

# 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  
legaudit@legis.state.ak.us

SUMMARY OF: A Sunset Review of the Department of Commerce, Community, and Economic Development (DCCED), State Medical Board (board), September 18, 2012

### PURPOSE OF THE REPORT

In accordance with Title 24 and Title 44 of the Alaska Statutes (sunset legislation), we have reviewed the activities of the board. The purpose of this audit was to determine if there is a demonstrated public need for its continued existence and if it has been operating effectively. Alaska Statute 08.03.010(c)(12) states the board will terminate on June 30, 2013. As required by AS 44.66.050(a), this report shall be considered by the committee of reference during the legislative oversight process in determining whether the board should be reestablished. Our audit objectives were as follows.

1. Determine if the board's termination date should be extended.
2. Determine if the board is operating in the public's interest.
3. Determine if the board has exercised appropriate, regulatory oversight of osteopaths, podiatrists, physicians, physician assistants, and paramedics.
4. Provide a current status of recommendations made in prior board-related audits.

### REPORT CONCLUSIONS

In our opinion, the board is serving the public's interest by effectively licensing and regulating osteopaths, podiatrists, physicians, physician assistants, and paramedics. The board is also serving the public's interest by monitoring the profession and ensuring only qualified individuals are licensed to practice medicine.

The board is scheduled to terminate June 30, 2013. We recommend the board's termination date be extended seven years to June 30, 2020.

### FINDINGS AND RECOMMENDATIONS

1. The Division of Corporations, Business and Professional Licensing's (DCBPL) director should continue to address deficiencies in the investigative case management system.
2. DCBPL's director should implement procedures to ensure board disciplinary actions are reported in accordance with state and federal law.

3. DCBPL's director should ensure continuing medical education reviews comply with state law.

# 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  
legaudit@legis.state.ak.us

October 11, 2012

Members of the Legislative Budget  
and Audit Committee:

In accordance with the provisions of Title 24 and Title 44 of the Alaska Statutes (sunset legislation), we have reviewed the activities of the State Medical Board (board) and the attached report is submitted for your review.

DEPARTMENT OF COMMERCE, COMMUNITY,  
AND ECONOMIC DEVELOPMENT  
STATE MEDICAL BOARD  
SUNSET REVIEW

September 18, 2012

Audit Control Number  
08-20078-12

The audit was conducted as required by AS 44.66.050 and under the authority of AS 24.20.271(1). If not extended by the legislature, the board is required to terminate on June 30, 2013. Under AS 08.03.020(a), the board will have a one year period to conclude its administrative operations.

In our opinion, the board's termination date should be extended. The board is serving the public's interest by effectively licensing and regulating osteopaths, podiatrists, physicians, physician assistants, and paramedics. We recommend the board's termination date be extended seven years to June 30, 2020.

The audit was conducted in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. Fieldwork procedures utilized in the course of developing the conclusions, findings, and recommendations presented in this report are discussed in the Objectives, Scope, and Methodology.

Handwritten signature of Kris Curtis.

Kris Curtis, CPA, CISA  
Legislative Auditor



# TABLE OF CONTENTS

	<u>Page</u>
Objectives, Scope, and Methodology .....	1
Organization and Function .....	5
Report Conclusions.....	7
Findings and Recommendations.....	9
Analysis of Public Need .....	13
Agency Responses	
Department of Commerce, Community, and Economic Development .....	19
State Medical Board.....	21



# OBJECTIVES, SCOPE, AND METHODOLOGY

In accordance with Title 24 and 44 of the Alaska Statutes, we have reviewed the State Medical Board's (board) activities to determine if there is a demonstrated public need for its continued existence and if it has been operating in an efficient and effective manner.

As required by AS 44.66.050(a), this report shall be considered by the committee of reference during the legislative oversight process in determining whether the board should be reestablished. Currently, under AS 08.03.010(c)(12), the board will terminate on June 30, 2013, and will have one year from that date to conclude its administrative operations.

## Objectives

The four, central, interrelated audit objectives were:

1. Determine if the board's termination date should be extended.
2. Determine if the board is operating in the public's interest.
3. Determine if the board has exercised appropriate, regulatory oversight of osteopaths, podiatrists, physicians, physician assistants, and paramedics.
4. Provide a current status of recommendations made in prior board-related audits.

The assessment of the board's operations and performance was based on criteria set out in AS 44.66.050(c). These criteria relate to the determination of a demonstrated public need for the board's continued existence.

## Scope

The audit evaluated the board's operations and activities for the period July 1, 2007, through June 30, 2012.

## Methodology

The major audit areas were board proceedings, licensing, complaint investigations, and duplication of efforts as compared to other state and/or federal agencies. To gain an understanding of the board's operations and activities, we examined and evaluated:

- Applicable board statutes and regulations to identify board functions and responsibilities including board member composition and their required qualifications. We also identified additions, deletions, and changes to board regulations to evaluate board actions during the audit period and the effect on board operations.

