

# Report Highlights

## Why DLA Performed This Audit

The audit was performed to determine if there is a continued need for the board and if its termination date should be extended. The board is set to sunset on June 30, 2022, and will have one year from that date to conclude its administrative operations.

## What DLA Recommends

1. DCBPL's director should dedicate resources to ensure licensees holding a DEA number are consistently recorded in the licensing database.
2. The board chair and DCBPL's director should change the license renewal form to allow the board to monitor compliance with continuing education requirements.
3. DCBPL's director should ensure adequate resources are available to perform continuing education audits.

# A Sunset Review of the Department of Commerce, Community, and Economic Development, Board of Examiners in Optometry (board)

June 9, 2021

**Audit Control Number 08-20129-21**

## REPORT CONCLUSIONS

Overall, the audit concluded, with certain exceptions, that board operations were conducted in the public's interest. The board conducted its meetings in compliance with state laws, effectively licensed optometrists, and actively amended regulations to address statutory changes and improve the licensing process. The Division of Corporations, Business and Professional Licensing (DCBPL) staff failed to operate in the public's interest by not consistently recording licensees with federal Drug Enforcement Administration (DEA) registration numbers in the licensing database, not ensuring continuing education audits were conducted timely, and not monitoring licensees' compliance with requirements for continuing education in pain management and opioid use and addiction.

In accordance with AS 08.03.010(c)(15), the board is scheduled to terminate on June 30, 2022. We recommend the legislature extend the board's termination date to June 30, 2028, which is two years less than the maximum allowed in statute. The reduced extension reflects the need for more routine oversight in recognition of audit findings.

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# ALASKA STATE LEGISLATURE

## LEGISLATIVE BUDGET AND AUDIT COMMITTEE

### Division of Legislative Audit



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June 10, 2021

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 Board of Examiners in Optometry and the attached report is submitted for your review.

DEPARTMENT OF COMMERCE, COMMUNITY, AND ECONOMIC DEVELOPMENT  
BOARD OF EXAMINERS IN OPTOMETRY  
SUNSET REVIEW

June 9, 2021

Audit Control Number  
08-20129-21

The audit was conducted as required by AS 44.66.050(a). Per AS 08.03.010(c)(15), the board is scheduled to terminate on June 30, 2022. We recommend that the legislature extend the board's termination date to June 30, 2028.

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 findings and recommendations presented in this report are discussed in the Objectives, Scope, and Methodology.

A handwritten signature in blue ink, appearing to read "Kris Curtis".

Kris Curtis, CPA, CISA  
Legislative Auditor

## ABBREVIATIONS

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AAC	Alaska Administrative Code
ACN	Audit Control Number
AS	Alaska Statute
CISA	Certified Information Systems Auditor
CPA	Certified Public Accountant
DCBPL	Division of Corporations, Business and Professional Licensing
DCCED	Department of Commerce, Community, and Economic Development
DEA	Drug Enforcement Administration
DLA	Division of Legislative Audit
FY	Fiscal Year

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# ORGANIZATION AND FUNCTION

## Board of Examiners in Optometry

The Board of Examiners in Optometry (board) was established under AS 08.72.010. The board is composed of five members: four licensed practicing optometrists who have been Alaska residents for at least three years and one public member.

Board members are appointed by the governor to serve staggering four-year terms and may not serve more than two consecutive terms. The public member must not be engaged in the optometry profession, have association by legal contract with an optometrist, or have direct financial interest in the optometry profession. Board members, as of March 31, 2021, are listed in Exhibit 1.

### Exhibit 1

#### Board of Examiners in Optometry Members as of March 31, 2021

Damien Delzer, Chair  
*Optometrist*

Bradley Cross  
*Optometrist*

Eric Lingle  
*Public Member*

Michael Mavencamp  
*Optometrist*

Pamela Steffes  
*Optometrist*

Source: Office of the Governor,  
Boards and Commissions website.

According to statutes, the board shall adopt regulations:

- necessary for the proper performance of its duties;
- governing the applicants and applications for licensing;
- for the licensing of optometrists;
- necessary to govern the practice of optometry, including the prescription and use of pharmaceutical agents for the treatment of eye disease;
- prescribing requirements that a licensed person must meet to demonstrate continued professional competency; and
- developing uniform standards for the practice of optometry.

