LEGISLATIVE BUDGET AND AUDIT COMMITTEE

Division of Legislative Audit



P.O. Box 113300
Juneau, AK 99811-3300
(907) 465-3830
FAX (907) 465-2347
Internet e-mail address:
legaudit@legis.state.ak.us

September 27, 2002

Members of the Legislative Budget
and Audit Committee:

We have reviewed the director of Occupational Licensing's response to our sunset audit review of the State Medical Board. The following comments address an issue the director raised in her response.

Responsibility for Setting Licensing Fees

In her response the director notes, "*the Department of Community and Economic Development sets license fees, rather than the board.*" This is a clarification of our comments (page 8) regarding the State Medical Board's ongoing financial deficit situation.

We acknowledge that the division is the final authority for setting fees for various license renewals, applications, and other activities related to the operations a given licensing board. However, it is our experience that the fee-setting approach is very much an interactive process between the board and the division, with the preferences of the board given extensive consideration in the adoption of various fees.

A handwritten signature in cursive script that reads "Pat Davidson".

Pat Davidson, CPA
Legislative Auditor

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HB

74

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: CSHB 74 (FIN)
() Publish Date: _____

Revision Date/Time (Note if correction): _____
Title An Act extending the termination date of the
Board of Nursing
Sponsor Representative Dahlstrom
Requester House Rules

Dept. Affected: DCED
BRU Occupational Licensing (117)
Component Occupational Licensing
Component No. 2360

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Personal Services	477.4	477.4	477.4	477.1	477.4	477.4
Travel	39.2	39.2	39.2	39.2	39.2	39.2
Contractual	192.4	192.4	192.4	192.4	192.4	192.4
Supplies	3.7	3.7	3.7	3.7	3.7	3.7
Equipment	0.0	0.0	0.0	0.0	0.0	0.0
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	712.7	712.7	712.7	712.7	712.7	712.7

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES (1156)	712.7	712.7	712.7	712.7	712.7	712.7
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other 1156- Receipt Supported Services	712.7	712.7	712.7	712.7	712.7	712.7
TOTAL	712.7	712.7	712.7	712.7	712.7	712.7

Estimate of any current year (FY2003) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

POSITIONS

Full-time	7	7	7	7	7	7
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

The bill extends the Board of Nursing to June 30, 2011. In accordance with AS 08.03.020, funding is extended one year following the termination date allowing the board to conclude its affairs. The information above identifies direct expenditure and revenue information included in the FY 2004 Operating Budget request. New funds are not required to implement this bill.

The Board of Nursing has one additional position to coordinate the Nurse Aide Registry program, funded by inter-agency receipts from the Department of Health and Social Services, Division of Medical Assistance. Inter-Agency funding of \$118.9 for the Nurse Aide Registry program is included in the Governor's FY 2004 budget request.

Prepared by: Jennifer Strickler, Administrative Manager Phone (907) 465-2144
Division Occupational Licensing Date/Time 2/28/03 10:40 AM
Approved by: Edgar Blatchford, Commissioner Date 2/28/2003
Agency Department of Community & Economic Development

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB 74
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: DCED
 Title An Act extending the termination date of the BRU Occupational Licensing (117)
Board of Nursing Component Occupational Licensing
 Sponsor Representative Dahlstrom
 Requester House Labor & Commerce Component No. 2360

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Personal Services	477.4	477.4	477.4	477.4	477.4	
Travel	39.2	39.2	39.2	39.2	39.2	
Contractual	192.4	192.4	192.4	192.4	192.4	
Supplies	3.7	3.7	3.7	3.7	3.7	
Equipment	0.0	0.0	0.0	0.0	0.0	
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	712.7	712.7	712.7	712.7	712.7	0.0

CAPITAL EXPENDITURES						
-----------------------------	--	--	--	--	--	--

CHANGE IN REVENUES (1156)	712.7	712.7	712.7	712.7	712.7	
----------------------------------	--------------	--------------	--------------	--------------	--------------	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other 1156- Receipt Supported Services	712.7	712.7	712.7	712.7	712.7	
TOTAL	712.7	712.7	712.7	712.7	712.7	0.0

Estimate of any current year (FY2003) cost: 712.7
 Mark this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

POSITIONS

Full-time	7	7	7	7	7
Part-time					
Temporary					

ANALYSIS: (Attach a separate page if necessary)

The bill extends the Board of Nursing to June 30, 2007. In accordance with AS 08.03.020, funding is extended one year following the termination date allowing the board to conclude its affairs. The information above identifies direct expenditure and revenue information included in the FY 2004 Operating Budget request. New funds are not required to implement this bill.

The Board of Nursing has one additional position to coordinate the Nurse Aide Registry program, funded by inter-agency receipts from the Department of Health and Social Services, Division of Medical Assistance. In addition to the direct cost of the board outlined above, Inter-Agency funding of \$118.9 for the Nurse Aide Registry program is included in the Governor's FY 2004 budget request.

Prepared by: Jennifer Strickler, Administrative Manager Phone (907) 465-2144
 Division Occupational Licensing Date/Time 2/10/03 12:01 PM
 Approved by: Edgar Blatchford, Commissioner Date 2/10/2003
 Agency Department of Community & Economic Development

Alaska State Legislature

Rep. Tom Anderson, Chair
Rep. Bob Lynn, Vice - Chair
Rep. Nancy Dahlstrom, Member
Rep. Carl Gatto, Member
Rep. Norman Rokeberg, Member
Rep. Harry Crawford, Member
Rep. David Guttenberg, Member



State Capitol
Juneau, Ak 99801-1182
(907) 465-4954
Fax: (907) 465-2418

House Labor & Commerce Committee

MEMORANDUM

Date: February 5, 2003
To: Suzi Lowell, Chief Clerk
From: Representative Tom Anderson, Chairman *T.A.*
House Labor & Commerce Committee
Re: House Labor & Commerce Committee Schedule

The House Labor & Commerce Committee has scheduled to hear the following bills:

Monday, February 10th at 3:15 pm. Room 17

- + * HB 71 – EXTENDING BOARD OF MIDWIVES
- + * HB 73 – EXTENDING STATE MEDICAL BOARD
- + * HB 74 – EXTENDING BOARD OF NURSING

- + - Teleconferenced
- * - First Hearing in First Committee of Referral
- = - Bill was Previously Heard/Scheduled

ALASKA STATE LEGISLATURE

Vice Chair:
Joint Armed Services Committee

Member:
Military and Veterans Affairs Committee
Labor and Commerce Committee
State Affairs Committee
Economic Development, Trade, &
Tourism Committee



Session:
Alaska State Capitol
Juneau, AK 99801-1182
Phone: (907) 465-3783
Fax: (907) 465-2293
Toll Free (877) 460-3783

Interim:
716 West 4th Avenue
Anchorage, AK 99501-2133
Phone: (907) 269-0174
Fax: (907) 269-0177

REPRESENTATIVE NANCY DAHLSTROM

ELMENDORF AFB • FORT RICHARDSON • BIRCHWOOD • FIRE LAKE • GOVERNMENT HILL • MULDOON
Representative_Nancy_Dahlstrom@legis.state.ak.us

Sponsor Statement for HB 74 An Act extending the termination date of the Board of Nurses

AS 08.68.010 established the Board of Nurses, whose members are appointed by the governor, consist of one licensed practical nurse currently involved in institutional nursing service, one registered nurse engaged in baccalaureate nursing education, three registered nurses at large, and two persons with no direct financial interests in the healthcare industry. HB 74, if enacted would extend the board operation for another 4 years to June 30, 2007.