- Division of Corporations, Business and Professional Licensing (DCBPL or division) policies and procedures supporting board activities to assess compliance with regulations.
- Meeting minutes and annual reports issued by the board to gain an understanding of board proceedings and activities as well as the nature and extent of public input. Additionally, we evaluated reported information for compliance with applicable statutes, regulations, and DCBPL policy.
- Public notice documentation to ascertain whether public notices for board meetings and proposed regulation changes were published as required by statute.
- Audits related to the board or division to identify and follow-up on previous and existing issues affecting the board. The following audits contained pertinent findings and recommendations:
  - *Department of Commerce, Community, and Economic Development, State Medical Board Sunset Review, October 3, 2006, Audit Control Number 08-20046-06;*
  - *Department of Commerce, Community, and Economic Development; Division of Corporations, Business and Professional Licensing; State Medical Board, June 16, 2011, Audit Control Number 08-30059-11; and*
  - *Department of Commerce, Community, and Economic Development; Division of Corporations, Business and Professional Licensing; Select Occupation Licensing and Enforcement Issues, June 29, 2011, Audit Control Number 08-30063-11.*
- Various state and national organization websites containing medical board information for potential duplication of and effects on board activities.
- Files and documents related to temporary specific purpose permits and individuals licensed as osteopaths, podiatrists, physicians, physician assistants, and paramedics for compliance with statute and regulatory requirements.
- Departmental budget and cost allocation supporting documents related to indirect costs allocated to the division's occupational boards.
- Complaints regarding osteopaths, podiatrists, physicians, physician assistants, paramedics, temporary licensees, and license applicants. We evaluated file documentation to assess the timeliness of the investigative process and compliance with the division's investigative procedures. We also inquired of the following organizations to determine if any complaints were filed against the board or its



licensees:

- The Department of Commerce, Community, and Economic Development's Commissioner's Office;
- The Office of the Ombudsman;
- The Alaska State Commission for Human Rights;
- The Office of Victims' Rights;
- The Department of Administration's Division of Personnel and Labor Relations; and
- The United States Equal Employment Opportunity Commission.

We also interviewed state agency staff and board members to identify and evaluate various issues relating to board activities. Specific issues of inquiry included board operations, division support, duplication of efforts, and the board's goals and objectives during the audit period.

We also assessed the internal control procedures related to various objectives of the audit, including licensing, investigations, and board proceedings.

(Intentionally left blank)

# ORGANIZATION AND FUNCTION

## State Medical Board (board)

The board is established under the authority of AS 08.64.010, and is comprised of eight-members who are appointed by the governor to serve staggered four-year terms. Board membership consists of five physicians “*residing in as many separate geographical areas of the state as possible*”, one physician assistant, and two public members with “*no direct financial interest in the healthcare industry.*” Professional board members must be residents and actively licensed in the State of Alaska. Board members, as of June 2012, are listed in Exhibit 1.

The board issues licenses and/or permits to individuals who meet the standards established in statutes and regulations. Additionally, the board monitors continuing education and other statutory requirements for license renewals.

Alaska Statutes 08.64.085-.160 defines the board’s required duties. Duties include the following.

1. The board adopts and amends procedural and substantive regulations for the orderly conduct of board operations.
2. The board develops guidelines to ensure licensure requirements result in timely issuance and are not unreasonably burdensome for an applicant. It also evaluates medical professionals’ qualifications for licensure, and imposes appropriate disciplinary sanctions on licensees. All board licensing and disciplinary actions must be documented in board minutes and made available to the public.
3. The board is authorized to designate an investigator and an executive secretary to carry out the board’s investigative and administrative operations. The investigator and executive secretary are Division of Corporations, Business and Professional Licensing (DCBPL or division) employees but are directly responsible and accountable to the board.
4. The board must meet at least four times annually.

<p style="text-align: center;"><b>State Medical Board Members As of June 30, 2012</b></p> <p>Edward A. Hall, PA-C <i>President</i></p> <p>David A. Miller, MD <i>Secretary</i></p> <p>John S. Cullen, MD</p> <p>Elizabeth A. Kohnen, MD</p> <p>David J. Powers, MD</p> <p>William W. Resinger, MD</p> <p>Camille O. Carlson <i>Public Member</i></p> <p>Kathleen Millar <i>Public Member</i></p>
--

Department of Commerce, Community, and Economic Development (department)

Alaska Statute 08.01.065 mandates that the department adopt regulations to establish payment methods and fees for applications, examinations, licenses, registrations, permits, investigations, and all other fees as appropriate for the occupations covered by the statute.

Within the department, DCBPL provides investigative and administrative assistance to occupational boards. The assistance includes receiving and processing applications and publishing proposed regulations and notices.

Alaska Statute 08.01.087 empowers the department 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. Issue an order directing the person to stop an act or practice.
3. Bring an action in superior court to enjoin the act.
4. Examine the individual's books and records.
5. Issue subpoenas for the attendance of witnesses and records.