Additionally, statutes state the board shall:

- order a licensee to submit to a reasonable physical examination if the licensee's physical capacity to practice safely is at issue;

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**The Department  
of Commerce,  
Community,  
and Economic  
Development's Division  
of Corporations,  
Business and  
Professional Licensing**

- require a licensee who has a federal Drug Enforcement Administration number to register with the controlled substance prescription database under AS 17.30.200(n); and
- publish advisory opinions regarding whether optometry practice procedures or policies comply with acceptable standards of the practice of optometry.

Further, the board may:

- issue subpoenas, administer oaths, and take testimony concerning any matter within the board's jurisdiction; and
- define professional conduct and adopt rules of professional conduct.

The Division of Corporations, Business and Professional Licensing (DCBPL) provides administrative and investigative assistance to the board. Administrative assistance includes providing budgetary services, collecting fees, receiving application forms, publishing notices for meetings, and assisting with board regulations. The Department of Commerce, Community, and Economic Development (DCCED) is required by AS 08.01.065 to adopt regulations that establish the amount and manner of payment of application, examination, license, and investigation fees.

Alaska Statute 08.01.087 gives DCCED authority to act on its own initiative or in response to a complaint. DCBPL staff may:

- conduct an investigation if it appears a person is engaged in or is about to engage in a prohibited professional practice;
- bring an action in Superior Court to enjoin the act;
- examine or have examined the books and records of a person whose business activities require a business license or licensure by a board listed in AS 08.01.010 or whose occupation is listed in AS 08.01.010; and
- issue subpoenas for the attendance of witnesses and records.



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# BACKGROUND INFORMATION

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## **Controlled Substance Prescription Database Registration Requirement**

Senate Bill 74, effective July 2017, required occupational board licensees that prescribe controlled substances to register with the controlled substance prescription database maintained by the Board of Pharmacy. Practitioners are required to check the database prior to dispensing, prescribing, or administering medications, with certain exclusions.<sup>1</sup> The database is intended to reduce misuse, abuse, and diversion of controlled substances.

An optometry applicant must indicate on an application form whether or not the individual holds a federal Drug Enforcement Administration (DEA) registration number when applying for or renewing a license. The Division of Corporations, Business and Professional Licensing staff manually record in the licensing database that a licensee holds a DEA number.

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<sup>1</sup> Alaska Statute 17.30.200(t) excludes practitioners or pharmacists that prescribe or dispense controlled substances to a patient at a healthcare facility or correctional facility. Also excluded are controlled substances dispensed to a patient for an outpatient supply of 24 hours or less at a hospital inpatient pharmacy or emergency department.

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# REPORT CONCLUSIONS

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In developing our conclusions regarding whether the Board of Examiners in Optometry’s (board) termination date should be extended, its operations were evaluated using the 11 factors set out in AS 44.66.050(c), which are included as Appendix A of this report. Under the State’s “sunset” law, these factors are to be considered in assessing whether an entity has demonstrated a public policy need for continued operations.

Overall, the audit concluded, with certain exceptions, that board operations were conducted in the public’s interest. The board conducted its meetings in compliance with state laws, effectively licensed optometrists, and actively amended regulations to address statutory changes and improve the licensing process. The Division of Corporations, Business and Professional Licensing (DCBPL) staff failed to operate in the public’s interest by not consistently recording licensees with federal Drug Enforcement Administration (DEA) registration numbers in the licensing database, not ensuring continuing education audits were conducted timely, and not monitoring licensees’ compliance with requirements for continuing education in pain management and opioid use and addiction.

In accordance with AS 08.03.010(c)(15), the board is scheduled to terminate on June 30, 2022. We recommend the legislature extend the board’s termination date to June 30, 2028, which is two years less than the maximum allowed in statute. The reduced extension reflects the need for more routine oversight in recognition of audit findings.

Detailed report conclusions are as follows.

**With certain exceptions, the board operated in the public’s interest and did not duplicate the efforts of other entities.**

Board meetings held from July 2017 through January 2021 were conducted in an effective manner. During the audit period, the number of board meetings exceeded the minimum number required by statute; however, the board’s workload supported the number of meetings held. Auditors found the meetings were appropriately publicly noticed and a quorum was consistently met.

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The audit concluded the board does not duplicate the activities of other entities. There are several national and state organizations that provide guidance and resources to the board and act as professional associations for optometrists. However, these organizations do not have licensing or investigative authority.