The board serves the public interest by establishing minimum education and work experience requirements that individuals must meet to become licensed nurses or certified nursing aides. The board further serves the public interest by investigating complaints against licensed professionals and taking disciplinary licensing action when appropriate.

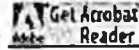
The board has consistently proven to be efficient, and I therefore recommend that the Board of Nursing be extended to June 30, 2007, and urge you to vote for it's passage.



Alaska Division of Legislative Audit Audit Digest #08-20018-02

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SUMMARY OF: A Special Report on the Department of Community and Economic Development, Board of Nursing, Sunset Review, August 16, 2002.

PURPOSE OF THE REPORT

In accordance with the intent of Titles 24 and 44 of the Alaska Statutes, we have reviewed the activities of the Board of Nursing. As required by AS 44.66.050(a), the legislative committee of reference shall consider this report during the legislative oversight process to determine whether the board should be reestablished. Currently, AS 08.03.010(c)(13) states that the board will terminate on June 30, 2003, and will have one year from that date to conclude its administrative operations.

REPORT CONCLUSIONS

In our opinion, the termination date for the Board of Nursing should be extended. The regulation and licensing of qualified nursing professionals is necessary to protect the public's health, safety, and welfare. The board serves this public interest by establishing minimum educational and experience requirements that individuals must meet to become licensed nurses or certified nursing aides. The board further serves this public interest by investigating complaints against licensed professionals and taking disciplinary licensing action when appropriate. The board has satisfactorily carried out its responsibilities in a manner consistent with statutes, good administrative practice, and the public interest.

Alaska Statute 08.03.010(c)(13) requires that the Board of Nursing be terminated on June 30, 2003. Under AS 08.03.020 the board has a one-year period after that date to conclude its administrative operations.

We recommend the legislature extend the board's termination date to June 30, 2011. While such an extension exceeds the maximum period suggested in statute, it is within legislative discretion. 1

The 1995 legislature, consistent with the recommendation set out in our previous sunset report on the board, extended the Board of Nursing's termination date eight years. In our view, this was done because the board had operated in a professional, competent and efficient manner, and reflected the confidence the legislature had that the board was acting in the public's interest.

As was the case with the last sunset review, we have not identified any significant operating deficiencies in the manner in which the board has been operating. The two findings (set out in the Findings and Recommendations section) involve administrative deficiencies that, in our view, can be readily remedied through the adoption and practice of improved procedures. These deficiencies do not represent a significant impact on the board's capability to operate in the public interest. Accordingly, we again recommend that the legislature extend the termination date of the board to June 30, 2011.

FINDINGS AND RECOMMENDATIONS

1. The Board of Nursing should develop procedures to notify the Board of Pharmacy of changes in the status of prescriptive authority of various nursing licensees.

State regulations require the Board of Nursing to notify the Board of Pharmacy within 24 hours of any changes in the prescriptive authority status of individuals licensed by the nursing board.

The Board of Nursing does not have a procedure in place to ensure compliance with these regulatory requirements. Accordingly, the Board of Nursing has not consistently notified the Board of Pharmacy as to the termination of, or changes in, the prescriptive authority for various licensed Advanced Nurse Practitioners and Registered Nurse Anesthetists.

2. The Board of Nursing should develop and implement a self-evaluation monitoring checklist for organizations operating approved certified nursing aide training programs.

Under state regulation, the Board of Nursing has the authority to review and approve training programs for certified nursing aides. Such programs are typically developed and administered by health care organizations required to hire certified nursing aides, such as Providence Hospital and the Southeast Alaska Regional Health Corporation.

Each training program is subject to on-site reviews and approval by the Board of Nursing at two-year intervals. State regulations require program providers to complete "a self-evaluation form provided by the board." The Board of Nursing has not developed the required self-evaluation form for aide training programs.

footnotes

1. AS 08.03.020 (c) states:

A board scheduled for termination... may be continued or reestablished by the legislature for a period not to exceed four years unless the board is continued or reestablished for a longer period... [emphasis added]

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Audit Report

DEPARTMENT OF COMMUNITY
AND ECONOMIC DEVELOPMENT
BOARD OF NURSING
SUNSET REVIEW

August 16, 2002



Audit Control Number:
08-20018-02

Division of Legislative Audit
P.O. Box 113300, Juneau, Alaska 99811-3300

LEGISLATIVE BUDGET AND AUDIT COMMITTEE

DIVISION OF LEGISLATIVE AUDIT

The Legislative Budget and Audit Committee is a permanent interim committee of the Alaska Legislature. The committee is made up of five senators and five representatives, with one alternate from the Senate and two from the House. The chairmanship of the committee alternates between the two chambers every legislature.

The committee is responsible for providing the legislature with audits of state government agencies. The programs and activities of state government now cost more than \$6 billion a year. As legislators and administrators try increasingly to allocate state revenues effectively and make government work more efficiently, they need information to evaluate the work of governmental agencies. The audit work performed by the Division of Legislative Audit helps provide that information.

As a guide to all their work, the Division of Legislative Audit complies with generally accepted auditing standards established by the American Institute of Certified Public Accountants and with government auditing standards established by the U.S. General Accounting Office.

Audits are performed as mandated by Alaska Statutes or at the direction of the Legislative Budget and Audit Committee. Individual legislators or committees can submit requests for audits of specific programs or agencies to the committee for consideration. Copies of all completed audits are available from the Division of Legislative Audit's offices in Juneau, Anchorage, or at our web site <http://www.legis.state.ak.us/>.

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DIVISION OF LEGISLATIVE AUDIT

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ALASKA STATE LEGISLATURE

LEGISLATIVE BUDGET AND AUDIT COMMITTEE

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August 19, 2002

Members of the Legislative Budget
and Audit Committee:

In accordance with the provisions of Title 24 of the Alaska Statutes, the attached report is submitted for your review.

DEPARTMENT OF COMMUNITY
AND ECONOMIC DEVELOPMENT
BOARD OF NURSING
SUNSET REVIEW

August 16, 2002

Audit Control Number

08-20018-02

This audit was conducted as required by AS 44.66.050 and under the authority of AS 24.20.271(1). Alaska Statute 44.66.050(c) lists criteria to be used to assess the demonstrated public need for a given board, commission, agency, or program subject to the sunset review process. Currently under AS 08.03.010(c)(13), the Board of Nursing is scheduled to terminate on June 30, 2003. The board would be allowed one year in which to conclude its administrative operations.