On behalf of the board, the division investigates complaints from medical patients, the public, other medical professionals, licensing examiners, or other state or federal agencies.

## REPORT CONCLUSIONS

The State Medical Board's (board) termination date should be extended. The board is serving the public's interest by effectively licensing and regulating osteopaths, podiatrists, physicians, physician assistants, and paramedics. The board also serves the public's interest by monitoring licensees and ensuring only qualified individuals practice medicine. Furthermore, the board develops and adopts regulatory changes to improve the medical profession in Alaska.

In accordance with AS 08.03.010(c)(12), the board is scheduled to terminate June 30, 2013. We recommend the board's termination date be extended seven years to June 30, 2020.

The Department of Commerce, Community, and Economic Development's Division of Corporations, Business and Professional Licensing (DCBPL or division) and the board have made progress in addressing prior findings. However, more improvements are needed. The status of findings from prior board-related audits are summarized below. Furthermore, three recommendations for improvement are included in the Findings and Recommendations section of this report.

The division improved the allocation of division indirect costs to occupational licensing boards.

A DCBPL<sup>1</sup> special audit found divisional indirect costs were over-allocated to occupational licensing boards and recommended the division improve the allocation methodology. This finding has been resolved. The division revised its indirect cost allocation methodology to correct noted deficiencies. The revised methodology appropriately allocates division indirect costs based on full time equivalent positions.

To facilitate correcting the fiscal impact of prior allocation errors, the division received a \$3.4 million supplemental appropriation. Using financial data from the state accounting system and DCBPL position counts, the division restated the schedule of revenues and expenditures for all occupational boards back to FY 00 using the revised allocation methodology. The supplemental appropriation was used to eliminate occupational board deficits resulting from the incorrect allocation methodology. The revenue and expenditure schedule presented in Exhibit 2 (page 14) reflects the board's restated financial activity for the period FY 09 through FY 12.

---

<sup>1</sup>*Department of Commerce, Community, and Economic Development; Division of Corporations, Business and Professional Licensing; Select Occupational Licensing and Enforcement Issues, June 29, 2011, Audit Control Number 08-30063-11.*

Deficiencies in the division's investigative case management system have not been addressed.

The DCBPL special audit also recommended improvements to address inaccurate and incomplete investigative data maintained in the new investigative case management system. This deficiency was also identified in a medical board special audit.<sup>2</sup> Although the division has taken corrective steps, the issue is not fully resolved and continues to be a finding in this audit. (See Recommendation No. 1.)

The division partially addressed complaint processing deficiencies.

The medical board special audit identified deficiencies in various aspects of the complaint review and investigative processes including inefficiencies in complaint processing and inconsistencies in investigative practices. The following actions were recommended to address the deficiencies.

- Establish regulatory timelines for processing complaints.
- Address inefficiencies in obtaining evidentiary documents.
- Assess the processing of complaints from external sources.
- Implement oversight of investigators' workload, including staff assignments.

The recommendations were partially resolved. The division has initiated changes to improve the complaint and investigative processes including providing training on newly developed procedures, issuing quarterly performance reports to the board, and holding monthly case management meetings among investigators. Additionally, investigators are being cross trained to help mitigate issues resulting from staff turnover. The division's investigative staff anticipates the changes will improve complaint processing and workload monitoring.

The division has not established regulatory timelines for complaint processing.

Procedures to ensure timely reporting of board disciplinary actions have not been developed.

The medical board special audit also recommended the board report disciplinary actions to both the Federation of State Medical Boards (FSMB) and the National Practitioner Database (NPDB) no later than 30 days following disciplinary action of a licensee. This recommendation is not fully resolved and continues to be a finding in this audit. (See Recommendation No. 2.)

---

<sup>2</sup>*Department of Commerce, Community, and Economic Development; Division of Corporations, Business and Professional Licensing; State Medical Board, June 16, 2011, Audit Control Number 08-30059-11.*

## FINDINGS AND RECOMMENDATIONS

The State Medical Board's (board) prior sunset review, dated October 2006, made one recommendation to update regulatory language to reflect current license-by-examination practices. This recommendation was resolved. Regulatory changes replaced outdated language and identified the board-approved national exam required for licensure.

The 2011 medical board special audit recommended improving the case management system and reporting disciplinary actions. These recommendations are not fully resolved and are reiterated in this report as part of Recommendation Nos. 1 and 2. Additionally, this sunset audit makes one new recommendation.

### Recommendation No. 1

The Division of Corporations, Business and Professional Licensing (DCBPL or division) director should continue to address deficiencies in the investigative case management system.

### Prior Finding

In 2010, the division implemented a new investigative case management system to manage complaints against corporations, businesses, and professionals licensed in Alaska. The 2011 DCBPL special audit reported that conversion from the old system led to significant problems<sup>3</sup> including the following.

- Incomplete and inconsistent data was brought forward from the old database to the new database without review and correction.
- Not all complaint records were transferred to the new system.
- Data fields were not properly aligned and linked from the old system to new one.
- The status of some converted data changed (i.e. from closed to open).