Per the board chair, the board supported statutory changes<sup>2</sup> that allowed the board to regulate the prescription and use of pharmaceutical agents for the treatment of eye disease, develop uniform standards for the practice of optometry, and publish advisory opinions regarding whether optometry practice procedures or policies comply with acceptable standards of practice. Additionally, the board supported statutory changes that limited ophthalmic services a licensee may perform; required a licensee who has a federal DEA number to register with the controlled substance prescription database and complete continuing education in pain management and opioid use and addiction; and expanded the grounds for disciplinary action if a licensee prescribed or dispensed an opioid in excess of the maximum or in violation of the law.

The board adopted regulations to implement the statutory changes described above. Additionally, the board adopted regulations to:

- require new licensees pass the Injections Skill Examination. This change helped ensure licensees have the skills necessary to safely perform injections; and
- update continuing education reporting requirements, provide for online and remote learning as an option for continuing education credits, and clarify exemptions from continuing education requirements for active duty military service in a combat zone. These changes improved the licensing process.

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<sup>2</sup> Senate Bill 74, House Bill 103, and House Bill 159.

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The audit also concluded that board operations were not carried out in the public's interest in three areas.

1) **DCBPL staff did not consistently record licensees with DEA numbers in the licensing database.**

According to AS 08.72.060(c)(3) and AS 17.30.200(n), a licensed optometrist holding a federal DEA number, who prescribes, administers, or directly dispenses schedule II, III, or IV controlled substances, must register with the controlled substance prescription database. DCBPL management provided written instructions and training for recording licensees with DEA numbers in the licensing database to allow for the monitoring of the registration requirement; however, licensing staff did not consistently record the required information. Auditors were unable to determine the number of board licensees holding DEA numbers due to incomplete data within the licensing database. Auditors identified 27 licensees registered in the controlled substance prescription database that were not designated within the DCBPL licensing database as holding a DEA number. (See Recommendation No. 1)

2) **The board and DCBPL staff did not ensure license renewal forms provided a means of monitoring compliance with requirements for continuing education in pain management and opioid use and addiction.**

Statutes were revised effective July 1, 2018, to require licensees with a DEA number to complete at least two hours of education in pain management and opioid use and addiction during the two years preceding the application for renewal. Subsequently, the board and DCBPL staff did not update the renewal form for the December 2020 renewal period to monitor compliance with the new continuing education requirement. (See Recommendation No. 2)

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3) **DCBPL management did not ensure continuing education audits were completed timely.**

DCBPL regulations require audits to be performed on 10 percent of licensees to verify continuing education claimed on the licensees' renewal applications. Per DCBPL policies, audits should be completed within six months from the date of renewal unless unusual circumstances are involved.

Auditors found continuing education was not effectively monitored by DCBPL staff. For the 2018 license renewal cycle, DCBPL's licensing staff requested evidence of continuing education from the licensees one year after licensees were selected for audit. In addition, licensing staff forwarded noncompliant licensees to the investigative unit one year after noncompliant licensees were identified by the board. During this timeframe, the board inquired with licensing staff about the status of the audits at three board meetings. Overall, the process for conducting continuing education audits had been ongoing for two and a half years as of February 2021. (See Recommendation No. 3)

**The board generally licensed optometrists in accordance with statutes and regulations.**

As shown in Exhibit 2, from FY 18 through January 31, 2021, the board issued 50 new licenses. As of January 31, 2021, there was a total of 206 active licenses, representing an 18 percent increase when compared to the 2013 sunset audit.<sup>3</sup>

Auditors reviewed 19 new licenses and 10 renewals issued during the audit period and found all were licensed in accordance with statutes and regulations; however, auditors found two licensees that held a DEA number were not designated as such in the DCBPL licensing database. Additionally, as already discussed, the licensing renewal form for the ten renewals did not allow for monitoring all continuing education requirements.

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<sup>3</sup> Excluding retired licenses, the number of total licenses reported in the 2013 sunset audit (ACN 08-2081-13) was 174.

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## Exhibit 2

Board of Examiners in Optometry Licensing Activity FY 18 through January 31, 2021				
New Issued (Exclusive of Renewals)				
	FY 18	FY 19	FY 20	Total Licenses as of January 31, 2021
Optometrist	11	9	18	206
Optometrist – Retired*	-	1	-	12
Totals	11	10	18	218

Source: Compiled from DCBPL licensing database.

