

ALASKA STATE LEGISLATURE

LEGISLATIVE BUDGET AND AUDIT COMMITTEE

Division of Legislative Audit



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SUMMARY OF: A Sunset Review of the Department of Commerce, Community, and Economic Development, Board of Psychologists and Psychological Associate Examiners, October 27, 2004

PURPOSE OF THE REPORT

In accordance with Title 24 and Title 44 of the Alaska Statutes, we have reviewed the activities of the Board of Psychologists and Psychological Associate Examiners (BPPA). As required by state law, the legislative committees of reference are to consider this report when considering whether to extend the termination date for BPPA. Currently under AS 08.31.010(c)(18), the board will terminate on June 30, 2005. If the legislature does not extend the termination date for the board, BPPA will have one year to conclude its administrative operations.

REPORT CONCLUSIONS

In addition to developing our conclusion regarding extending BPPA's termination date, we also analyzed the operating costs of the board. Such analysis was done to evaluate possible cost savings that might be generated by consolidation of various behavioral health boards.

The Board of Psychologist and Psychological Associate Examiners should be extended

In our opinion, BPPA is operating in an efficient and effective manner and should continue to regulate the psychology profession. We believe the board is safeguarding the public interest by ensuring the competence and integrity of those who hold themselves out to the public as psychologists and psychological associates. BPPA serves a public purpose and has demonstrated an ability to conduct its business in a satisfactory manner.

Alaska Statute 08.03.010(c)(18) requires the Board of Psychologist and Psychological Associate Examiners be terminated on June 30, 2005. If the legislature takes no action, under AS 08.03.020, BPPA will have a one-year period to administratively conclude its affairs. We recommend the legislature extend the board's termination date to June 30, 2010.

Board consolidation provides minimal savings over current BPPA costs

We analyzed various aspects of consolidating all licensing boards related to behavioral health. From the perspective of efficiency and effectiveness, the most tangible benefit of consolidation for BPPA would be a minor cost savings for each licensee.

By state law, BPPA is required to hold a minimum of three meetings each year. In recent years the board has spent relatively little on conducting meetings. This likely can be attributed to the fact that the five-person board, effectively, had only three members attending meetings on a regular basis. As a result, travel and per diem costs have been minimal.

Out of the \$81,000 average annual operating cost, less than 7.5 percent, or an estimated \$5,000, is related to board meeting costs. As a result we project little, if any, administrative savings for psychologists and associates in the consolidation of the boards. In a survey of licensees, more than 75 percent who responded said their biggest complaint of the licensing process was their licensing fees were too high. However, when asked if they would favor board consolidation if it resulted in lower fees, roughly the same percentage (72.7 percent) of the 128 respondents stated they would still be opposed to such action.

Given the results of the survey, combined with the lack of any significant financial savings in board costs, we conclude that consolidating the Board of Psychologists and Psychological Associates with other behavioral health boards would not increase efficiency or effectiveness in the board's operation.

FINDINGS AND RECOMMENDATIONS

Recommendation No. 1

The Division of Occupational Licensing, in conjunction with the Board of Psychologist and Psychological Associate Examiners, should increase licensing fees to eliminate the board's current and projected operating deficits.

At the end of FY 04, the board had an operating deficit of almost \$75,000. Based on expenditures and revenues to date, we project that it is likely the board will be in a deficit again at the end of FY 05. The major contributing factor to the deficit is that board costs have exceeded license renewal fee revenues, without the board and the Division of Occupational Licensing putting in place the necessary licensing and other fee adjustments. Alaska Statute 08.01.065(c) requires fees be set to approximate the regulatory costs related to that occupation.

Recommendation No. 2

The Office of the Governor should take steps to expedite appointments, most importantly the public member seat, to the Board of Psychologists and Psychological Associates.

November 12, 2004

Members of the Legislative Budget
and Audit Committee:

In accordance with the provisions of Title 24 and Title 44 of the Alaska Statutes, the attached report is submitted for your review.

DEPARTMENT OF COMMERCE, COMMUNITY,
AND ECONOMIC DEVELOPMENT
BOARD OF PSYCHOLOGIST AND PSYCHOLOGICAL ASSOCIATE EXAMINERS

October 27, 2004

Audit Control Number

08-20035-05

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)(18), the Board of Psychologists and Psychological Associate Examiners is scheduled to terminate on June 30, 2005. If the legislature takes no action to extend the termination date, the board would be allowed one year in which to conclude its administrative operations. We recommend that the legislature extend the board's termination date to June 30, 2010.