In our opinion, the termination date for the Board of Nursing should be extended. The regulation and licensure of nurses and the certification of nursing aides contributes to the protection of the public's welfare. We recommend the legislature extend the termination date of the Board of Nursing to June 30, 2011.

This sunset review was conducted in accordance with generally accepted government auditing standards. Fieldwork procedures utilized in the course of developing the findings and recommendations presented in this report are set out in the Objectives, Scope and Methodology section.

A handwritten signature in black ink that reads "Pat Davidson".

Pat Davidson, CPA
Legislative Auditor

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OBJECTIVES, SCOPE, AND METHODOLOGY

In accordance with the intent of Titles 24 and 44 of the Alaska Statutes, we have reviewed the activities of the Board of Nursing. As required by AS 44.66.050(a), the legislative committee of reference shall consider this report during the legislative oversight process to determine whether the board should be reestablished. Currently, AS 08.03.010(c)(13) states that the board will terminate on June 30, 2003, and will have one year from that date to conclude its administrative operations.

Objectives

Our specific audit objectives were:

- To determine if the termination date of the board should be extended.
- To determine if the board is operating in the interest of the public.
- To determine if the board has exercised appropriate regulatory oversight of nurses.

The assessment of the operations and performance of the board was based on the criteria set out in AS 44.66.050(c). Criteria set out in this statute relates to the determination of a demonstrated public need for the board.

Scope and Methodology

Under the direction and supervision of the Division of Legislative Audit, another auditor conducted the majority of this review. We followed professional standards to determine that the other auditor was independent and that their work was competent and sufficient.

Our audit reviewed the operations and activities of the Board of Nursing for fiscal years 1999 through 2002. During the course of our examination, we reviewed and evaluated the following:

- Applicable statutes and regulations.
- Tests of files and documentation of licensees.
- Interviews with Division of Occupational Licensing staff.
- Minutes of board meetings, division correspondence files and annual reports issued by the board.
- Attorney general's opinions applicable to professional boards.

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ORGANIZATION AND FUNCTION

The Board of Nursing, as established under AS 08.68, consists of seven members appointed by the governor. Statutes require that the board consist of: a licensed practical nurse currently involved in institutional nursing service, a registered nurse engaged in baccalaureate nursing education, three registered nurses at large, and two public members who have no direct financial interest in the health care industry.

The board regulates the following Alaskan professionals engaged in nursing practice: registered nurses, licensed practical nurses, advanced nurse practitioners, registered nurse anesthetists, and certified nurse aides.

Most licensing requirements are established by statute. Nurses are either licensed by examination or endorsement. Examinations are administered according to a contract with the National Council of State Boards of Nursing.

Licenses by endorsement are issued to nurses licensed in other states that have licensing requirements acceptable to the board.

The board regulates nursing practice in the state in ways such as:

1. Establishing and amending policy and regulations necessary and desirable to enforce state statutes,
2. Approval of curricula for nursing programs along with adopting standards for basic and continuing education programs designed to prepare persons for licensure and ensure the maintenance of competency,
3. Issuing licenses on the basis of examination or endorsement to qualified applicants,
4. Holding hearings to resolve investigations that may lead to revocation, suspension or other disciplinary action against an individual holding a license issued by the board, and
5. Periodically reviewing and approving the facility training programs for individuals employed and certified as nursing aides.

Department of Community and Economic Development, Division of Occupational Licensing

The Department of Community and Economic Development, Division of Occupational Licensing, provides administrative and investigative assistance to the Board of Nursing.

Board of Nursing

(As of June 30, 2002)

Nancy L. Sanders, Chair RN/Baccalaureate

Education representative

Barbara Berner, Registered Nurse

Lynn Hartz, Registered Nurse

Mary (Sue) S. Nikodym, Registered Nurse

Susan Rinker, Public

Mary H Weymiller, LPN

VACANT, Public

Administrative assistance includes budgetary services and functions such as: collection of fees, maintaining files, receiving and issuing application forms, and publishing notice of examinations and meetings.

DCEC is empowered with the authority to act on its own initiative, or in response to a complaint. DCEC may:

1. Conduct an investigation if it appears a person is engaged in, or is about to engage in, a practice over which DCEC has authority.
2. Issue an order for a licensed individual to stop the practice.
3. Bring an action in superior court to enjoin the act.
4. Examine the books and records of an individual.
5. Issue subpoenas for the attendance of witnesses and records.

REPORT CONCLUSIONS

In our opinion, the termination date for the Board of Nursing should be extended. The regulation and licensing of qualified nursing professionals is necessary to protect the public's health, safety, and welfare. The board serves this public interest by establishing minimum educational and experience requirements that individuals must meet to become licensed nurses or certified nursing aides. The board further serves this public interest by investigating complaints against licensed professionals and taking disciplinary licensing action when appropriate. The board has satisfactorily carried out its responsibilities in a manner consistent with statutes, good administrative practice, and the public interest.

Alaska Statute 08.03.010(c)(13) requires that the Board of Nursing be terminated on June 30, 2003. Under AS 08.03.020 the board has a one-year period after that date to conclude its administrative operations. Based upon our review of the Board of Nursing's performance for the past four fiscal years (FY 99 through FY 02), we recommend that the termination date of the board be extended.

We recommend the legislature extend the board's termination date to June 30, 2011. While such an extension exceeds the maximum period suggested in statute, it is within legislative discretion.¹

The 1995 legislature, consistent with the recommendation set out in our previous sunset report on the board, extended the Board of Nursing's termination date eight years. In our view, this was done because the board had operated in a professional, competent and efficient manner, and reflected the confidence the legislature had that the board was acting in the public's interest.

As was the case with the last sunset review, we have not identified any significant operating deficiencies in the manner in which the board has been operating. The two findings (set out in the Findings and Recommendations section) involve administrative deficiencies that, in our view, can be readily remedied through the adoption and practice of improved procedures. These deficiencies do not represent a significant impact on the board's capability to operate in the public interest. Accordingly, we again recommend that the legislature extend the termination date of the board to June 30, 2011.

¹ AS 08.03.020 (c) states:

A board scheduled for termination... may be continued or reestablished by the legislature for a period not to exceed four years unless the board is continued or reestablished for a longer period... [emphasis added]

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FINDINGS AND RECOMMENDATIONS

Recommendation No. 1

The Board of Nursing should develop procedures to notify the Board of Pharmacy of changes in the status of prescriptive authority of various nursing licensees.

State regulation at 12 AAC 44.440(g) requires the Board of Nursing to notify the Board of Pharmacy "within 24 hours after termination of, or change in, an [Advance Nurse Practitioner's] prescriptive authority." Additionally, at 12 AAC 44.525(b), the Board of Nursing is required to "transmit to the Board of Pharmacy a list of all [Registered Nurse Anesthetists] with prescriptive authority...."

The Board of Nursing does not have a procedure in place to ensure compliance with these regulatory requirements. Accordingly, the Board of Nursing has not consistently notified the Board of Pharmacy as to the termination of, or changes in, the prescriptive authority for various licensed Advanced Nurse Practitioners and Registered Nurse Anesthetists. We recommend the board take steps to develop procedures to ensure compliance with these regulatory requirements related to the prescriptive authority of various licensed nursing professionals.