\* Optometrists holding a retired license may not practice optometry. The license is valid for the life of the license-holder and does not require renewal. A person with a retired status may apply for active licensure upon meeting requirements set by the board.

### Licensing fees were not increased during 2020 due to the COVID-19 pandemic.

The board receives most of its revenue from licensure and renewal fees. Renewals are conducted on a biennial basis, creating a two-year cycle in board revenues. DCBPL management, as requested by the board, increased fees in October 2018 in response to a deficit.

As shown in Exhibit 3 on the following page, the board had a cumulative deficit of \$126,856 as of June 30, 2020. Due to the ongoing deficit, another fee increase was proposed by DCBPL management to the board in April 2020. Fees were not increased based on a directive from the governor to help relieve the financial impact of the COVID-19 pandemic. DCBPL management stated that a fee analysis will be conducted before the next renewal period. Exhibit 4 on page 11 presents a schedule of fees from FY 18 through January 31, 2021.

**Exhibit 3**

**Board of Examiners in Optometry  
Schedule of Revenues and Expenditures  
FY 18 through January 31, 2021  
(Unaudited)**

	FY 18	FY 19	FY 20	July 1, 2020 – January 31, 2021
Revenues:				
Licensing Revenue	\$ 8,900	\$ 131,350	\$ 22,970	\$ 124,065
Other Sources	1,000	-	-	-
Total Revenues	<u>9,900</u>	<u>131,350</u>	<u>22,970</u>	<u>124,065</u>
Direct Expenditures:				
Personal Services	64,631	38,592	42,156	36,909
Travel	6,738	2,934	-	-
Contractual	6,656	11,394	4,023	109
Supplies	2	-	-	-
Total Direct Expenditures	<u>78,027</u>	<u>52,920</u>	<u>46,179</u>	<u>37,018</u>
Indirect Expenditures	<u>30,113</u>	<u>22,003</u>	<u>21,241</u>	<u>12,319</u>
Total Expenditures	<u>108,140</u>	<u>74,923</u>	<u>67,420</u>	<u>49,337</u>
Annual Surplus (Deficit)	(98,240)	56,427	(44,450)	74,728
Beginning Cumulative Surplus (Deficit)	<u>(40,593)</u>	<u>(138,833)</u>	<u>(82,406)</u>	<u>(126,856)</u>
Ending Cumulative Surplus (Deficit)	<u><u>\$ (138,833)</u></u>	<u><u>\$ (82,406)</u></u>	<u><u>\$ (126,856)</u></u>	<u><u>\$ (52,128)</u></u>

Source: DCBPL management.



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**Exhibit 4**

**Board of Examiners in Optometry  
License Fees  
FY 18 through January 31, 2021**

	<b>FY 18</b>	<b>July 1, 2018 – January 31, 2021</b>
Nonrefundable application fee for initial license	\$ 300	\$ 450
Examination fee	100	250
License fee for all or part of the initial biennial license period	480	600
Biennial license renewal fee	480	600
Retired status license fee	150	150
Temporary military courtesy license fee	240	240
Extension of temporary military courtesy license fee	240	240

Source: DCBPL regulations.

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# FINDINGS AND RECOMMENDATIONS

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The prior 2013 sunset audit made one recommendation:

- Division of Corporations, Business and Professional Licensing’s (DCBPL) director should continue efforts to improve the investigative case management system’s integrity and confidentiality.

The prior audit recommendation was partially addressed and the outstanding issues were not significant enough to warrant restating the recommendation. DCBPL addressed a number of the investigative case management system deficiencies by improving system processes to reduce lost work and increase the reliability of reported information; however, security issues related to case confidentiality remained. All investigators continued to have the ability to view and update case information regardless of the business need. DCBPL management is aware of the security risk and feels the risk is justified to facilitate workload assignments.

This audit makes three new recommendations.

**Recommendation No. 1:**  
**DCBPL’s director should dedicate resources to ensure licensees holding a DEA number are consistently recorded in the licensing database.**

According to AS 08.72.060(c)(3) and AS 17.30.200(n), a licensed optometrist holding a federal Drug Enforcement Administration (DEA) registration number, who prescribes, administers, or directly dispenses schedule II, III, or IV controlled substances, must register with the controlled substance prescription database.