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

Pat Davidson, CPA
Legislative Auditor

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OBJECTIVES, SCOPE, AND METHODOLOGY

In accordance with Title 24 and Title 44 of the Alaska Statutes, we have reviewed the activities of the Board of Psychologists and Psychological Associate Examiners (BPPA). As required by state law, the legislative committees of reference are to consider this report when considering whether to extend the termination date for BPPA. Currently under AS 08.03.010(c)(18), the board will terminate on June 30, 2005. If the legislature does not extend the termination date for the board, BPPA will have one year to conclude its administrative operations.

Objectives

The four 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 licensed psychologists and psychological associates.
4. To analyze possible costs savings and other factors in order to determine if there is merit in the consolidation of BPPA with three other behavioral-health related boards.

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 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 most of this review. We followed professional standards to determine that the other auditor was independent and their work was competent and sufficient.

Our audit reviewed the operations and activities of the Board of Psychologist and Psychological Associate Examiners for the period of FY 01 through FY 04. The major areas of our review were licensing, examination, investigations, and board proceedings. We reviewed and evaluated the following:

1. Applicable statutes and regulations.
2. Tests of files and documentation of licensees.

3. Minutes of board meetings and Division of Occupational Licensing correspondence files.
4. Annual reports issued by the Board of Psychologists and Psychological Associate Examiners.
5. Case files involving complaint investigations related to professionals licensed by, and applicants seeking licensure from, BPPA.
6. Direct and indirect costs charged to the board in recent years, in order to assess the possibility of achieving significant cost savings through a merger of behavioral health related licensing boards.

We interviewed various staff of the Division of Occupational Licensing, including both licensing staff and investigators.

We conducted a survey of occupational licensees of the four behavioral health boards. Survey responses varied from 50 to 62 percent, specifically:

<u>Behavioral Health Boards</u>	<u>Licensees</u>	<u>Responses</u>	<u>Percent Response</u>
Board of Marital and Family Therapy	94	58	62%
Board of Professional Counselors	300	150	50%
Board of Psychologists and Psychological Associates	205	128	62%
Board of Social Work Examiners	347	187	54%

ORGANIZATION AND FUNCTION

The Board of Psychologist and Psychological Associate Examiners (BPPA) was established for the purpose of controlling and regulating the practice of psychology in the State.

Board Membership

The Board of Psychologist and Psychological Associate Examiners is composed of five members. Statutes require three board positions be licensed psychologists, one a licensed psychological associate, and one member be an individual from the general public. Statute prohibits these public members from having a direct financial interest in the health care industry.

Board Duties

The Board regulates licensed psychologists and psychological associates in the State. It sets education, training, and work experience standards necessary for an individual to be licensed as a psychologist or psychological associate.

A psychologist is licensed to use psychological principles, methods, and procedures for the treatment of emotional and mental disorders. A psychological associate is licensed to practice under the supervision of a licensed psychologist.

The board's duties include:

1. Examining and issuing licenses to qualified applicants.
2. Developing written guidelines to ensure licensing requirements are not unreasonably burdensome and issuance of licenses is not unreasonably withheld or delayed,
3. Holding hearings in order to impose disciplinary sanctions on persons who violate the statutes or regulations related to the licensure of psychologist and psychological associate.
4. Adopting regulations necessary to enforce the statutes relating to the Board of Psychologist and Psychological Associate Examiners.

Members of the Board of
Psychologist and Psychological
Associate Examiners
(as of June 30, 2004)

Carey S. Edney, Chair, Ph.D.
Cathy Biggerstaff, M.S.**
Lorin L. Bradbury, Ph.D.
John A. Miller, Ph.D.

Public Member
Vacant

***Psychological Associate Member*

An applicant may be licensed either by passing an examination given by the board, or by what is termed “credentials.” In order to be licensed by credentials, an applicant must provide proof of licensure by another authority, such as a state, that has equal or more stringent licensing requirements than the State of Alaska.

In order to become licensed as a psychologist by examination, an applicant must have a doctorate degree; one year of post doctoral experience approved by the board; and, pass a written examination. The examination is composed of two parts: the National Examination for Professional Practice in Psychology jointly developed by the Association of State and Provincial Psychology Boards, and a testing organization, Professional Examination Service. After passing this examination, an applicant must also pass an essay examination, developed by the state board, on law and ethics.

To qualify for licensure by examination, a psychological associate must have at least two years of supervised experience after having obtained a masters degree in a board-recognized field of psychology. An applicant for licensure must also have passed the professional examination, the state’s jurisprudence test, and obtained the required letters of recommendation.

Department of Commerce, Community, and Economic Development, Division of Occupational Licensing

The Department of Commerce, Community, and Economic Development, Division (DCCED) of Occupational Licensing (OccLic) provides administrative and investigative assistance to the BPPA. 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 08.01.087 empowers OccLic 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 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, and
4. issue subpoenas for the attendance of witnesses and records.