Alternatively, the board may wish to inquire of the Board of Pharmacy about the importance that such notification plays in controlling the distribution of controlled medications. It seems to be unclear what role such notification, or more importantly, the lack of notification, plays in communicating the prescriptive authority status of various licensed professionals to licensed pharmacists. We recommend the development of procedures to ensure that changes in the prescriptive authority of various licenses are consistently communicated to the Board of Pharmacy in accordance with regulation. Additionally, the Board of Nursing, along with the State Medical Board, should discuss with the Board of Pharmacy how such information is utilized by, and communicated to, pharmaceutical dispensing professionals.

Recommendation No. 2

The Board of Nursing should develop and implement a self-evaluation monitoring checklist for organizations operating approved certified nursing aide training programs.

Under state regulations 12 AAC 44.830-847 and 12 AAC 33.857, the Board of Nursing has authority to review and approve training programs for certified nursing aides. Such programs are typically developed and administered by health care organizations required to hire certified nursing aides, such as Providence Hospital and the Southeast Alaska Regional Health Corporation.

Each training program is subject to on-site reviews and approval by the Board of Nursing at two-year intervals. State regulations require program providers to complete "*a self-evaluation form provided by the board.*" The Board of Nursing has not developed the required self-evaluation form for aide training programs.

Accordingly, we recommend the Board of Nursing direct staff to develop a self-evaluation form to bring the operations of the board in compliance with specified regulations related to training programs for certified nursing aides.

ANALYSIS OF PUBLIC NEED

The following analyses of board activities relate to the public need factors defined in AS 44.66.050. These analyses are not intended to be comprehensive, but address those areas we were able to cover within the scope of our review.

Determine the extent to which the board has operated in the public interest.

The board has been diligent in ensuring that qualified applicants are licensed as nurses or certified as nursing aides. Regulations related to licensure and certification provide reasonable assurance of competence, without being overly restrictive to entry into the nursing profession. Continuing competency requirements provide assurance that licensed professionals remain current in their professional practice. The regulation and licensing of qualified nursing professionals promotes the public's health, safety, and welfare.

By establishing minimum requirements for education, experience, and continuing education for licensed and certified nursing professionals, the board is acting in the public interest. Likewise, the board holds licensees in the nursing practice accountable to an established standard of care. Through the active investigation of complaints related to the professional and personal conduct of individuals subject to board oversight, and disciplining these individuals through fines, revocation or suspension of licenses, as appropriate, the board is also acting in the public interest.

The board has displayed an ability to conduct its business in a professional, competent, and efficient manner. The board has consistently proposed changes to statutes and regulations to improve its effectiveness in regulating the nursing profession in Alaska.

Since 1994, the National Council Licensure Examination (NCLEX) for nursing has been available in a computerized format and is available on an online basis. NCLEX examinations are adapted interactively online for each applicant. That is, after a candidate answers an examination question, subsequent questions are selected based on the response chosen by the applicant. Using such a method, one candidate may take an hour to complete the test, another three hours, and both receive passing scores. Such a method allows the examination to probe an applicant's knowledge, skills, and abilities in a more precise manner.

NCLEX has contracted with Sylvan Learning Systems to provide testing services. All Sylvan centers are accessible to individuals with disabilities. The testing centers only accommodate candidates with authorization from the Board of Nursing. The turnaround time for testing has decreased so much that temporary permits for license by examination candidates have been eliminated. Previously, the board issued temporary permits while the candidate was waiting for results from NCLEX, however scores can now be received in as little as three days.

Determine the extent to which the operation of the board 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 has served the public by examining and licensing qualified applicants and proposing changes in regulations that are necessary to enforce state statutes and enhance the quality of nursing care to Alaskans.

In order to protect the objectivity of the board members, when Division of Occupational Licensing staff are investigating the conduct of nurses, only limited advice is sought from the board. At each meeting, the board only sees a brief, one sentence synopsis of cases under investigation, and receives no information on the name of the nurse or location of the investigation. The board's executive administrator, and at times, individual board members, provide technical advice and assistance to the investigator.

In order to expedite case management, the investigative unit of the Division of Occupational Licensing has changed the process it follows to close a case. Previously, board involvement was required to close a case. Now, typically cases are closed based upon consultation with only the Attorney General's Office.

Under state law all professional licensing boards must be self-sufficient. Alaska Statute 08.01.065 requires that *"the total amount of fees collected for an occupation approximately equals the actual regulatory costs for the occupation."* Although the statute calls for fees to be set at the occupational level, the division has only tracked expenditures and revenues at the board level, leaving it to the board to set licensing fees for the various professions it may regulate in order to meet the general, if not specific intent of the statute.

We reviewed the internal records maintained by the Division of Occupational Licensing related to revenues and expenditures associated with the Board of Nursing. We did not audit this information, and present it here for general information purposes. It is likely that the cumulative surplus at the end of FY 01, combined with projected FY 02 revenues, will not be sufficient to cover the board's operating costs in FY 02. This indicates the Board of Nursing has not set licensing fees at a level sufficient to cover its operating costs. It is likely the board will need to increase licensing fees to comply with the requirements of AS 08.01.065.

The response from the Division of Occupational Licensing, which begins on page 19, provides updated and additional information regarding expenditures and revenues related to the Board of Nursing through FY 02. This response, and our additional comments on page 25, should be reviewed to further understand the financial position of the Board of Nursing.

State of Alaska
Board of Nursing
Schedule of License Revenues and Board Expenditures
FY 98 - FY 01
(Unaudited)

	FY01	FY00	FY99	FY98
<i>Total Revenues:</i>	\$ 1,919,723	\$ 181,259	\$ 879,525	\$ 210,426
<i>Board/Occupation Direct Expenditures:</i>				
Personal Services	\$ 428,739	\$ 261,554	\$ 247,597	\$ 175,838
Travel	31,639	21,504	17,847	26,681
Contractual	212,052	94,589	39,577	34,807
Supplies	3,955	727	1,757	1,946
Equipment	1,738	-0-	56	-0-
<i>Total Board/Occupation Direct Expenditures</i>	\$ 678,123	\$ 378,374	\$ 306,834	\$ 239,272
<i>Total Administrative Indirect Expenditures</i>	\$ 487,953	\$ 332,248	\$ 352,512	\$ 301,080
<i>Total Direct and Indirect Expenditures</i>	\$1,166,076	\$ 710,622	\$ 659,346	\$ 540,352
<i>Revenues Compared to Expenditures</i>	\$ 753,647	(\$529,363)	\$220,179	(\$329,926)
<i>Cumulative Surplus or (Deficit) for Board Operations</i>	\$ 484,337	\$ (269,310)	\$ 260,053	\$ 39,874

Determine the extent to which the board has recommended statutory changes that are generally of benefit to the public interest.

