

ALASKA STATE LEGISLATURE

LEGISLATIVE BUDGET AND AUDIT COMMITTEE

Division of Legislative Audit



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December 4, 2009

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 Psychologist and Psychological Associate Examiners (BPPA) and the attached report is submitted for your review.

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

October 28, 2009

Audit Control Number
08-20066-10

This 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, BPPA is required to terminate on June 30, 2010. Under AS 08.03.020, the board will have a one-year period to administratively conclude its affairs. In our opinion, BPPA should continue to regulate the psychology profession. We recommend the board be extended to June 30, 2018, the maximum extension allowed in statute.

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.


Pat Davidson, CPA
Legislative Auditor

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OBJECTIVES, SCOPE, AND METHODOLOGY

In accordance with Titles 24 and 44 of the Alaska Statutes, we have reviewed the activities of the Board of Psychologist and Psychological Associate Examiners (BPPA) 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 BPPA should be reestablished. Currently under AS 08.03.010(c)(18), the board will terminate on June 30, 2010. If the legislature does not extend the termination date for the board, BPPA will have one year to conclude its administrative operations.

Objectives

The three central, interrelated objectives of our report were:

1. To determine if the board's termination date should be extended.
2. To determine if the board is operating in the public interest.
3. To determine if the board has exercised appropriate regulatory oversight of licensed psychologists and psychological associates.

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

Scope and Methodology

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

- Statutes and regulations for the psychology profession. Statutes and regulations were reviewed to identify board duties and responsibilities, and board member composition and qualifications. We also identified additions, deletions and changes to BPPA statutes and regulations.
- BPPA license files and documentation. Licensing documentation was reviewed to determine if individuals were licensed in accordance with regulations. We also evaluated compliance with continuing education requirements.
- Board meeting minutes, budget documents, and annual reports related to or issued by BPPA to gain an understanding of board proceedings and activities.

- Public notice documentation to ascertain whether public notice for BPPA meetings and proposed regulation changes were published as required by statute.
- Financial records related to BPPA revenues and expenditures to identify the surplus or deficit for each fiscal year.
- Complaints related to individuals licensed by BPPA to gain an understanding of the nature of complaints and timeliness of the investigative process. Complaints filed with the following organizations were reviewed: the Department of Commerce, Community, and Economic Development, Division of Corporations, Business and Professional Licensing; the Human Rights Commission; the Office of the Ombudsman; the Office of Victims' Rights; and the Federal Equal Employment Opportunity Commission.

Additionally, we conducted interviews with staff within the Division of Corporations, Business and Professional Licensing.

ORGANIZATION AND FUNCTION

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

Board Membership

BPPA is composed of five members. Alaska Statute 08.86.010 requires board positions to consist of three licensed psychologists, one licensed psychological associate, and one individual from the general public. Statute prohibits the public member from having a direct financial interest in the health care industry.

Board Duties

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

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

The board's duties include:

1. Examining and issuing licenses to qualified applicants.
2. Holding hearings in order to impose disciplinary sanctions on persons who violate the statutes or regulations related to the licensure of psychologists and psychological associates.
3. Adopting regulations necessary to enforce BPPA statutes.

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

**Board of Psychologist and
Psychological Associate Examiners**
(As of June 30, 2009)

Licensed Psychologists

John DeRuyter, Ph.D.

Lorin Bradbury, Ph.D.

Kristi Fuller, Ph.D.

Psychological Associate Examiner

Lisa Turner, M.S.

Public Member

Camille Carlson

In order to become licensed as a psychologist by examination, an applicant must have a doctorate degree; one year of post doctoral experience approved by the board; and pass a written examination.

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

The Department of Commerce, Community, and Economic Development (DCCED),
Division of Corporations, Business and Professional Licensing

The Division of Corporations, Business and Professional Licensing provides administrative and investigative assistance to BPPA. Administrative assistance includes budgetary services and functions such as collecting fees, maintaining files, receiving and issuing application forms, and publishing notices of examinations and meetings.