BACKGROUND INFORMATION

In 2002, while considering the bill (HB 343) that would extend the termination date of the Board of Professional Counselors, the House Labor and Commerce Committee developed a letter of intent. The letter stated:

It is the intent of the House Labor and Commerce Committee that the operations and regulatory oversight responsibilities of the following professional licensing boards be combined into one board:

- 1. Board of Professional Counselors*
- 2. Board of Marital and Family Therapy*
- 3. Board of Psychologist and Psychological Associate Examiners*
- 4. Board of Social Work Examiners*

To help ensure an effective transition, the four boards are to work cooperatively to develop an appropriate proposed statute for this new combined board.

Such a proposed statute should be designed to accomplish the intent of the committee to combine the operations of the boards while meeting the individual regulatory and oversight responsibilities of each current separate licensing board. If the boards involved would like to propose alternative combinations of how to combine the four boards, they are encouraged to also draft alternative proposed statutes.

Jointly, the chair of each board is to report on their progress in both January 2003 and 2004.

This intent, generated by the 22nd Legislature was modified by a letter, co-signed by the chairs of the House and Senate Labor and Commerce Committees of the 23rd Legislature. The letter discharged the boards from planning and reporting on their progress as required in the original statement of intent. The Board of Psychologist and Psychological Associate Examiners (BPPA) continues to emphatically express reservations regarding the advisability of merging the four boards.

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REPORT CONCLUSIONS

In addition to developing our conclusion regarding extending the Board of Psychologist and Psychological Associate Examiners (BPPA) termination date, we also analyzed the operating costs of the board. Such analysis was done to evaluate possible cost savings that might be generated by consolidation of behavioral health boards along the lines suggested in the 2002 letter of intent. Further discussion of our conclusions follows.

The Board of Psychologist and Psychological Associate Examiners should be extended

In our opinion, BPPA is operating in an efficient and effective manner and should continue to regulate the psychology profession. We believe the board is safeguarding the public interest by ensuring the competence and integrity of those who hold themselves out to the public as psychologists and psychological associates. BPPA serves a public purpose and has demonstrated an ability to conduct its business in a satisfactory manner.

Alaska Statute 08.03.010(c)(18) requires the Board of Psychologist and Psychological Associate Examiners be terminated on June 30, 2005. If the legislature takes no action, under AS 08.03.020, BPPA will have a one-year period to administratively conclude its affairs. We recommend the legislature extend the board's termination date to June 30, 2010.

Implementation of our recommendation would require the legislature to exercise some discretion permitted by state law. Alaska Statute 08.03.020(c) provides for the following:

*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]*

Two factors influence our recommendation that the legislature extend the board to June 30, 2010. First, the board has operated effectively and in the public's interest over the past four years. Secondly, this extension would work towards smoothing out the number of boards and commissions that come under sunset in a particular year. Typically, there are four to six boards and/or commissions scheduled for a legislative sunset review; however, in 2005 there are 12 boards scheduled for sunset. Nonstandard extension dates will allow for a more even distribution of organizations going through the sunset process in any given year.

Board consolidation provides minimal savings over current BPPA costs

We analyzed various aspects of consolidating all licensing boards related to behavioral health. From the perspective of efficiency and effectiveness, the most tangible benefit of consolidation for BPPA would be a minor cost savings for each licensee.

By state law, BPPA is required to hold a minimum of three meetings each year. In recent years the board has spent relatively little on conducting meetings. This likely can be attributed to the fact that the five-person board, effectively, had only three members attending meetings on a regular basis (see Recommendation No. 2). As a result, travel and per diem costs have been minimal.

Out of the \$81,000 average annual operating cost, less than 7.5 percent, or an estimated \$5,000, is related to board meeting costs. As a result, we project little, if any, administrative savings for psychologists and associates in the consolidation of the boards. Most BPPA licensees are not concerned about such savings. In a survey we sent to all licensees of the board, more than 75 percent who responded said their biggest complaint of the licensing process was their licensing fees were too high. However, when asked if they would favor board consolidation if it resulted in lower fees, roughly the same percentage (72.7 percent) of the 128 respondents stated they would still be opposed to such action.

Given the results of the survey, combined with the lack of any significant financial savings in board costs, we conclude that consolidating the Board of Psychologists and Psychological Associates with other behavioral health boards would not increase efficiency or effectiveness in the board's operation.

FINDINGS AND RECOMMENDATIONS

Recommendation No. 1

The Division of Occupational Licensing, in conjunction with the Board of Psychologist and Psychological Associate Examiners (BPPA), should increase licensing fees to eliminate the board's current and projected operating deficits.