Additionally, system deficiencies continued to exist regarding inadequate data entry and case record maintenance. The deficiencies were caused by lack of training, inadequate system design, and lack of review. A medical board special audit identified similar deficiencies.

---

<sup>3</sup>This issue was identified in the special audit, *Department of Commerce, Community, and Economic Development; Division of Corporations, Business and Professional Licensing; Select Occupational Licensing and Enforcement Issues, June 29, 2011, Audit Control Number 08-30063-11.*

## Legislative Audit's Current Status

Deficiencies in the case management system remain. We examined 25 of the 323 board-related investigations active between December 2010 and June 2012. Case management system information was examined for completeness and accuracy by comparing the system data to information maintained in the corresponding hard copy case files. Of the 25 cases, system data for five cases (20 percent) was not fully supported by the case files. Two of the five listed a case number on the information system instead of a name, and three were missing priority codes in a system report. Deficiencies in the case management system hamper the division's ability to provide adequate investigative support to the board.

Alaska Statutes assign the duty of investigating occupational licensing complaints to the division. The efficiency to which complaints are investigated is one of the evaluation criteria used in the sunset legislative oversight process. Alaska Statute 44.66.050(c)(6) requires examining:

*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.*

DCBPL has taken steps to address the deficiencies. A task force comprised of investigative staff and information technology professionals was formed to identify weaknesses and propose solutions. In the spring of 2012, the division developed procedures for investigative data input and provided staff training on the case management system. The division anticipates actively implementing planned corrective action throughout FY 13.

We recommend the division director continue to address the deficiencies in the investigative case management system.

## Recommendation No. 2

DCBPL's director should implement procedures to ensure board disciplinary actions are reported in accordance with state and federal law.

## Prior Finding

A medical board special audit identified disciplinary actions were not reported as required. Four of 18 cases containing disciplinary actions were not reported to the Federation of State Medical Boards (FSMB), and two of the four were not reported to the National Practitioner Database (NPDB). Additionally, ten cases were not reported to one or both data banks within



30 days of the disciplinary action date. A lack of procedures for reporting and insufficient monitoring led to the errors.

### Legislative Audit's Current Status

The finding is not resolved. We examined 25 of 323 investigations active between December 2010 and June 2012. Of the 25 investigative files reviewed, three contained disciplinary actions taken by the board. All three were reported to FSMB and NPDB; however, none were reported within 30 days as federally required. There continues to be a lack of reporting oversight, and no written procedures have been developed.

Alaska Statute 08.64.335 states:

*The board shall promptly report to the Federation of State Medical Boards for inclusion in the nationwide disciplinary data bank license and permit refusals under AS 08.64.240, actions taken by the board under AS 08.64.331, and license and permit suspensions or surrenders under AS 08.64.332 or 08.64.334.*

Additionally, federal regulations stipulate the following.

- FSMB Public Policy Compendium 180.002 encourages medical boards to report board actions no later than 30 days following a board's ruling.
- Federal regulations require state medical boards report to the NPDB, within 30 days,<sup>4</sup> any formal disciplinary licensing actions for reasons relating to a physician's professional competence or conduct.<sup>5</sup>

National databanks are designed to restrict the ability of incompetent physicians to move from state to state without disclosure or discovery of the physician's damaging or incompetent performance. Untimely reporting of board disciplinary action against a licensee diminishes the public protection provided by the national data banks.

We recommend the division director implement procedures to ensure board disciplinary actions are reported in accordance with state and federal laws.

---

<sup>4</sup>Title 45 of the Code of Federal Regulations Subtitle A, 60.5(b).

<sup>5</sup>Title 45 of the Code of Federal Regulations, Subtitle A, 60.9(a)(1) and (3).

### Recommendation No. 3

DCBPL's director should ensure continuing medical education (CME) reviews comply with state law.

The quantity of biennial CME reviews performed between FY 07 and FY 12 did not meet regulatory requirements. During the audit period, two CME reviews were performed by division staff, one in 2009 and one in 2011. Regulation 12 AAC 02.960(c)(2) requires a minimum selection of five percent of total licensees when the number of board licensees is greater than 3,000. The FY 09 CME roster identified that 172 licensees were reviewed which was 36 less than the minimum number of 208 (five percent of 4,152 licensees<sup>6</sup>).

The error was not identified due to lack of oversight by division staff. Insufficient biennial CME reviews diminishes the public's assurance that licensed individuals are maintaining professional competency.

We recommend the division director ensure CME reviews comply with state law. Specifically, the quantity of licensees selected for CME review should meet the minimum number required by regulation.

---

<sup>6</sup>The active licensee count was reported in the FY 08 *Annual Medical Board Report*.

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

The following analysis of the State Medical Board's (board) activities relate to the public need factors defined in AS 44.66.050(c). The analysis is 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, commission, or program has operated in the public interest.***

The board ensures that only qualified individuals are licensed to practice as osteopaths, podiatrists, physicians, physician assistants, and paramedics. Regulating the medical profession promotes public confidence in those that are licensed. As of June 30, 2012, there were 4,634 individually licensed medical professionals permitted to practice in Alaska. (See Exhibit 3 on page 16.)