Auditors found DCBPL’s licensing database did not accurately identify whether or not a Board of Examiners in Optometry (board) licensee held a DEA number. DCBPL management provided written instructions and training to board licensing staff regarding how to record the existence of a DEA number in the licensing database; however, DCBPL licensing staff did not consistently follow the guidance. According to DCBPL management, regular turnover in the board’s licensing examiner and licensing supervisor positions led to inadequate training and oversight which contributed to the finding.

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Insufficient information within the licensing database limits the ability to monitor licensees' compliance with the requirement to register with the controlled substance prescription database. Incomplete information within the controlled substance database limits its ability to reduce misuse, abuse, and diversion of controlled substances.

We recommend DCBPL's director dedicate resources to ensure licensees holding a DEA number are consistently recorded in the licensing database.

**Recommendation No. 2:**

**The board chair and DCBPL's director should change the license renewal form to allow the board to monitor compliance with continuing education requirements.**

Alaska Statute 08.72.181(d), effective July 1, 2018, requires licensees holding a DEA number to complete at least two hours of education in pain management and opioid use and addiction during the two years preceding the application for renewal. Auditors found the board and DCBPL staff did not update the December 2020 renewal form to require licensees report compliance with the new continuing education requirement. Board members and DCBPL staff did not identify the application form deficiency due to human error and high turnover in licensing examiner and supervisor positions.

The deficient license renewal form impaired the board's ability to monitor compliance with continuing education requirements, which increased the risk to public safety.

We recommend the board chair and DCBPL's director change the license renewal form to allow the board to monitor compliance with continuing education requirements.

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**Recommendation No. 3:**

**DCBPL's director should ensure adequate resources are available to perform continuing education audits.**

DCBPL audits 10 percent of licensees to verify continuing education claimed on the licensees' renewal applications. Auditors found that DCBPL licensing staff notified and requested evidence of continuing education from licensees one year after licensees were selected for audit. Further, licensing staff forwarded noncompliant licensees to the investigative unit approximately two and a half years after licensees were selected for audit. During this timeframe, the board inquired with licensing staff about the status of the audits at three board meetings.

Regulation 12 AAC 02.960 requires DCBPL to audit compliance with continuing education requirements. Per DCBPL policies, licensees selected for audit should be notified within 60 days of the license renewal date and audits should be completed within six months after license renewal unless unusual circumstances are involved.

Per DCBPL management, turnover and multiple licensing staff vacancies contributed to the finding. Supervisory review was not sufficient to detect and correct the deficiency. Licensees not meeting continuing education requirements increase the risk to public safety.

We recommend DCBPL's director ensure adequate resources are available to perform continuing education audits in a timely manner.

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# OBJECTIVES, SCOPE, AND METHODOLOGY

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In accordance with Title 24 and Title 44 of the Alaska Statutes, we have reviewed the activities of the Board of Examiners in Optometry (board) to determine if there is a demonstrated public need for its continued existence.

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)(15), the board will terminate on June 30, 2022, and will have one year from that date to conclude its administrative operations.

## Objectives

The three central, interrelated objectives of the audit are to:

- 1) Determine if the termination date of the board should be extended;
- 2) Determine if the board is operating in the public's interest; and
- 3) Determine the status of recommendations made in the prior sunset audit.

## Scope

The assessment of board operations and performance 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. The board's activities were reviewed from July 1, 2017, through January 31, 2021. Financial information is presented, unaudited, from July 1, 2017, through January 31, 2021.

## Methodology

During the course of our audit we reviewed and evaluated the following:

- The prior sunset audit report (ACN 08-20081-13) to identify issues affecting the board and to identify prior sunset audit recommendations.

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- Applicable statutes and regulations to identify board functions and responsibilities, determine whether statutory or regulatory changes enhanced or impeded board activities, and help ascertain if the board operated in the public interest.
  - Board meeting minutes and annual reports to gain an understanding of board proceedings and activities, the nature and extent of public input, and whether a quorum was maintained.
  - The State's Online Public Notices System to verify board meetings were public noticed in compliance with state law.
  - Expenditures, revenues, and fee levels for the board to determine whether fee levels covered the costs of operations.
  - Various websites to identify complaints against the board or other board related concerns.
  - Various websites for potential duplication of board activities.
  - Board investigation data for cases open or opened from July 1, 2017, through January 31, 2021. There were no investigations conducted during the audit period and there were no open investigations as of January 31, 2021.
  - Board licensing data relating to Division of Corporations, Business and Professional Licensing continuing education audits to assess the continuing education audit process for the 2018 license renewal cycle.
  - Board licensing data and controlled substance prescription data to evaluate whether the board served the public's interest in its oversight of licensee registration in the controlled substance prescription database.