At the end of FY 04, the board had an operating deficit of almost \$75,000. Based on expenditures and revenues to date, we project that it is likely the board will be in a deficit again at the end of FY 05. The major contributing factor to the deficit is that board costs have exceeded license renewal fee revenues, without the board and Division of Occupational Licensing (OccLic) putting in place the necessary licensing and other fee adjustments. Alaska Statute 08.01.065(c), requires fees be set to approximate the regulatory costs related to that occupation.

The most significant cost element in recent years have involved more than \$20,000 in contractual services expenditures, much of which has been generated by Department of Law billings. These legal costs have been generated by licensing sanction actions the board has been involved with over the past few years. Additionally, during the same period there was an increase in the indirect cost pool base of approximately 22 percent. Without further increases to licensing fees for BPPA, the deficit will remain and it is likely the board will not cover annual operating costs in FY 05 or FY 06.

An increase in licensing fees is necessary to eliminate the deficit and to meet annual operating costs of the board. Accordingly, we recommend the department and board review regulatory costs and licensing fees to ensure BPPA fees are sufficient to eliminate the deficit and meet annual operating costs and proper regulation of the profession.

Recommendation No. 2

The Office of the Governor should take steps to expedite appointments, most importantly the public member seat, to BPPA.

As of mid-October 2004, there were two vacancies on the board. The most recent vacancy occurred in the seat designated for a representative of licensed psychological associates. The

longest standing vacancy was that of the seat designated to represent the general public.¹ That seat has not been filled for more than two years and the prior public member did regularly attend board meetings.

As a result, the public member seat was vacant for all of FY 01 through FY 04. The lack of a public member indicates the board does not receive any public input, except for public comments, during board meetings.

Public members are an important, but often overlooked, part of occupational licensing boards. Technical expertise is provided by professional members while public members provide a consumer perspective. Consumer protection is the basis for regulation in the first place. While public board members are often initially inexperienced in the profession being regulated, they are on the board to represent the consumer and interests of the general citizenry. Contributing to board decisions, such representation provides balance to a board to prevent undue bias toward the profession being regulated.

Accordingly, we recommend that the board and Governor's office work together in expediting appointments to the board's public member position.

¹AS 08.86.010 creates a five member board consisting of *“three licensed psychologists, a licensed psychological associate, and one person who has no direct financial interest in the health care industry.”*

This prohibition against the individual having a direct financial interest in the health care industry is even a little broader than the restrictions prohibition for public members set out at AS 08.01.025 which precludes members from

- (1) [being] *be engaged in the occupation that the board regulates;*
- (2) [being] *associated by legal contract with a member of the occupation that the board regulates except as a consumer of the services provided by a practitioner of the occupation; or*
- (3) [having] a direct financial interest in the occupation that the board regulates.

A **ANALYSIS OF PUBLIC NEED** **D**

The following analysis of board activities relates to the public need factors defined in the “sunset” review law, 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.

<i>The extent to which the board, commission, or program has operated in the public interest.</i>
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The board, through regulation of the licensure of psychologists and psychological associates, has provided the public with qualified professionals. In addition the board has:

1. Improved access to licensing examinations. The board has improved access for individuals seeking licensure by offering licensing examinations four times a year. Previously, applicants had only two occasions each year to sit for the examination.
2. Continued to keep abreast with national regulatory trends and concerns. The board continues to send a representative to the Association of State and Provincial Psychology Board (ASPPB) conference. The primary purpose of attending this conference is to keep the Board apprised of various issues of concern, both in the U.S. and Canada, related to licensing.
3. Continued to develop a proactive, continuing education monitoring process. The board has developed an active review process to monitor compliance with continuing education requirements necessary for license renewals. Further, the board has continued to actively monitor the types of continuing education that is approved as acceptable for members of the psychology profession. The board now requires nonacademic continuing education to be provided by sponsoring organizations approved by the American Psychological Association, or another professional organization representing a mental health profession.
4. Established criteria for professionals used as “expert” witnesses. The Board of Psychologist and Psychological Associate Examiners (BPPA) has developed a list of criteria to help jurists, attorneys, and other interested professionals determine who may be considered an expert witness in the field of psychology. The board has also developed a register of specific licensed individuals that it believes meet the established criteria.

<i>The extent to which the operation of the board, commission, or agency program has been impeded or enhanced by existing statutes, procedures, and practices that it has adopted, and any other matter, including budgetary, resource, and personnel matters.</i>

The board consistently met without the presence of an appointed public member. Under state law, the board is required to have five members, one which is from the general public with

no economic interests in the psychologist profession. For all of FY 01 through FY 04 no public member attended a BPPA board meeting. At half of the meetings, one of the licensed board members was also absent, resulting in three licensed individuals taking actions that impact the profession, with no presence of the general public. As discussed in Recommendation No. 2, we recommend the Office of the Governor to fill board positions in a timely manner with nonlicensed individuals motivated to serve the general public's interest.