During the audit period, the board met at least four times per year as statutorily required. Additionally, multiple telephonic meetings were held in order to address time sensitive issues such as licensee investigations.

To help ensure continued competence, all licensees must provide proof of continuing medical education (CME) for license renewal. The Division of Corporations, Business and Professional Licensing (DCBPL or division) staff audit each licensing period's CME adequacy by testing a sample of licensees for compliance with CME requirements.

***Determine 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.***

A schedule of board revenues and expenditures for the period of FY 09 through FY 12 is presented in Exhibit 2 (following page). The amounts in Exhibit 2 were provided by the DCBPL management and reflect the division's restatement of occupational board financial activity. The division restated all occupational board activity to adjust for the over-allocation of divisional indirect costs to occupational boards identified by the DCBPL special audit. The schedule is provided for general informational purposes.

Alaska Statute 08.01.065(c) requires "that the total amount of fees collected for an occupation approximately equals the actual regulatory costs for the occupation." The adequacy of fee levels has not been a factor in the effectiveness of board activities. As shown in Exhibit 2, the board began FY 09 with a financial surplus. Board fees were reduced in FY 11 to lower the surplus. The amount of continuing surplus is reasonable given the variability in legal costs from year to year.

**Exhibit 2**

<b>State Medical Board</b> <b>Restated Schedule of Revenues and Expenditures<sup>7</sup></b> <b>FY 09 - FY 12</b> (Unaudited)				
	<u>FY 09</u>	<u>FY 10</u>	<u>FY 11</u>	<u>FY 12</u>
Revenue	\$ 2,046,507	\$ 347,852	\$ 1,252,863	\$ 234,358
Direct Expenses:				
Personal Services	509,676	580,895	542,679	492,682
Travel	32,447	27,101	32,629	26,454
Contractual	193,302	237,383	429,916	89,902
Supplies	8,190	6,615	6,527	6,286
Total Direct Expenses	<u>743,615</u>	<u>851,994</u>	<u>1,011,751</u>	<u>615,324</u>
Indirect Expenses	<u>160,622</u>	<u>211,356</u>	<u>201,257</u>	<u>274,892</u>
Total Expenses	<u>904,237</u>	<u>1,063,350</u>	<u>1,213,008</u>	<u>890,216</u>
Annual Surplus (Deficit)	<u>1,142,270</u>	<u>(715,498)</u>	<u>39,855</u>	<u>(655,858)</u>
Beginning Cumulative:				
Surplus (Deficit)	<u>1,393,957</u>	<u>2,536,227</u>	<u>1,820,729</u>	<u>1,860,584</u>
Ending Cumulative:				
Surplus (Deficit)	<u>\$ 2,536,227</u>	<u>\$ 1,820,729</u>	<u>\$ 1,860,584</u>	<u>\$ 1,204,726</u>

Source: DCBPL Management

Board operations have been impeded by the division’s investigative case management system. Reports generated from the case management system are not accurate or complete. Board operations would benefit from more accurate investigative data. (See Recommendation No. 1.)

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

During FY 07 through FY 12, there were no statutory changes directly affecting the board. However, the board successfully developed and adopted several regulatory changes. Significant regulatory changes include:

- Further defining passing scores on national medical exams;

<sup>7</sup>This report reflects restated financial activity of the board.

- Improving the effectiveness and efficiency of the licensing process by allowing third party credential verification;
- Increasing CME requirements; and
- Clarifying definitions of professional misconduct.

The regulatory changes serve to enhance board operations and improve public safety.

***Determine 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 board published proposed regulation changes on the State's Online Public Notice System. The board encouraged public participation through board meeting comment periods and reviewed and considered public comments before adopting new regulations.

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

The board posted notices of proposed regulatory changes on the State's Online Public Notice System and in the *Anchorage Daily News*. The postings included detailed instructions for submitting public comments. From FY 09 through FY 12, the public provided input during regular board meetings. The board reviewed and considered public comments as part of their deliberative process before taking action.

***Determine 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 FY 07 through FY 12, 953 complaints and investigations related to board licensees and license applicants were processed. As of June 30, 2012, all but 26 of the 953 cases were closed. However, due to errors which occurred during conversion to a new case management system and a lack of adherence to established procedures, reliable summary statistics of investigative cases are not available.

An examination of 25 board cases for the period December 2010 through June 2012 found five cases (20 percent) had missing or inaccurate data within the case management system or were missing information on reports. Noted deficiencies in the investigative case management system hamper the division's ability to provide adequate investigative support to occupational boards. (See Recommendation No. 1.)