Alaska Statute 08.01.087 empowers DCCED with the authority to act on its own initiative or in response to a complaint. The division may:

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

REPORT CONCLUSIONS

The Board of Psychologist and Psychological Associate Examiners (BPPA) is operating in an efficient and effective manner and should continue to regulate the psychology profession. We believe the board is safeguarding the public interest by ensuring the competence and integrity of those who present themselves to the public as psychologists and psychological associate examiners.

Alaska Statue 08.03.010(c)(18) requires BPPA be terminated on June 30, 2010. If the legislature does not extend the board's termination date, under AS 08.03.020, BPPA will have a one-year period to administratively conclude its affairs. We recommend the legislature extend the board's termination date to June 30, 2018, the maximum extension allowed in statute.

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FINDINGS AND RECOMMENDATIONS

Recommendation No. 1

The Department of Commerce, Community, and Economic Development (DCCED), Division of Corporations, Business and Professional Licensing's administrative officer should take steps to ensure courtesy licensees comply with reporting requirements.

State regulation 12 AAC 60.035(a) authorizes a courtesy licensee to practice psychology for no more than 30 days in a 12-month period. The regulation requires the licensee to submit a report to the board each month during the period of courtesy licensure indicating the number of days practiced during the month.

The licensing examiner that provides administrative support to the Board of Psychology and Psychological Associate Examiners (BPPA) did not monitor or report compliance with monthly reporting requirement. From FY 05 through FY 09, 11 courtesy licenses were issued by the board. We examined three of the 11 courtesy license files. Each had varying degrees of incomplete reporting. One licensee failed to submit any monthly reports; another submitted a report that covered a nine month period; and the third submitted late reports. There was no follow-up by division staff or the board. Without adequate reporting, it is unclear whether courtesy licensees are complying with regulatory requirements.

We recommend that the division's professional licensing administrative officer develop procedures to monitor reporting requirements and report compliance to BPPA.

Recommendation No. 2

The division's professional licensing administrative officer should take steps to improve administrative support.

Unqualified staff and a lack of documented procedures led to several deficiencies in division administrative support. Specifically:

- FY 05, FY 07, and FY 08 annual reports contained errors in license statistics.
- Nine of 16 board meetings were not published on the State's online public notice system.
- Fee analyses were not performed for the licensing periods FY 05 and FY 06.
- Indirect costs for the division were treated inconsistently between fiscal years.
- Fines of \$1,000, recorded in FY 07, were incorrectly reported as BPPA revenue.

The division is responsible for performing various administrative tasks to support board activities. Per AS 08.01.050, duties include collecting and recording fees; maintaining records and files; compiling and maintaining a current register of licensees; arranging for printing and advertising; and providing inspection, enforcement, and investigative services to occupational boards. DCCED is also responsible for annually reviewing fee levels of the occupational boards to determine whether the regulatory costs of the occupation are approximately equal to fee collections related to that occupation. BPPA is required by AS 08.01.070 to submit, before the end of each fiscal year, an annual performance report to the department stating the board's accomplishments, activities, and needs. The division's policy is to produce a single annual report incorporating both board and division information requirements.

Most of the deficiencies in administrative support were caused by a key administrative staff member that was unqualified and untrained for the position. This was further exacerbated by a lack of accounting and reporting procedures. Turnover in staff positions caused the oversight in posting public notices.

Inadequate administrative support hampers BPPA's ability to fulfill its responsibilities and may provide policymakers with misleading information. We recommend the division's administrative officer responsible for professional licensing take steps to improve administrative support.

Recommendation No. 3

BPPA and staff within the Office of the Governor should work together to increase the pool of qualified applicants available for board appointments to ensure full representation.

BPPA appointments did not fully comply with state law. A psychological associate member position was vacant for 32 months beginning in FY 04. A public member position was vacant for eight months of FY 04. A licensed psychologist member position was vacant for 15 months beginning in FY 08.

Alaska Statute 08.86.010 requires the board to consist of three licensed psychologists, a licensed psychological associate, and one person with no direct financial interest in the health care industry. A lack of qualified applicants caused the board vacancies.

The board cannot function effectively with extended vacancies in board positions. Technical expertise is provided by professional members. Public members provide a consumer perspective. Full representation provides the board with balance to prevent undue bias toward the profession being regulated.

We recommend BPPA and staff within the Office of the Governor work together to increase the pool of qualified applicants available for board appointments to ensure full representation.