Alaska Statute 08.01.065(c) states, "...that the total amount of fees collected for an occupation approximately equals the actual regulatory costs for the occupation." The Division of Occupational Licensing (OccLic) uses a biennial roll-forward method to determine the amount of fees to charge. The board renews licenses on the odd-numbered fiscal years, accordingly – FY 05 is projected to be a high revenue year.

The schedule below summarizes BPPA's revenues, expenditures, and allocated operating expenses for the last three complete fiscal years.

State of Alaska Board of Psychologist and Psychological Associate Examiners FY 02 – FY 04 Schedule of Revenues and Expenditures (Unaudited)			
	<u>FY 04</u>	<u>FY 03</u>	<u>FY 02</u>
Revenue	\$ <u>27,700</u>	\$ <u>178,600</u>	\$ <u>29,100</u>
Direct Expenditures			
Personal Services	37,200	50,000	36,900
Travel	7,400	5,100	6,900
Contractual	23,600	23,600	21,500
Supplies	<u>-0-</u>	<u>200</u>	<u>-0-</u>
Total Direct Expenditures	68,200	78,900	65,300
Indirect Expenditures	<u>10,700</u>	<u>10,500</u>	<u>8,500</u>
Total Expenditures	78,900	89,400	73,800
Net Income (Loss)	<u>(51,200)</u>	<u>89,200</u>	<u>(44,700)</u>
Beginning Cumulative Surplus (Deficit)	(23,700)	(112,900)	(68,200)
Ending Cumulative Surplus (Deficit)	\$ <u>(74,900)</u>	\$ <u>(23,700)</u>	\$ <u>(112,900)</u>

As reflected in the summary schedule on the previous page, the board's balance at the end of FY 04 is a deficit of almost \$75,000. Although this shows the board has made progress from the FY 02 operating deficit of over \$112,000 – the current situation suggests licensing fees must be increased to bring the board into compliance with state law. See Recommendation No. 1 for further discussion regarding the need to raise licensing fees.

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

In 1999 the legislature adopted a joint resolution condemning an article published by the American Psychological Association. The article was very controversial, due to its claim there was minimal psychological harm generated by sexual contact between adults and children. While individual psychologists testified in support of the resolution condemning the study – no testimony was formally made on behalf of the board regarding this or other legislative action.

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

The location, date, and time of upcoming board meetings and notices of proposed changes in regulations are published in the *Anchorage Daily News*. The board's meeting agenda sets aside adequate time for public comment. Minutes from the meetings reflect public participation throughout the meeting.

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

BPPA recommended a change to state regulation related to nonacademic continuing education. All providers must be approved by the American Psychological Association or another professional organization representing a mental health profession. This regulation change more narrowly defines the requirements for continuing education, and will assist licensees in choosing courses.

The board also adopted an amendment to 12 AAC 60.030(2)(A) requiring verification of the applicant's score on the Examination for Professional Practice in Psychology be sent to the board directly from the ASPPB's score-reporting service, since some states allow veteran's preference points.

Public notices of proposed regulations are published in major newspapers, as previously discussed. Meetings where regulations were considered were appropriately noticed and time was set aside for public testimony.

The efficiency with which public inquiries or complaints regarding the activities of the board, commission, or agency filed with it, with the department to which a board or commission is administratively assigned, or with the office of victims' rights or the office of the ombudsman have been processed and resolved.

From July 2001 through May 2004, OccLic's investigative unit opened up 24 investigation cases related to BPPA licensees or applicants. One complaint involved what was termed drug diversion, five involved allegations of unlicensed practice, while 11 complaints were related to violations of professional ethics. The other seven complaints involved administrative matters such as contested licensure denials or instances where continuing professional education credits were disallowed.

Eight of the complaints came from clients, while another four originated from members of the general public. Other BPPA licensees were responsible for six complaints.

We reviewed the investigative actions involved with 11 of the 24 complaints. In our opinion, all complaints were investigated in a timely manner and, given the nature of the complaints involved, each was appropriately resolved. We conclude the investigation process for BPPA-related complaints was carried out in an effective and efficient manner.

No BPPA complaints or investigations were carried out by the Office of Victim's Rights or the state Office of the Ombudsman.

The extent to which a board or commission that regulates entry into an occupation or profession has presented qualified applicants to serve the public.

Listed below is a summary of new licenses issued by the board for the period under review.

New Licenses Issued (Exclusive of Renewals)	FY01	FY02	FY03	FY04	Total issued as of June 30, 2004
Psychologists	16	7	10	11	155
Psychological Associate	3	2	5	1	49

The application process for licensing appears reasonable and appropriate. The licensing process is neither unduly restrictive nor too lax. Continuing education is required and adequately monitored by the board to promote a high level of quality performance and ensure the integrity of the profession.