Twenty-three, board-related public inquiries/complaints were filed with the State's Office of the Ombudsman during the period of July 2007 through June 2012. The issues included

responsiveness to requests for information, concerns regarding board actions, and complaints about licensees. Most of the complaints were referred to the board or declined for review based on facts provided by the complainant. However, three complaints were investigated with one resulting in recommendations to the board. The ombudsman recommended the board inform a licensee or applicant when a pending licensing matter is under consideration or a previous board action is reconsidered. Following receipt of the ombudsman's recommendations, board minutes show board concurrence with the recommendation.

There were no board complaints filed with the Alaska State Commission for Human Rights or the Office of Victims' Rights during the audit period.

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

The board issues both licenses and permits to qualified applicants. Exhibit 3 shows the number of active board licensees and permits as of June 30, 2012.

**Exhibit 3**

<b>State Medical Board Licensees and Permits as of June 30, 2012</b>					
<b>New Licenses or Permits Issued (Excluding Renewals)</b>					
	<b>FY 09</b>	<b>FY 10</b>	<b>FY 11</b>	<b>FY 12</b>	<b>Total Current</b>
Physician	221	261	262	260	3,132
Osteopath	13	28	30	34	264
Podiatrist	1	1	1	4	26
Paramedic	43	40	53	40	446
Physician Assistant	50	43	70	69	498
Resident Permit	70	67	83	99	69
Locum Tenens Permit	48	41	30	15	3
Courtesy Permit	-	3	4	1	-
Temporary Permit	339	362	386	396	196
Total	785	846	919	918	4,634

A review of 16 new licensee files and 43 license renewal files concluded that the application process and required support is reasonable and appropriate. Permits issued for residents,<sup>8</sup> *locum tenens*,<sup>9</sup> and courtesy<sup>10</sup> are for specific time periods and a specific scope of services to

<sup>8</sup>Resident permits are issued to individuals working to obtain the medical residency required for eventual physician licensure.

<sup>9</sup>*Locum tenens* are issued to qualified individuals so they may fill in for licensed physicians in the State or for a specific hospital need.

<sup>10</sup>Courtesy permits are issued for short periods of time and for board approved services.

be performed, as described in Alaska Statutes. Temporary permits are issued to applicants who have met all licensing qualifications for their occupation, but the board has not formally voted for licensure. Upon board approval, a new permanent license is issued which replaces the temporary permit.

Physician applicants may be licensed either through examination or based on professional credentials. For initial and continued physician assistant licensure, the board requires proof of current certification from the National Commission on Certification of Physician Assistants. Initial and continued paramedic licensure requires current certifications from the Red Cross, the United States Department of Transportation's training programs, and documentation of passing scores on a national exam. Additionally each physician assistant and paramedic must be sponsored either through a collaborative plan or be under the supervision of a licensed physician.

Although, the application process is reasonable and appropriate, the division's biennial CME reviews of licensing renewals needs improvement. Specifically, the quantity of licensees selected for review should be monitored to ensure compliance with division regulatory requirements. (See Recommendation No. 3.)

***Determine 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.***

No evidence was found to indicate the board did not comply with state personnel practices, including affirmative action, throughout the audit period.

***Determine the extent to which statutory, regulatory, budgeting, or other changes are necessary to enable the agency, board, or commission to better serve the interests of the public and to comply with the factors enumerated in this subsection.***

The board depends on reliable investigative case information to perform its functions and serve the public's interest effectively and efficiently. As discussed in Recommendation No. 1, data from the new case management system is not reliable. Deficiencies in the investigative case management system hamper the division's ability to provide adequate investigative support to occupational boards.

Improvements in timely reporting of disciplinary action are also needed. Of the 25 investigation files reviewed, three had disciplinary actions taken by the board. All three were reported to the Federation of State Medical Boards and the National Practitioner Database, but none were reported within 30 days as federally required. (See Recommendation No. 2.)

***Determine the extent to which the board, commission, or agency has effectively attained its objectives and purposes and the efficiency with which the board, commission, or agency has operated.***

The board successfully met its goals and objectives in an efficient manner as supported by annual reports and meeting minutes.

***Determine the extent to which the board, commission, or agency duplicates the activities of another governmental agency or the private sector.***

The board's activities are not duplicated by other governmental agencies or the private sector.





THE STATE  
of **ALASKA**  
GOVERNOR SEAN PARNELL

Department of Commerce, Community,  
and Economic Development

OFFICE OF THE COMMISSIONER

P.O. Box 110800  
Juneau, Alaska 99811-0800  
Main: 907.465.2500  
TDD: 907.465.5437  
Fax: 907.465.5442

November 6, 2012

Ms. Kris Curtis, CPA, CISA  
Legislative Auditor  
Alaska State Legislature  
Legislative Budget and Audit Committee  
Division of Legislative Audit  
P.O. Box 113300  
Juneau, AK 99811-3300

RECEIVED

NOV 07 2012

LEGISLATIVE AUDIT

RE: Preliminary Audit Report, Department of Commerce, Community, and Economic Development (DCCED), State Medical Board (board), September 18, 2012

Dear Ms. Curtis:

Thank you for the opportunity to respond to the preliminary audit report recommendations for the State Medical Board sunset review audit. The department also concurs with the audit conclusion that the board's termination date be extended seven years to June 30, 2020.