Internal controls over the licensing database were assessed to determine if controls were properly designed and implemented. Additionally, to identify and evaluate board activities, interviews were conducted with state agency staff and board members. Specific



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areas of inquiry included: board operations, statutory duties, regulations, duplication of efforts, fee levels, and complaints against the board.

The audit utilized the following samples:

- A random sample of 25 licenses (15 new and 10 renewal applications) and a judgmental sample of four new licenses was selected. Nineteen new applications were selected from 50 new licenses issued between July 1, 2017, and January 31, 2021. Ten renewal applications were selected from the 187 renewal licensees as of January 31, 2021. Applications were assessed for statutory and regulatory compliance. The sample size was based on low control risk, low to moderate inherent risk, and moderate audit risk. Test results from the random sample were projected to the population.

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## APPENDIX SUMMARY

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Appendix A provides the sunset criteria used in developing the conclusion regarding whether the Board of Examiners in Optometry's termination date should be extended.

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## APPENDIX A

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### **Analysis of Public Need Criteria AS 44.66.050(c)**

A determination as to whether a board or commission has demonstrated a public need for its continued existence must take into consideration the following factors:

1. the extent to which the board or commission has operated in the public interest;
2. the extent to which the operation of the board or commission 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;
3. the extent to which the board or commission has recommended statutory changes that are generally of benefit to the public interest;
4. the extent to which the board or commission 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;
5. the extent to which the board or commission has encouraged public participation in the making of its regulations and decisions;
6. the efficiency with which public inquiries or complaints regarding the activities of the board or commission 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;
7. the extent to which a board or commission that regulates entry into an occupation or profession has presented qualified applicants to serve the public;

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8. the extent to which state personnel practices, including affirmative action requirements, have been complied with by the board or commission to its own activities and the area of activity or interest;
  9. the extent to which statutory, regulatory, budgetary, or other changes are necessary to enable the board or commission to better serve the interests of the public and to comply with the factors enumerated in this subsection;
  10. the extent to which the board or commission has effectively attained its objectives and purposes and the efficiency with which the board or commission has operated; and
  11. the extent to which the board or commission duplicates the activities of another governmental agency or the private sector.

# Agency Response from the Department of Commerce, Community, and Economic Development



THE STATE  
of ALASKA  
GOVERNOR MIKE DUNLEAVY

## Department of Commerce, Community, and Economic Development

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August 16, 2021

Kris Curtis  
Division of Legislative Audit  
P.O. Box 113300  
Juneau, AK 99811

RECEIVED

AUG 16 2021

LEGISLATIVE AUDIT

RE: Preliminary Audit Report, Department of Commerce, Community, and Economic Development,  
Board of Examiners in Optometry Sunset Review

Dear Ms. Curtis:

Thank you for the opportunity to comment on the Preliminary Audit Report regarding the Board of Examiners in Optometry (board). The department concurs with the conclusions that the board is generally operating in the public interest in accordance with statutes and regulations and has the following comments on the report:

### Report Conclusions, Findings, and Recommendations

DCBPL's director should dedicate adequate resources to ensure licensees holding a DEA number are consistently recorded in the licensing database.

Written instructions were provided by management and regularly reinforced to program staff; subsequently, a standardized policy manual including this procedure was created January 2019. However, regular turnover in the Occupational Licensing Examiner and Records and Licensing Supervisor positions responsible for this program created gaps in training and oversight. During the three and a half years covered in the legislative audit period, the examiner changed five times, and supervisory responsibility changed four times due to vacancy and competing priorities among various programs within the position's purview. Given the limited staffing resources available to the division, there is very little redundancy in personnel when positions are vacated. The department is assisting the division in addressing these continued challenges.

The board chair and DCBPL's director should change the license renewal form to allow the board to monitor compliance with continuing education requirements.

The license renewal form has been updated to contain this information. We find this matter has been resolved.

DCBPL's director should ensure adequate resources are available to perform continuing education audits.