The most significant change to the professional nursing statutes in recent years involved oversight and regulation of certified nursing aides. The board supported changes to state law requiring the board to maintain a registry of certified nurse aides. At a minimum, (consistent with federal regulations) such a registry was to contain information about any aide found to have "committed abuse, neglect, or misappropriation of property in connection with their employment by a facility participating in the Medicaid or Medicare program."

Further, the 1998 legislation provided that if the board found that a certified nurse aide committed "*abuse, neglect, or misappropriation of property in connection with employment as a nurse aide*" it had the authority to revoke the individual's certification and enter the finding on the registry. The legislation also clarified the Board of Nursing's statutory authority to take disciplinary actions against certified nursing aides. Although the board had been responsible for education and testing standards for aides since 1989, prior to adoption of the 1998 legislation, the board lacked specific statutory authority to investigate and discipline aides through sanctions against their certification.

The board also supported legislation adopted in 2002 that permitted nurses to delegate certain nursing duties to others, including "*unlicensed assistive personnel*" as long as such delegation was done in a manner consistent with "*regulations adopted by the board.*" The 2002 legislation also provided whistleblower protection if nurses refuse to perform a task involving improper delegation of nursing care. Nurses can obtain immunity from discharge or other disciplinary actions of an employer, if the directive involving improper delegation is reported to the board in a timely manner.

Determine the extent to which the board has encouraged interested persons to report to it concerning the effect of its regulations and decisions on the effectiveness of services, economy of service, and availability of services that it has provided.

The location, date, and time of board meetings are published around the State so that interested public members can attend the meetings.

Members of the public are welcome at board meetings, and attend in high numbers, as evidenced by the sign-in sheets from board meetings. If the board is considering changes to regulations, public testimony is solicited in the meeting advertisements.

Determine the extent to which the board has encouraged public participation in the making of its regulations and decisions.

Meetings and proposed regulations are advertised in the *Anchorage Daily News* and on the Internet. Time is available at all public meetings for public comment. The board also accepts written comments to be discussed at board meetings.

Determine the efficiency with which public inquiries or complaints regarding the activities of the board filed with it, with the department to which a board is administratively assigned, or with the Office of the Ombudsman have been processed and resolved.

For the 45 month period from June 1, 1998, through March 31, 2002, the Division of Occupational Licensing opened 258 investigative cases related to individuals licensed by, or seeking licensure, from the Board of Nursing. Over 40% of the cases (112) involved applicants seeking certification or individuals already certified as nursing aides.

Board of Nursing staff and license examiners with the Division of Occupational Licensing were the source of many of these cases, generating 116 of the 258 complaints. Complaints from the public or nursing patients accounted for only nineteen complaints, while another 60 investigations were generated by what are termed "licensed associates" (typically, either other nurses or physicians).

Of the 152 cases that had been closed as of the date of our review, 59 involved licensure action such as revocation or suspension. An additional 61 were resolved by either a warning letter to the individual involved or through entering into what was termed a memorandum of agreement. The memorandum of agreement typically required the individual to take some remedial action in order to maintain their license. The remaining 32 investigations were closed due to a finding that no violation occurred (9 times), or there was insufficient evidence for the board to take action (23 times).

Of the 106 cases not closed as of the date of our review, most (99) had been opened within the previous 120 days. Of the remaining seven, two involved nurses that had been associated with a major investigation involving a physician, and action on the cases had been suspended pending resolution of that case.

Three cases involved individuals who apparently no longer reside, or are practicing nursing, in the State. These cases have been given lower priority since there is limited public risk involved. The other two cases involved complex, problematic investigations, since the circumstances of the complaint involve the incorrect administration of medication to a patient over a given period of time. Since a group of nurses are involved, it has proven difficult to isolate which nurse may have been responsible for the negligence. The investigation continues.

In our view, the Division of Occupational Licensing, in conjunction with the board, took appropriate actions and proceeded in a manner consistent with the potential threat the various complaints posed to the public welfare.

Determine the extent to which the board regulates entry into an occupation or profession and whether it has presented qualified applicants to serve the public.

We reviewed the requirements for licensure and they appear reasonable and appropriate to ensure qualified professionals are licensed, and the public's best interest is protected. The table on the next page summarizes the licenses and certifications issued by the board over the past three fiscal years.

New Licenses Issued	FY 00	FY 01	FY 02	Total	Current Licenses as of June 30, 2002
Registered Nurses	737	744	1,076	2,557	7,369
Licensed Practical Nurses	76	107	121	304	855
Advanced Nurse Practitioners	53	49	47	149	497
Registered Nurse Anesthetists	26	8	6	40	94
Certified Nursing Aide	440	450	540	1,430	1,956

Determine the extent to which state personnel practices, including affirmative action requirements, have been complied with by the board to its own activities and the area of activity or interest.

We did not find any evidence that the board was not complying with the state personnel practices, including affirmative action, in qualifying applicants. Each time the board has denied an applicant a license, the reason has been based on experience requirements and not personal attributes of the applicant.

Determine the extent to which statutory, regulatory, budgeting or other changes are necessary to enable the board to better serve the interest of the public and to comply with the factors enumerated in AS 44.66.050.

See discussion in Recommendations No. 1 and No. 2 in the Findings and Recommendations section of this report. The Board of Nursing should adopt administrative procedures that will allow for:

1. More timely notification of changes in prescriptive authority. The board must improve its compliance with the regulation related to notification of the Board of Pharmacy regarding changes in the prescriptive authority status of licensees in a timely manner.
2. Development and utilization of a self-evaluation form for nursing aide programs. The board has not developed and distributed self-evaluation forms to the various facilities and institutions in the State that maintain and operate certified nursing aide programs. Such a self-evaluation review instrument is required by the board's regulations related to its oversight of certified nursing aides.

Alaska Department of Community
and Economic Development

Division of Occupational Licensing

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Email: License@dced.state.ak.us • Website: www.dced.state.ak.us/occl

September 10, 2002

Pat Davidson, Legislative Auditor
Alaska State Legislature
Legislative Budget and Audit Committee
Division of Legislative Audit
P.O. Box 113300
Juneau, AK 99811-3300

RECEIVED

SEP 10 2002

LEGISLATIVE AUDIT

Re: Preliminary Audit Report, DCED, Board of Nursing,
Sunset Review, August 16, 2002

Dear Ms. Davidson,

I have reviewed the preliminary audit of the DCED, Board of Nursing. Overall, the audit was very positive and reflects the operation of the Board of Nursing. Two recommendations were made in the audit. I will address those recommendations and will also point out some inaccuracies in the report for which I have concern.

Recommendation 1: The Board of Nursing should develop procedures to notify the Board of Pharmacy of changes in the status of prescriptive authority of various nursing licensee.

The audit is correct. The Board of Nursing currently does not have a specific procedure for notifying the Board of Pharmacy of changes in the status of prescriptive authority for licensees.