Each applicant is required to satisfy requirements for licensing. Board meeting minutes reflect that BPPA considers each applicant and verifies licensing requirements are satisfied prior to issuing a license.

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

We did not find any evidence that BPPA was not complying with state personnel practices, including affirmative action in qualifying applicants. In no instances has the board denied an applicant a license based on personal attributes.

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

As discussed in Recommendation No. 1, licensing fees need to be increased to bring BPPA into compliance with state law which requires licensing fees be set to cover costs of regulating a given profession. This is an administrative matter that should be addressed by the Division of Occupational Licensing and the board.

As discussed in Recommendation No. 2, a representative of the general public must be appointed to the board by the Office of the Governor. The board has met for four years without benefit of a public member, undercutting the public policy objective of having representatives from the general citizenry sitting on professional licensing boards.

December 23, 2004

Ms. Pat Davidson
Legislative Auditor
Legislative Audit Division
P.O. Box 113300
Juneau, AK 99811-3300

Dear Ms. Davidson:

This letter is in response to your agency's October 27, 2004 Preliminary Report regarding a sunset review of the Board of Psychologist and Psychological Associate Examiners.

Recommendation No. 2

The Office of the Governor should take steps to expedite appointments, most importantly the public member seat, to the Board of Psychologists and Psychological Associates.

The Office of the Governor concurs with this recommendation although it should be noted that it is difficult to find persons who wish to serve on this Board.

Sincerely,

Linda J. Perez
Administrative Director

cc: Jim Griffin, Audit Manager
Laraine Derr, Director Boards & Commissions



OFFICE OF THE COMMISSIONER

Frank H. Murkowski, Governor

December 30, 2004

Pat Davidson
Legislative Auditor
Legislative Budget and Audit Committee
Division of Legislative Audit
P.O. Box 113300
Juneau, AK 99811

RE: Board of Psychologist and Psychological Associate Examiners

Dear Ms. Davidson:

We appreciate the opportunity to review the Board of Psychologist and Psychological Associate Examiners Preliminary Audit Report.

Response to the Recommendations are noted below:

Recommendation No. 1:

The Division of Occupational Licensing, in conjunction with the Board of Psychologist and Psychological Associate Examiners, should increase licensing fees to eliminate the board's current and projected operating deficits.

The next renewal licensing cycle for Psychologists and Psychological Associates will begin July 1, 2005. The Division will analyze the deficit and increase fees as needed. During the review process, the Division routinely gives consideration to balancing fees over two bienniums (four years) to minimize the impact of fee changes on current licensees. A challenge for the Division is to balance increasing fees to eliminate the deficit, while at the same time continuing to encourage part-time practitioners, or practitioners from out-of-state who only occasionally practice in Alaska, to renew. Currently, 27 licensees have out-of-state addresses. If the fees are substantially increased, the increased fees will need to take into consideration a number of out-of-state licensees who may choose not to continue occasional practice in Alaska (thus, incrementally increasing the fees to accommodate lost revenue from fewer licensees renewing). Our records reflect thirteen out-of-state licensees failed to renew for the 7/1/03-6/30/05 cycle.

Recommendation No. 2:

The Office of the Governor should take steps to expedite appointments, most importantly the public member seat, to the Board of Psychologists and Psychological Associates.

The Department defers response on this recommendation to the Office of the Governor.

Other: Behavioral Health Licensing Boards' Consolidation

While the Department recommends the legislature consider consolidation of similar licensing professions, we acknowledge the Board of Psychologists and Psychological Associate Examiner's strong opposition to consolidation.

Again, we appreciate the opportunity to comment.

Sincerely,

A handwritten signature in black ink that reads "Edgar Blatchford". The signature is written in a cursive style with a large initial "E".

Edgar Blatchford
Commissioner

cc: Rick Urion, Director
Occupational Licensing

12/27/04

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

Delivered by email to: legaudit@legis.state.ak.us and by Fax to: (907) 465-2347

RE: Preliminary Audit report 12/6/04

Dear Mr. Davidson,

I am responding to the preliminary report I received, with your cover letter dated 12/6/04. What follows is my response, much of which summarizes information from my 12/6/04 response letter to your Management Letter No. 1, addressed to Mr. Jim Griffin of your office. This letter presents some additional information and comment, and some revised information.

General conclusions

Overall, I believe the preliminary audit report is accurate and thoughtfully produced. I agree with the conclusions of the report that the Board of Psychologist and Psychological Associate Examiners should be extended. I further agree that consolidation with other mental health boards is unwarranted as a cost saving measure, and that the majority of licensees do not want such a consolidation. My letter of 12/6/04 details further the potential of increased cost for expert review of complaints and the increased risk for litigation arising from such review were there to be a consolidated board. I am gratified that the audit concludes that the consolidation is inadvisable.