ANALYSIS OF PUBLIC NEED

The following analyses of board activities relate to the public need factors defined in AS 44.66.050(c). These analyses are not intended to be comprehensive but to 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 of Psychologist and Psychological Associate Examiners (BPPA) has served the public through licensing qualified applicants, drafting new regulations, taking appropriate disciplinary action, and informing the public of upcoming meetings and regulatory changes. The board keeps abreast of national regulatory concerns by annually sending a representative to the Association of State and Provincial Psychology Boards' conference.

The board expanded the pool of people allowed to practice psychology by creating a courtesy license. A courtesy license allows certain qualified persons to practice psychology for no more than 30 days over a twelve month period. Only one courtesy license may be issued during a person's lifetime. Expert witnesses are common applicants for courtesy licenses.

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.

Under 08.01.065(c), the Department of Commerce, Community and Economic Development (DCCED) must "*establish fee levels... that the total amount of fees collected for an occupation approximately equals the actual regulatory costs for the occupation.*" BPPA reviews and provides feedback on changes to fees proposed by the division.

BPPA revenues come from licensing and renewal fees. Renewals are conducted on a biennial basis. This creates a two-year cycle in board revenues, with BPPA receiving most of its revenues during the odd-numbered fiscal years. We reviewed the division's internal records to identify BPPA revenues and expenditures. The table on the following page presents the board's revenues and expenditures for FY 05 through FY 09.

State of Alaska
Board of Psychologist and Psychological Associate Examiners
Schedule of Revenues and Expenditures
FY 05 through FY 09
(Unaudited)

	FY 05	FY 06	FY 07	FY 08	FY 09
Revenue	\$185,700	\$20,900	\$123,300	\$40,000	\$166,600
Direct Expenses					
Personal Services	37,400	29,900	28,500	41,500	49,300
Travel	8,700	12,300	17,300	13,200	16,100
Contractual	17,500	18,100	10,900	45,500	3,500
Supplies	-0-	100	100	-0-	100
Equipment	-0-	-0-	-0-	100	-0-
Total Direct Expenses	63,600	60,400	56,800	100,300	69,000
Indirect Expenses	11,400	8,900	13,100	13,200	12,200
Total Expenses	75,000	69,300	69,900	113,500	81,200
Annual Surplus (Deficit)	110,700	(48,400)	53,400	(73,500)	85,400
Beginning Cumulative Surplus (Deficit)	(75,400)	35,300	(13,100)	40,300	(33,200)
Ending Cumulative Surplus (Deficit)	\$35,300	(\$13,100)	\$40,300	(\$33,200)	\$52,200

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

The only change to BPPA statutes from FY 05 through FY 09 was the passage of Senate Bill 177 in 2005. A board member testified in support of the bill which eliminated the prohibition on the use by certain licensed professionals of titles or descriptions of services that incorporate the terms *psychoanalysis*, *psychoanalyst*, *psychotherapy*, *psychotherapeutic*, or *psychotherapist*. The purpose of the bill was to change statute to reflect changes to the mental health profession and expand access to services.

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.

Notices of upcoming board meetings were published consistently in the *Anchorage Daily News*. However, nine of 16 board meetings, held from FY 05 through FY 09, were not posted on the State's online public notice system (discussed in Recommendation No. 2). Time for public comment was set aside at each board meeting.

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

The board encouraged public participation in regulation changes by posting notices of proposed changes in the State's online public notice system and in the *Anchorage Daily News*. Public notices include instructions for submitting comments for consideration. BPPA reviewed and considered public comment before adopting new regulations.

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.

During May 2004 through February 2009, there were 20 complaints and 20 cases opened related to psychologists or psychological associate examiner licensees or applicants. Three of the complaints were closed and re-opened as cases; six were determined not in violation; four lacked jurisdiction, were unfounded, or were resolved; two were closed for other reasons; and five remained open as of February 2009. Of the twenty cases, twelve had been closed during our audit period. Seven of those resulted in licensing action; two were sent advisement letters; and three were not in violation.