Suggested action:

- 1) The Board of Nursing will meet with Margaret Soden, Chair of the Board of Pharmacy during its meeting to be held in Fairbanks, AK from September 18-20. During that meeting, information about the best way to address this recommendation will be discussed with the Chair of the Board of Pharmacy.
- 2) Information related to prescriptive authority for advanced practice nurses is available on the Division of Occupational Licensing website. The Pharmacy Association is planning to put instructions about how to access this information from the website in their newsletter.

Recommendation 2: The Board of Nursing should develop and implement a self-evaluation monitoring checklist for organizations operating approved certified nurse aide training programs.

This is an excellent recommendation. The Board will direct staff to develop a self-evaluation monitoring checklist for organizations operating approved certified nurse aide training programs.

Three additional concerns were identified in the audit report. I will be address each separately.

Concern 1: The audit report (p. 10 last paragraph) stated that "It is likely that the cumulative surplus at the end of FY 01 combined with projected FY 02 revenues, will not be sufficient to cover the Board's operating costs in 02". The report suggests that licensing fees were not set at a level sufficient to cover its operating costs.

Response: The Board of Nursing, in order to continue to function, is required to be self sufficient. Licensing fees pay for the Board staff and the investigators, among other costs. When setting 2002-2004 license renewal fees for RNs and LPNs, the Board considered a budget projection that demonstrated sufficient revenue to allow continued operation. The Board is aware that the licensing fees for nurses in the State of Alaska are the highest for RNs in the United States. Balancing the burden of paying the licensing fee with the need to operate to protect the health of the public, the Board set the licensing fee at the same level as the last renewal cycle. There was every reassurance that these fees were sufficient to cover expenses of the Board.

Concern 2: The audit report (p. 10, paragraph 3) stated that "Previously, Board involvement was required to close a case. Now, typically cases are closed based upon consultation with only the Attorney General's office".

Response: It is a concern to the Board that scope of practice cases would be closed with consultation only with the Attorney General's office. Nurses have a responsibility to monitor the practice of members of the profession. One of the duties and powers of the Board of Nursing is to develop reasonable and uniform standards for nursing practice to protect the health, safety, and welfare of clients. It is a concern that non-nurses are determining whether the scope of nursing practice has been violated.

I can understand a procedure to close a case where criminal complaints have been lodged, but the procedure to close a case for potential violations of scope of practice should include consultation with a nurse.

Concern 3: The audit report (p. 9, final paragraph) is in error when it states that "the turnaround time for testing has decreased so much that temporary permits for licenses by examination candidates have been eliminated".

Response: Temporary permits for examination candidates continue to be issued. It is true that the result of the NCLEX examination has decreased. However, candidates sometimes have had to wait for an appointment to take the examination; therefore a temporary permit continues to be issued when requested to allow the candidate to practice prior to taking the examination. Temporary permits are also issued for other reasons. For example, a recent regulation requiring a criminal background check has lengthened the time it takes from application to licensure. Temporary permits allow the applicant to practice.

Thank you for the opportunity to address these issues. I trust the information will be clarified in the final report.

Sincerely,

A handwritten signature in cursive script that reads "Nancy Sanders". The signature is written in black ink and is positioned above the typed name.

Nancy L. Sanders, RN, PhD
Chair, Board of Nursing

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Tony Knowles, Governor



Division of Occupational Licensing

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September 24, 2002

Ms. Pat Davidson
Legislative Auditor
Division of Legislative Audit
Juneau, AK 99811

RECEIVED

SEP 26 2002

LEGISLATIVE AUDIT

Dear Ms. Davidson,

Thank you for the opportunity to respond to the preliminary audit of the Board of Nursing.

The Division of Occupational Licensing agrees with the audit recommendation to extend the board until 2011. The regulation of nurses and nurse aides is essential for the protection of public health and safety. The board and staff do an excellent job.

The chair of the board submitted a response to the preliminary audit. The division supports that response with the following clarifications.

In response to the comments about license fees on page 10 of the preliminary audit, I have attached charts showing that total revenue from the nursing program has exceeded total expenses for the period from FY97 through FY02. These charts include nurse aide revenue and expenses beginning in FY98.

Please note that the Department of Community and Economic Development sets license fees, rather than the board. It is true that the division sets fees so that the revenue from all occupations under the Board of Nursing equals the combined cost of regulating those occupations. However, the division does track the expenditures and revenue at the occupation level.

Page 10 of the preliminary audit states that board involvement was previously required to close a nursing investigation. That is not correct. The division has the responsibility and authority to open and close investigations. In 1997 I issued a policy and procedure describing the process for closing cases. This P&P applies to all division programs. Nursing investigations are handled in the same way as other cases. The division often consults with the Department of Law on the legal strength of a case before making a closure decision. When a case involves a question of nursing scope of practice or otherwise requires a professional analysis, the investigation unit requests a professional opinion from the executive administrator of the Board of Nursing, a member of the board or another licensed professional.

I appreciate your consideration of these comments.

Sincerely,


Catherine Reardon, Director

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DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT
OCCUPATIONAL LICENSING

BUDGET REPORT FOR THE BOARD OF NURSING

As of September 23, 2002

Nursing (In Thousands)		FISCAL YEAR 1997	NUR/NUA FISCAL YEAR 1998	NUR/NUA FISCAL YEAR 1999	NUR/NUA FISCAL YEAR 2000
PERSONAL SERVICES EXPENSES (71000)	Direct	177.4	243.5	346.6	369.9
	Indirect	210.8	283	267.8	266
	Total:	\$388.2	\$526.5	\$614.4	\$635.9
Personal service expenses are employee salaries and benefits. In Fiscal Year 1994 the Division began using detailed time sheets to record actual time spent on the various licensing areas.					
TRAVEL EXPENSES (72000)	Direct	23.7	31.0	22.6	28.9
	Indirect	5.1	2.5	3.7	2.5
	Total:	\$28.8	\$33.5	\$26.3	\$31.4
Travel expenses include transportation, food and lodging for board meetings, complaint investigations, disciplinary hearings and national meetings.					
CONTRACTUAL SERVICES EXPENSES (73000)	Direct	41.5	76.9	101.3	152.0
	Indirect	86.7	105.9	149.7	176.6
	Total:	\$128.2	\$182.8	\$251.0	\$328.6
Contractual services are services purchased from sources outside the Division and include telephone calls, postage, expert witnesses and Department of Law legal work, and other costs.					
SUPPLIES EXPENSES (74000)	Direct	1.4	2.6	2.7	1.2
	Indirect	11.6	20.0	18.9	15.1
	Total:	\$13.0	\$22.6	\$21.6	\$16.3
Supply expenses include paper, envelopes, cassette tapes, and other office supplies.					
EQUIPMENT EXPENSES(75000)	Direct	0.3	0.0	0.2	0.0
	Indirect	42.0	13.1	13.5	6.6
	Total:	\$42.3	\$13.1	\$13.7	\$6.6
Equipment expenses include purchase and repair of computers, software, copy machines, telephones and other office equipment.					
	Total Direct:	\$244.3	\$354.0	\$473.4	\$552.0
	Total Indirect:	\$356.2	\$424.5	\$453.6	\$466.8
TOTAL EXPENSES:		\$600.5	\$778.5	\$927.0	\$1018.8
TOTAL REVENUE:		\$997.3	\$412.3	\$1084.6	\$589.6
BALANCE (Revenue - Expenses) :		\$396.8	(\$366.2)	\$157.6	(\$429.2)

This chart shows the figures in the state accounting system on the day the chart was prepared.