Errors

There are several errors in the report that should be corrected prior to the report going on the record to the legislature.

- (1) Page 3, paragraph 4, describes the psychological associate licensure (LPA) inaccurately when it states that the LPA must practice under supervision of a licensed psychologist for five years and then petition to practice independently. The extended supervision period/petition system has not been in effect for some years, I'm not sure how many, but not in my 7 year tenure on the Board.
- (2) Page 4, paragraph 4, states that the LPA must have three years supervised experience to be licensed by examination. This is not accurate. The LPA must have two years supervised experience, which can only be obtained after completing the masters degree and passing the examination, after which a

temporary license is issued (assuming the application has met all requirements including a board approved Supervision Plan).

- (3) Page 11, item #3 incorrectly states that the board requires all continuing education to be approved by the American Psychological Association. The requirement is more correctly described on page 13. Nonacademic CE hours are approved only if the provider of the education hours is sponsored by or approved as a CE provider by a professional health or mental health organization.

Response to Recommendations

Recommendation No. 1: The Division of Occupational Licensing, in conjunction with the Board of Psychologist and Psychological Associate Examiner, should increase licensing fees to eliminate the board's current and projected operating deficits.

While I understand the basis for your recommendation for a fee increase in the 2005 renewal year, I do not agree with this recommendation and must advocate against the idea of recovering all the accrued debt in one licensing renewal year. I am compelled to disagree not because of my personal beliefs, but based on numerous statements of concern from licensed psychologists and psychological associates in both formal and informal settings. I cannot attend any event sponsored by the Alaska Psychological Association (AKPA) without being asked about the next renewal fee schedule, including multiple pleas to reduce the fee to a level more consistent with fees charged in other jurisdictions and with fees charged in other professions in this jurisdiction.

My informal review of the financial data provided in your report suggests that if expenses and revenues for 2005 (a renewal year) are roughly equivalent to 2003 (the last renewal year) the debt should be reduced by an approximately equivalent amount as in 2003 (\$89,200), resulting in a surplus (approximately \$14,000) to be applied to the projected deficit in 2006, a non-renewal low revenue year. By the 2007 renewal year, fees could easily produce a surplus sufficient to alleviate all debt so that the Board could operate consistently in the black again. I understand and respect the need to comply with AS08.01.065(c), but have appreciated the Division's willingness to effectively amortize the debt so that practitioners are not unduly burdened in any one renewal year. I suspect that if 2005 renewal fees are increased to the level required to eliminate the deficit, public outcry would result in the form of multiple complaints to the Division from our licensees. Please re-consider this recommendation, or modify it to allow the continued cooperative effort of the Board and the Division to eliminate the debt on a longer term planned basis, as we have been cooperating to date.

In an effort to avoid future debt, the board has worked assiduously to limit vulnerability to litigation of the type that led to the accrued debt. We have taken many concrete steps towards establishing more consistent general procedures and better technical expertise in the handling of investigations and Memoranda of Agreement. Much has been done to minimize the risk of future expensive litigation, so that once the debt is paid off the board

should be able to easily meet the requirements of AS08.01.065(c) through renewal fees. There has also been discussion with AKPA and Mr. Urion about the idea of establishing a legal defense fund to help pay the cost of defending the Division against lawsuits by licensees who choose to sue the Division when action is taken against their licenses. The fund would be established through a small fee charged to all professional licensees and held in an account specifically for this use. Many states have such a system, or use fines to defray board costs (versus Alaska's system of putting all fines into general funds). Some states hold licensees accountable for court costs in the event that the finding is for the Division. My point is that there are avenues to minimize risk of future debt so that licensees are not unduly burdened by lawsuits brought, some of which may be nuisance quality. These avenues would require statute change on a broad level, beyond that within the purview of this board. ***The Audit Committee should consider making a recommendation that the feasibility of such statute changes be explored as avenues to defray litigation costs for all professional boards.***

Recommendation No. 2: The Office of the Governor should take steps to expedite appointments, most importantly the public member seat, to the Board of Psychologists and Psychological Associates.

I concur with this recommendation. This has been a point of discussion at each board meeting and all board members would agree with your recommendation to fill the existing vacancies as soon as possible. In my 12/6/04 response letter I suggested that the more liberal wording in AS 08.01.025 might make this position easier to fill, however at the December 2004 Board Meeting (12/7 and 12/8/04), board members strongly expressed the concern that such wording would risk allowing appointment of a public member with a vested interest in some aspect of healthcare which might run counter to the interest of the psychology board. Board members clearly preferred to stay with our current requirement that the public member not have any vested interest in any aspect of healthcare.