Recommendation No.1

The Division of Corporations, Business and Professional Licensing (DCBPL or division) director should continue to address deficiencies in the investigative case management system.

The department concurs with this recommendation. As noted in the preliminary report, DCBPL has taken steps to address the deficiencies. This included an interdisciplinary task force to identify underlying problems, develop a corrective action plan, establish case management procedures, and deliver training to investigative staff. DCBPL will continue implementation of this action plan through FY13.

Recommendation No. 2

DCBPL's director should implement procedures to ensure board disciplinary actions are reported in accordance with state and federal law.

The department concurs with this recommendation and partially addressed this with the timeliness reporting requirements implemented by Investigations Unit Standard Operating Procedure 5, adopted May 2012. In addition, DCBPL has a databank specific reporting process in draft form. The board has also tasked the Executive Administrator with reporting on the status of disciplinary actions taken at or since the previous meeting.

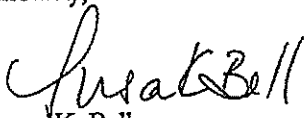
Recommendation No. 3

DCBPL's director should ensure continuing medical education (CE) reviews comply with state law.

The department concurs with this recommendation. Significant improvements in the CE audit process are planned for the licensing database that is currently under development. In addition, CE audit management will continue to be a focus of ongoing staff training to ensure CE reviews selected meet the minimum number required by regulation.

Thank you again for the opportunity to respond to the preliminary audit report. If you have any additional questions, please contact me at 907-465-2500.

Sincerely,



Susan K. Bell  
Commissioner

Cc: Don Habeger, Director, Corporations, Business and Professional Licensing, DCCED  
JoEllen Hanrahan, Director, Administrative Services, DCCED





THE STATE  
of **ALASKA**  
GOVERNOR SEAN PARNELL

Department of Commerce, Community,  
and Economic Development

STATE MEDICAL BOARD  
Debora Stovern, Executive Administrator

550 West 7<sup>th</sup> Avenue, Suite 1500  
Anchorage, AK 99501-3567  
Main: 907.269.8163  
Fax: 907.269.8196

October 29, 2012

RECEIVED

NOV 02 2012

LEGISLATIVE AUDIT

Kris Curtis Legislative Auditor  
Alaska State Legislature  
Legislative Budget and Audit Committee  
Division of Legislative Audit  
PO Box 113300  
Juneau, AK 99811-3300

Re: Sunset Review of the Department of Commerce, Community, and Economic  
Development (DCCED), State Medical Board (Board), September 18, 2012

Dear Ms. Curtis:

On behalf of the Alaska State Medical Board, I appreciate the opportunity to review the preliminary sunset audit report and recommendations regarding the activities of the Board.

The Board reviewed the report at their regularly-scheduled meeting of October 25-26, 2012. The Board concurs with the recommendations in the report and has the following additional comments for consideration.

Several of the findings were identified in the special audit of the Board that was completed last year (2011). It is the Board's belief that the findings regarding investigations and documentation are already being addressed as a result of that special audit, and that systems have been modified to help eliminate any oversights in the new case management system to include timely reporting of disciplinary sanctions on a licensee.

In addition, the Board has had ongoing concerns regarding the need to improve our processes. After reviewing the recommendations of the 2011 special audit, the Board wrote to the Department seeking important and meaningful change in the areas of administrative and board functions (see attached copy of the Board's November 18, 2011 letter.) The board proposed specific improvements to our administrative support, including the means to attract and retain competent staff, provide comprehensive training for staff, and to appropriately compensate staff. The Department's reply was that they are not able to effect the requested changes and recommended that the Board seek assistance from the State Legislature.

The Board needs increased staff to ensure timely and efficient licensing and Board processes, and is concerned with staff turnover. Based on financial information provided to the Board by the Division Director, Don Habeger (also depicted in the "Restated Schedule of Revenues and Expenditures" that is included in this audit report), we have the resources to implement needed changes. Although, we are being told that in the next couple of years our roll-over funds will diminish, the board has discussed fixing

licensing fees (which are currently set at a reasonable level), if it means that we can support additional administrative support. Alaska's medical needs are increasing and if we do not do something to address the processing time for potential licensees, we will ultimately create a shortfall of providers who will be lost to other states. Several years ago, the board had approval to hire a third licensing examiner to help alleviate backlogs in license processing. Unfortunately, right around that time we suffered attrition of the existing staff and have never been able to retain adequate staffing (minimum of two licensing examiners). I am not sure if the approval is still in place for three licensing examiners, and Mr. Habeger was unable to confirm that at our recent meeting.

The board is also concerned about retention of our executive administrator. The current compensation level for this medical board position does not have parity with the same positions in other boards. The board is acutely aware of the volume of work and the level of responsibility that we expect of this position, and we hope by including this fact in a response to this audit that appropriate consideration to modify compensation will be made regarding this position in order to help ensure that we will not lose our executive administrator. This recommendation is in no way solicited by our executive administrator but rather has been an ongoing concern of the board for many years.