The staff turnover mentioned above led to a lack of follow-through and oversight of the audit process for this program. Additional tools have been created to assist all programs in calendaring and implementing audit phases:

- The professional licensing program coordinator has been tasked to take a more proactive and accountable role in ensuring audits are completed timely and accurately.
- Tasks and timelines in the audit process have been added to the professional licensing renewal calendar. This instrument is accessible to all division staff, enabling further checks and balances in oversight in all professional licensing programs.
- The division paralegal is scheduling conferences with program staff according to the audit and renewal calendar to ensure each step is completed timely.

Licensing fees were not increased during 2020 due to the COVID-19 pandemic.

SB 241 and subsequent directives from the governor held licensing fees at their pre-COVID levels. The division performed its annual fee analysis, and a supplemental general funding request was included in the FY21 budget. The administration regularly reevaluates its position on fee increases as the economy continues to recover.

Status of prior recommendations

We are unclear what is meant by the statement “reduce lost work and increase the reliability of reported information.” To avoid attracting unwarranted concern from legislators, we would appreciate clarity on this statement. We are not aware of any instances of lost work or unreliable information within the case management system.

The department maintains its position that the investigative case management system’s audit trail, augmented supervisory checks, and severe state penalties provide substantial security against internal misuse of investigative data. These results have been proven through an excellent track record since implementation of the system in 2011.

Again, thank you for the opportunity for the DCCED to provide input on this matter. Should you have any questions about the contents of this letter, please do not hesitate to contact me at 907-269-8125.

Sincerely,



Julie Anderson  
Commissioner

cc: Sara Chambers, Director, Division of Corporations, Business and Professional Licensing  
Glenn Hoskinson, Legislative Liaison, DCCED



# Agency Response from the Board of Examiners in Optometry



THE STATE  
of **ALASKA**  
GOVERNOR MIKE DUNLEAVY

Department of Commerce, Community,  
and Economic Development

BOARD OF EXAMINERS IN OPTOMETRY

P.O. Box 110806  
Juneau, Alaska 99811-0806  
Main: 907.465.2541  
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August 5, 2021

Kris Curtis, CPA, CISA  
Division of Legislative Audit  
P.O. Box 113300  
Juneau, AK 99811-3300  
legaudit@akleg.gov

RECEIVED  
AUG 05 2021  
LEGISLATIVE AUDIT

Dear Legislative Auditor Curtis,

I have received and reviewed the preliminary audit report today and concur with the Report Conclusions and Findings and Recommendations.

The only action item that the Board can influence is the need for attestation of opioid education for DEA license holders on the application for renewal. I have discussed this finding/deficiency with the licensing examiner (now gone), the current licensing supervisor as well as the Director. I believe this application update and deficiency correction will be completed in the early Fall of 2022 prior to the opening window for application renewals. Also at that time, any necessary fee increases will also be reflected on the updated renewal application.

The remaining recommendations are beyond Board control or influence.

Please contact me if any additional Board input or review is necessary.

Sincerely,

A handwritten signature in black ink, appearing to read "D. Delzer".

Damien R. Delzer, O.D., DipABO  
Chair, Board of Examiners in Optometry

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# Legislative Auditor's Additional Comments

## ALASKA STATE LEGISLATURE

LEGISLATIVE BUDGET AND AUDIT COMMITTEE

Division of Legislative Audit



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August 20, 2021

Members of the Legislative Budget  
and Audit Committee:

I have reviewed the responses to the Board of Examiners in Optometry audit report. Nothing contained in the responses causes me to revise or reconsider the report conclusions or recommendations. However, I offer the following response to statements made by the commissioner of the Department of Commerce, Community, and Economic Development (DCCED).

DCCED's commissioner asks that we provide clarity regarding the status of prior recommendations on page 13 of the audit where we state that the prior finding had been materially resolved by improvements that "reduce lost work and increase the reliability of reported information." The commissioner states that she is not aware of any instances of lost work or unreliable information within the case management system. In response, I reiterate that the audit provides a status of the 2013 finding wherein system deficiencies resulted in lost work and unreliable information. An objective of this audit was to provide a status of the prior sunset audit recommendations.

Sincerely,

A handwritten signature in black ink, appearing to read "Kris Curtis".

Kris Curtis, CPA, CISA  
Legislative Auditor