Some bills are not received and entered in the system for several months after the expense occurs.

Direct costs are expenditures which can be specifically attributed to distinct occupations. Indirect costs are collective expenses which are shared equally by all division license holders on a per capita basis.

Fiscal Years for Alaska's state government begin July 1 and end June 30.

Figures are in thousands of dollars and are rounded to the nearest hundred. For example, \$1.3 means \$1,300.00.

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DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT
OCCUPATIONAL LICENSING

BUDGET REPORT FOR THE BOARD OF NURSING

As of September 23, 2002

Nursing (In Thousands)		NUR/NAR FISCAL YEAR 2001	NUR/NAR FISCAL YEAR 2002
PERSONAL SERVICES EXPENSES (71000)	Direct	428.7	477.4
	Indirect	290.8	282.3
	Total:	\$719.5	\$759.7
Personal service expenses are employee salaries and benefits. In Fiscal Year 1994 the Division began using detailed time sheets to record actual time spent on the various licensing areas.			
TRAVEL EXPENSES (72000)	Direct	31.6	39.2
	Indirect	3.9	3.9
	Total:	\$35.5	\$43.1
Travel expenses include transportation, food and lodging for board meetings, complaint investigations, disciplinary hearings and national meetings.			
CONTRACTUAL SERVICES EXPENSES (73000)	Direct	212.1	192.4
	Indirect	146.8	173.5
	Total:	\$358.9	\$365.9
Contractual services are services purchased from sources outside the Division and include telephone calls, postage, expert witnesses and Department of Law legal work, and other costs.			
SUPPLIES EXPENSES (74000)	Direct	4.0	3.7
	Indirect	15.8	15.5
	Total:	\$19.8	\$19.2
Supply expenses include paper, envelopes, cassette tapes, and other office supplies.			
EQUIPMENT EXPENSES(75000)	Direct	1.7	0.0
	Indirect	30.6	20.4
	Total:	\$32.3	\$20.4
Equipment expenses include purchase and repair of computers, software, copy machines, telephones and other office equipment.			
	Total Direct:	\$678.1	\$712.7
	Total Indirect:	\$487.9	\$495.6
TOTAL EXPENSES:		\$1166.0	\$1208.3
TOTAL REVENUE:		\$1919.7	\$927.7
BALANCE (Revenue - Expenses) :		\$753.7	(\$280.6)

Expense and revenue for the Nurse Aide Program are reflected in the budget reports starting FY:93

Health and Social Services RSA revenue, received to date, is included in the Total Revenue figure.

This chart shows the figures in the state accounting system on the day the chart was prepared.

Some bills are not received and entered in the system for several months after the expense occurs.

Direct costs are expenditures which can be specifically attributed to distinct occupations. Indirect costs are collective expenses which are shared equally by all division license holders on a per capita basis.

Fiscal Years for Alaska's state government begin July 1 and end June 30.

Figures are in thousands of dollars and are rounded to the nearest hundred. For example, \$1.3 means \$1,300.00.

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ALASKA STATE LEGISLATURE

LEGISLATIVE BUDGET AND AUDIT COMMITTEE

Division of Legislative Audit



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Juneau, AK 99811-3300
(907) 465-3830
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legaudit@legis.state.ak.us

September 26, 2002

Members of the Legislative Budget
and Audit Committee:

We have reviewed the responses of the director of Occupational Licensing and the chair of the Board of Nursing. In response to these comments, and the additional information provided, we offer the following comments.

Projected deficit for the Board of Nursing

The financial impact of two factors has mitigated the projected deficit for the Board of Nursing.

1. Inclusion of nursing aide financial activity since FY 98 increases the cumulative surplus for the board at the end of FY 01. In the financial schedule presented on page 11 of the report, we included only FY 01 revenues and expenditures related to nursing aides. The board did collect registration fees and maintain a listing of nursing aides in prior years, but FY 01 was the first year the board assumed full oversight for nursing aides from the Department of Health and Social Services. In contrast, the director's response included the financial activity for nurses aides since FY 98, thus increasing the available surplus at the end of FY01.
2. Higher than expected revenues were collected in FY 02. Due to a significant increase in the number of applicants seeking licensure, revenues collected for application fees and first time licenses fees were significantly larger than estimated. FY 02 revenues for nurses exceeded \$600,000. Compared to the two previous non-renewal year revenue totals (FYs 98 and 00) which averaged around \$200,000, this represented a three-fold increase in licensing revenues for the board.

Based on the level of FY 02 revenues, restated prior year revenues and expenditure comparisons, we agree that the board's current fee structure does provide sufficient revenues to cover the board's costs.

Fee Setting Process

In her response the director notes, "*the Department of Community and Economic Development sets license fees, rather than the board.*" This is a clarification of our comment (page 10) that the Board of Nursing had not set fees at a sufficient level. We acknowledge that the division is the final authority for setting for various licensing boards, but it is our experience that fee establishment is a very interactive process between the board and the division.

A handwritten signature in black ink that reads "Pat Davidson". The signature is written in a cursive style with a long horizontal stroke at the end.

Pat Davidson, CPA
Legislative Auditor

HB

80

23-LS0387AH
Ford
3/7/03

Rep. Kapsner

CS FOR HOUSE BILL NO. 80()

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-THIRD LEGISLATURE - FIRST SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVES KAPSNER, Fate, Lynn, Guttenberg, Crawford

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to sales of certain food and soft drinks in public schools and to
2 commercial advertising in public schools."

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

4 * Section 1. AS 14.03 is amended by adding new sections to read:

5 Sec. 14.03.135. Sale of certain food and soft drinks prohibited. (a) During
6 regular school hours of a day in session at a public school as described under
7 AS 14.03.040, the following items may not be sold in a public school building or on
8 public school property:

9 (1) carbonated soft drinks and soft drinks that contain 42 or more
10 grams of sugar per 20-ounce serving; or

11 (2) a food item that derives more than 35 percent of its calories from
12 fat or more than 10 percent of its calories from saturated fat or an item that contains
13 more than 35 percent sugar by weight.

14 (b) The provisions of (a)(1) of this section do not apply to soft drinks that

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contain at least 50 percent fruit juice.

(c) The provisions of (a)(2) of this section do not apply to a food item included in a free or reduced price lunch program operated by the school.

Sec. 14.03.137. Commercial advertising prohibited. A public school building or the grounds of a public school may not be used to display commercial advertising. This section does not apply to advertising that is

- (1) sponsored by a charitable or nonprofit organization;
- (2) an integrated part of clothing; or
- (3) an integrated part of student supplies, materials, books, athletic equipment, or the educational program.