The Board takes issue with the Department's lack of action to Board concerns and recommendations. In addition the Board has been troubled with Division finances. Although some of the findings in the 2011 Division special audit have been addressed, the Board has been unable to obtain complete and correct financial information, particularly regarding the rapidly escalating Division expenditures. To ensure that the Board is managing license fees appropriately, it is recommended that the Legislature provide for a distinct Board budget that is separate from the Division budget.

As president of the Board, I am nearing the end of my second term (March 2013) and hope to see improvements before my term ends. Thank you for your work on this review. Please let me know if you need anything further.

Regards,



Edward A. Hall, PA-C  
President, Alaska State Medical Board

David A. Miller, M.D., FACS  
Secretary, Alaska State Medical Board

Cam Carlson, Public Member  
Alaska State Medical Board

John S. Cullen, M.D.  
Alaska State Medical Board

Elizabeth A. Kohnen, M.D.  
Alaska State Medical Board

Kathleen M. Millar, Public Member  
Alaska State Medical Board

David J. Powers, M.D.  
Alaska State Medical Board

William Resinger, M.D.  
Alaska State Medical Board

November 18, 2011

Don Habeger, Division Director  
Division of Corporations, Business,  
and Professional Licensing  
Department of Commerce, Community,  
and Economic Development

Dear Mr. Habeger:

Thank you for attending the recent meeting of the Alaska State Medical Board and providing information about the Division. We fully support your goal of timely, efficient and accurate processes.

As you know, the Alaska State Medical Board is responsible for protecting the public through the licensing, regulation, and discipline of medical practitioners in the State of Alaska. After reviewing recent reports by the Division of Legislative Audit, the Alaska Health Workforce Coalition, and the Board budget data, the Board is concerned with the need to improve our processes.

Our state is experiencing a shortage of practitioners, especially in primary care. Rural communities are particularly underserved. The Board recognizes that the public protection mandate also includes ensuring that the public has access to competent practitioners. Therefore, we have identified some means toward improving the licensing process in order to increase that availability, while still ensuring that competent practitioners are able to become licensed through a reasonable process.

The responsibilities of our staff include many technical difficulties and challenges. The stakes are higher in this profession and public safety is critical. Therefore, it is imperative that we attract and retain competent staff, that we maintain adequate administrative support, that we provide comprehensive training for our staff, and that we compensate them appropriately. In reviewing our budget data, it is clear that we have the resources to implement these needs.

1. Increase the level of compensation for the Executive Administrator to equal that which her colleagues are getting in similar roles for the State of Alaska.
2. Increase the level of compensation for the License Examiners in order to compensate them adequately for the important job they do. This would hopefully decrease the turnover rate of those employees.
3. Increase the Office Assistant to a fulltime position, dedicated solely to the Medical Board, in order to provide adequate support for the Licensing Examiners and allow them to focus on processing of applications and responding to inquiries.
4. Use temporary employees during the peak season of renewals to speed up the process and minimize the impact on normal application processes.

Physician licensure is technically difficult and challenging for several reasons. Physician education encompasses many years and at least 3 separate institutions, each with their own evaluations and there are at least 3 national licensure exams performed by 2 separate entities. Previous hospital privileges need to be verified as well any history of malpractice, board sanctions from other states, or history of criminal records. None of this information is available through a central clearinghouse.

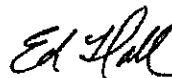
This daunting task is further exacerbated by physician behavior and workload. Physicians across the country are working harder than at any time in the past. This is due to several factors including changing to electronic medical records, increased documentation requirements for federal and private insurance payment, health care provider shortages nationally, and an aging physician population. As a result, physician applicants often have difficulty with filling out applications completely and accurately.

The shortage of providers is not just an Alaskan issue but a national one, and Alaska will increasingly be competing with other states for health care providers. The first experience that these providers have with Alaska is the State Medical Board licensing division. If this experience is a positive one, it will go a long way toward helping recruitment efforts. Conversely, a negative experience will have the opposite effect.

More Board resources are necessary to complete licensure in a timely and efficient manner. It is imperative that we have knowledgeable and competent staff, who not only understand the different entities involved, but also physician behavior. This only comes with experience. We are quite concerned about staff turnover and recognize from our experience running our own practices, that this can only be addressed through improved compensation. Their compensation should be commensurate with this responsibility. In addition, there should be adequate office administration support. Currently our reviewers are performing tasks in the office that do not require their expertise which takes away from their ability to process applications in a timely fashion.

The best way to fulfill our mission to protect the public, and the associated need to increase the number of physicians and to ensure competency, is to improve compensation for retention of our skilled staff and increase administrative support. Please let us know what steps we must take in order to implement the items enumerated above.

Sincerely,



Ed Hall, Board Secretary  
for Jean Tsigonis, Board President  
Alaska State Medical Board