We reviewed two of the complaints and three of the cases to evaluate the reasonableness and timeliness of the investigative effort. One of the two complaints was not investigated in a timely manner. The complaint was assigned a low priority and still open after a year. According to investigative staff, other higher priority complaints/cases took precedence. Additionally, one of three cases reviewed was open for an unreasonable amount of time – approximately four and a half years. The delay was partially due to staff turnover and partially caused by procedural delays between investigative staff, the board, and the Department of Law. Except for these deficiencies, investigations were conducted in an effective and efficient manner.

There were no BPPA complaints filed with the Office of Victim's Rights, Human Rights Commission or the Office of the Ombudsman.

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.

BPPA is adequately regulating entry into the profession by licensing qualified applicants to serve the public. Continuing education is required and monitored by the board to promote a high level of quality and ensure the integrity of the profession. Board meeting minutes reflect that BPPA considers each applicant and verifies licensing requirements prior to issuing a license.

During FY 06, BPPA began to issue courtesy licenses.¹ The table below summarizes licensing activity for the past five fiscal years.

Type of License	Newly Issued Licenses (Exclusive of Renewals)					Total Licensees as of June 30, 2009
	FY 05	FY 06	FY 07	FY 08	FY 09	
Psychologist	11	6	9	11	11	59
Temporary Psychologist	4	3	3	7	2	22
Psychological Associate	3	1	1	0	1	7
Temporary Psychological Associate	0	1	2	0	0	5
Courtesy License	0	4	3	0	4	11

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.

We found no evidence that the board has not complied with state personnel practices, including affirmative action, in the qualifying process of applicants.

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.

As noted previously, improvements are needed in the enforcement and monitoring of monthly reporting requirements for courtesy licenses (discussed in Recommendation No. 1).

The administrative support provided by the division’s professional licensing section was not accurate, comprehensive, or consistent. The administrative staff should provide the necessary and required information so that the board can perform its functions and serve the interest of the public effectively and efficiently (discussed in Recommendation No. 2).

¹If certain criteria are met, regulations provide that a qualified person may be awarded a courtesy license. A courtesy license allows a licensee to practice psychology for no more than 30 days over a twelve month period.

BPPA and staff within the Office of the Governor should work to expand the pool of qualified applicants available for board appointments to ensure full representation (discussed in Recommendation No. 3).

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.

Except for the deficiencies already discussed, BPPA successfully met its goals and objectives in an efficient manner.

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

There are several national and state psychology related organizations that work in positive conjunction with BPPA. The efforts of these organizations enhance rather than duplicate BPPA efforts.

We compared various elements of the psychology profession to several other mental health licenses (marital and family therapists, social workers, and professional counselors). We noted similarities in the issues treated, intervention techniques, and client populations. There are common issues for groups, such as professional accessibility for supervised experience, license portability, distance counseling, and background checks.

Though similarities exist, there are still distinctions between the license types and professional philosophies. Though there are parallels, and some possible duplication of efforts between these license types, there are sufficient practical and philosophical distinctions that it is reasonable that these professions be licensed separately.

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Office of Governor Sean Parnell
STATE OF ALASKA

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DEC 30 2009

LEGISLATIVE AUDIT

December 30, 2009

Ms. Kristin Dolquist, CPA
Audit Manager
Division of Legislative Audit
P.O. Box 113300
Juneau, AK 99811-3300

Dear Ms. Dolquist,

This letter is in response to your October 28, 2009 "CONFIDENTIAL" preliminary audit report on the Board of Psychologist and Psychological Associate Examiners (BPPA).

The Office of the Governor concurs with recommendation number three which states, "BPPA and staff within the Office of the Governor should work together to increase the pool of qualified applicants available for board appointments to ensure full representation." A board functions most effectively with full representation. Currently, the board is operating with full membership, and we are currently recruiting applicants for consideration for a seat with a term beginning March 1, 2010. I am committed to assisting the Governor in making a timely appointment to allow the board to function productively.

If you need additional information, please contact me at 907-465-3934.

Sincerely,

A handwritten signature in black ink, appearing to read "J. Hooley".