* **Sec. 2.** The uncodified law of the State of Alaska is amended by adding a new section to read:

APPLICABILITY. AS 14.03.135, added by sec. 1 of this Act, applies to the public schools of this state as follows:

- (1) elementary schools, beginning July 1, 2003;
- (2) middle schools, beginning July 1, 2005; and
- (3) high schools, beginning July 1, 2006.

23-LS0387\D
Ford
3/1/03

**SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 80
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-THIRD LEGISLATURE - FIRST SESSION**

BY REPRESENTATIVES KAPSNER, Fate, Lynn, Guttenberg, Crawford

**Introduced:
Referred:**

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to sales of certain food and soft drinks in public schools and to
2 commercial advertising in public schools."

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

4 * **Section 1.** AS 14.03 is amended by adding new sections to read:

5 **Sec. 14.03.135. Sale of certain food and soft drinks prohibited.** (a)

6 Between the hours of 8:00 a.m. and 5:00 p.m. during a day in session at a public
7 school as described under AS 14.03.040, the following items may not be sold in a
8 public school building or on public school property:

9 (1) carbonated soft drinks and soft drinks that contain 42 or more
10 grams of sugar per 20-ounce serving; or

11 (2) a food item that derives more than 35 percent of its calories from
12 fat or more than 10 percent of its calories from saturated fat or an item that contains
13 more than 35 percent sugar by weight.

14 (b) The provisions of (a)(1) of this section do not apply to soft drinks that

1 contain at least 50 percent fruit juice.

2 (c) The provisions of (a)(2) of this section do not apply to a food item
3 included in a free or reduced price lunch program operated by the school.

4 **Sec. 14.03.137. Commercial advertising prohibited.** A public school
5 building or the grounds of a public school may not be used to display commercial
6 advertising. This section does not apply to advertising that is

7 (1) sponsored by a charitable or nonprofit organization;

8 (2) an integrated part of clothing; or

9 (3) an integrated part of student supplies, materials, books, athletic
10 equipment, or the educational program.

11 * **Sec. 2.** The uncodified law of the State of Alaska is amended by adding a new section to
12 read:

13 **APPLICABILITY.** AS 14.03.135, added by sec. 1 of this Act, applies to the public
14 schools of this state as follows:

15 (1) elementary schools, beginning July 1, 2003;

16 (2) middle schools, beginning July 1, 2005; and

17 (3) high schools, beginning July 1, 2006.

Representative Mary Kapsner

State Capitol • Juneau, Alaska 99801-1182

Phone: (907) 465-4942 • Fax: (907) 465-4589

E-Mail: Representative_Mary_Kapsner@legis.state.ak.us



House District 38

Yukon Kuskokwim Delta

Akiachak

Aktak

Atmautluak

Bethel

Chefornak

Eek

Goodnews Bay

Kasigluk

Kipnuk

Kongiganak

Kwethluk

Kwigillingok

Lower Kalskag

Mekoryuk

Napakiaak

Napaskiak

Newtok

Nighmute

Nunapitchook

Oscarville

Platinum

Quinhagak

Toksook Bay

Tuluksak

Tununak

Tuntutullak

Upper Kalskag

House Bill 80 – Restricting the sales of certain foods and soft drinks in schools Sponsor Statement

Good health is a top concern for Alaskans, particularly the health of our children. Preventative medicine is always preferable to the alternative – treating an illness. In order to ward off serious health problems later on, it is of utmost importance to foster healthy habits in our children from the start. In recent years, public health advocates have worked with some success to confront destructive behaviors that pose health hazards, such as smoking, drinking and driving, and drug and inhalant abuse.

Today, new health issues present themselves. Surgeon General David Satcher tells us in his recent call to action that 300,000 Americans now die every year due to overweight/obesity related illnesses. This toll threatens to outweigh many health gains our nation has achieved in recent years. In all groups rates of obesity are climbing, most alarmingly with children. Government figures tell us that 60 percent of American adults and 13 percent of children in the U.S. are overweight or obese.

Obesity and overweight are clearly linked to greater risk for high blood pressure and cholesterol, heart disease, stroke, and diabetes. Twenty years ago, type 2 or “adult onset” diabetes accounted for only 3-5 percent of diabetes in children. Now it ranges from 25-30 percent. Diabetes is a heavy-hitter in terms of health care costs; costs associated with the disease are already estimated at more than \$100 billion annually. 9.4 percent of national health care expenditures are directly related to obesity and physical inactivity.

Physical activity levels are one factor in this problem, but poor nutrition accounts for a large piece of the pie. One statistic that has grown in correlation to the rate of obesity is the rate of soda consumption. An average can of soda contains about 160 calories, all from sugar. Many school districts are making soft drinks and other types of junk food readily available to middle and high school students in order to supplement their revenues.

House bill 80 is a first step towards pushing these junk foods out of our schools. HB 80 prohibits the sale of sodas, similarly sugared drinks, and sugary, fatty junk foods in schools between 8 a.m. and 5 p.m. It does not apply to distribution of foods included in a free or reduced price lunch program operated by the school.

Alaska's schools are learning institutions where our students learn the skills they will use throughout their entire lives. If we want our children to be healthy, we must stop balancing school's budgets with their health.

Soda Pop Point Sheet

- Rates of obesity and tooth decay are rising for all age groups – including adolescents.
 - The percentage of **overweight children** (age 6-11) in Alaska has more than **doubled** since 1976 – from **7% to 15%**. (Source: **National Health and Nutrition Examination Survey**)
 - The percentage of **overweight teens** (age 12-19) in Alaska has **tripled** since 1976, from **5% to 15%**. (Source: **National Health and Nutrition Examination Survey**)
- Soda pop is linked to **tooth decay** and higher rates of **obesity** and **diabetes**.
- A twelve-ounce can of non-diet soda has, on average, **160 calories** and **30-40 grams of sugar**, and approximately **75 grams of sodium**.
- Eating habits formed in childhood tend to carry over into adulthood.
 - Soda consumption has largely eclipsed consumption of milk, water, and juice among adolescents.
 - The average **19-year-old male** consumes approximately **870 12-ounce cans of soda a year** – in terms of nutritional content, that's **40,455 grams of sugar**, and **147,900 calories**.
- Many school districts are using revenues from pop sales to supplement budget shortfalls – many are signing into exclusive marketing contracts with soda distributors.
- Soda is typically sold in schools in **12-ounce cans** and **20-ounce bottles** – sizes that are **1.5 and 2.5, respectively, times the size of a recommended serving** (8 oz).
- **Medicare** spent **\$5,804,166** in FY02 for all restorative dental care on Alaskan children aged 5-18. For crowns alone, Medicare allocated **\$1,012,183**.

HB 80

- HB 80 prohibits the sale of soda pop during school hours.
 - Prohibits the sale of all **carbonated soft drinks (including diet sodas)**.
 - Prohibits the sale of soft drinks (**including non-carbonated drinks**) with more than **42 grams of sugar per 20-ounce serving**.
 - These prohibitions would be in place between the hours of **8 a.m. and 5 p.m.**, when school is in session.
- HB 80 is modeled after a similar policy crafted by the **Los Angeles School District**.