The Board has worked with the Alaska Psychological Association (AKPA) to put out the word that both of these positions are vacant. The vacancy has been noticed on the AKPA listserve and announced at several AKPA training events and meetings. Beyond that, each Board member has surveyed their personal acquaintances to find a person who meets the criteria and who is interested and available to serve. At the December 2004 Board Meeting, options were again discussed. The Board agreed to write a letter to the Governor's Office to request that an ad be placed in various newspapers asking for applicants. This letter will be drafted in January. Board members identified a few acquaintances who could be approached to serve on the Board and agreed to approach those persons.

Concluding Comments

The board has actually recommended one statute change during my tenure, however we were told that we would have to seek our own legislative sponsor, and as a volunteer board we have not had free time to spare on this project. Specifically, we would like to

offer additional methods of licensure by credentials, but are restricted by AS 08.86.140 which limits the Board to only two options: licensure in another state with requirements equivalent to or higher than our own, or diplomate status from the American Board of Professional Psychology. We would like to include other methods, specifically the Certificate of Professional Qualification (CPQ) offered by the Association of State and Provincial Psychology Boards (ASPPB) and membership in the National Register of Health Professionals in Psychology. These two forms of licensure by credentials are increasingly by authorized by ASPPB member jurisdictions and are a form of licensure mobility, as well as increased efficiency within each jurisdiction. The latter is true because the organizations mentioned award certificates/membership only after a comprehensive review of qualifications, including original source verification, and their standards routinely meet or exceed requirements in the various separate jurisdictions. Applications from CPQ holders or National Register members can be easily reviewed by Division staff with licensure awarded in a streamlined fashion, without Board review except under unusual circumstances. ***It would be helpful to have a recommendation from the Legislative Audit Committee to add a third avenue of licensure by credentials by adding language to AS08.86.140 to state “Applicants certified or registered with a credentialing organization in psychology approved by the Board, and with standards equivalent to or higher than those established by the State of Alaska.”*** If such language were added as a third avenue of licensure by credentials under AS 08.86.140, the board could devise regulation which included specific credentials that would be accepted. The AKPA Executive Board has agreed that this would be a desirable statute change.

The board is criticized on page 13 of the preliminary report for not testifying regarding a legislative joint resolution condemning an article published by the American Psychological Association regarding sexual contact between adults and children. I was not aware of the joint resolution you reference in this section, nor have I read or heard of the article you reference. Typically, when the Division or the Governor’s Office wants the board’s opinion or input on such an issue, a letter of request is sent to the board. I do not think the board was asked to comment on this article, however I have only been in the Chair position for approximately 1.5 years and am not aware if the prior Chair was asked for a comment and declined to respond. The board has discussed the issue of giving opinions regarding political matters and determined that unless requested by the Governor’s Office or by the Division, such unsolicited opinions from the Board may be inappropriate. If you feel that such is not the case and that this would be an appropriate role for the Board (i.e. the giving of unsolicited opinions regarding impending legislation not directly involving the licensure act) then please so advise us. I would feel compelled to ensure that such a role would be supported both by the Division of Occupational Licensing and by the Governors Office, so I will communicate this to those offices. What would remain would be some mechanism for keeping us informed of the myriad of legislative actions under consideration, a challenge I am not sure how to address in the limited time available in board meetings.

I have no further comment regarding the preliminary report. I would note, in general, that during my 7 year tenure on the board there has been a consistent focus on streamlining routine processes, establishing consistent procedures, and on meticulous

review of ethical complaints and resulting Memoranda of Agreement. These efforts have been undertaken to protect the public while minimizing cost, and to limit vulnerability to litigation pursuant to inconsistent or arbitrary practices. We feel that significant progress has been made toward that end and see potential further benefit to be gained by our ongoing activities, especially through educating supervisors and expert reviewers, and through improving the consistency in regulation. I appreciate your recognition of our efforts. If you have further questions, you may contact me at my work phone: 264-4306. Another phone number for me is my cell phone at 242-1164.

Thank you for the opportunity to respond to the preliminary report. A signed hardcopy will be mailed to you via the US Postal Service.

Sincerely,

Carey S. Edney, Ph.D.
Chairperson
Board of Psychologist and Psychological Associate Examiners

January 4, 2005

Members of the Legislative Budget and Audit
Committee

We have reviewed the comments set out in both the department's and the board's letters responding to our preliminary report. As a result of the comments made by Dr. Edney on behalf of the board, under the heading of "errors," we made minor editorial changes to the report.

Accordingly, the items referred to in Dr. Edney's comment letter as errors are either no longer in the report, or have been modified.

Pat Davidson, CPA
Legislative Auditor