Jason Hooley
Director
Boards and Commissions

cc: Michael Nizich, Chief of Staff, Office of the Governor

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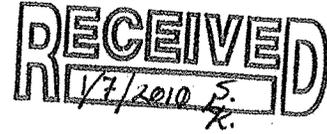


STATE OF ALASKA
DEPARTMENT OF
COMMERCE
COMMUNITY AND
ECONOMIC DEVELOPMENT

Office of the Commissioner

Sean Parnell, Governor
Emil Notti, Commissioner

January 4, 2010



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

Re: Preliminary Audit, Board of Psychologist and Psychological Associate Examiners

Dear Ms. Davidson:

Thank you for the opportunity to comment on your Preliminary Audit findings concerning the Board of Psychologist and Psychological Associate Examiners (BPPA).

Recommendation No. 1

The Department of Commerce, Community, and Economic Development (DCCED), Division of Corporations, Business and Professional Licensing's administrative officer should take steps to ensure courtesy licensees comply with reporting requirements.

The department agrees that procedural oversight of courtesy licensees should and will be made a priority. Regulatory reporting requirements are somewhat cumbersome to administer. It is not the role of the division's administrative officer to ensure statutory compliance of BPPA licensees however, the department will ensure licensing staff work with the Board to review its reporting requirements and ease unnecessary requirements or to establish more efficient options for licensees to comply.

Recommendation No. 2

The division's professional licensing administrative officer should take steps to improve administrative support.

As we have stated on many occasions, we could not agree more. The division has undergone a number of changes in key management positions and is now optimistic about improvements being made to its internal cost-accounting system and documentation of procedures.



STATE OF ALASKA
DEPARTMENT OF
COMMERCE
COMMUNITY AND
ECONOMIC DEVELOPMENT

Office of the Commissioner

Sean Parnell, Governor
Emil Notti, Commissioner

Unfortunately, the current incumbents are also faced with clean up of the accounting inaccuracies created by former employees in recent past years. We are confident that progress is being made to clean up the inaccuracies and to reestablish credibility of the division's cost-accounting system. Procedures for accounting for revenues and expenditures and preparation of financial reports did exist before it went awry. Correcting past errors has been a priority since current and future financial analysis is dependent on using correct data.

Recommendation No. 3

BPPA and staff within the Office of the Governor should work together to increase the pool of qualified applicants available for board appointments to ensure full representation.

The department agrees with the recommendation.

The department concurs with the extension of the BPPA to June 30, 2018. Thank you for the opportunity to comment on your recommendations.

Sincerely,

Emil Notti
for Emil Notti
Commissioner

Lorin L. Bradbury, Ph.D.
Chairman
Board of Psychologist and Psychological Associate Examiners
P.O. Box 1748
Bethel, AK 99559

December 28, 2009

Pat Davidson
Legislative Auditor
Alaska State Legislature
Legislative Budget and Audit Committee
Division of Legislative Audit
P.O. Box 113300
Juneau, AK 99559

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Dear Mr. Davidson:

I have reviewed the Preliminary Audit Report of the Board of Psychologist and Psychological Associate Examiners (BPPA). I appreciate your thorough work and agree with the recommendations. Below I have noted the steps we either will take, or have already taken, to implement the recommendations.

Recommendation No. 1

Beginning with the next meeting (February 25-26, 2009) of the BPPA a report of the hours of use of each courtesy license will become a standard agenda item.

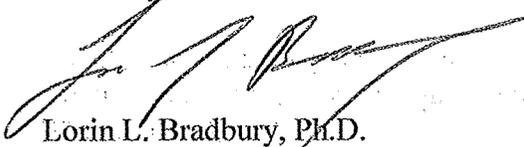
Recommendation No. 2

This is an administrative issue that the BPPA has little or no control over.

Recommendation No. 3

A representative of the Alaska Psychological Association (AK-PA) meets with the Board at each regularly scheduled meeting of the BPPA. The Board will continue to inform the AK-PA of vacancies or anticipated vacancies so that the membership can contact the Office of the Governor of an interest in serving on the Board. Please be aware that during the lengthy vacancies on the Board noted in the audit, the BPPA took the above steps and were informed that individuals had submitted letters of interest, but no appointments were made.

Sincerely,



Lorin L. Bradbury, Ph.D.
Licensed Psychologist
Chairman
Board of Psychologist and Psychological Associate Examiners