

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES LEGISLATIVE AFFAIRS AGENCY STATE OF ALASKA

(907) 465-2450
LAA.Legal@akleg.gov
120 4th Street, Room 3

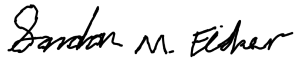
State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

March 15, 2021

SUBJECT: "May" and "Shall"
(CSHB 44()); Work Order No. 32-LS0302\B)

TO: Representative Steve Thompson
Attn: Lynette Bergh

FROM: Sandon M. Fisher
Legislative Counsel 

You have asked about the effect of the use of the word "may" in AS 08.04.195(d) and the word "shall" used in AS 08.04.240(a).

AS 08.04.195(d) concerns the renewal of a license issued under the reciprocity license provisions of AS 08.04.195(a). AS 08.04.195(d) provides that the Board of Public Accountancy (board) *may* renew a license issued under AS 08.04.195 if the licensee complies with certain requirements. The word "may" as used in AS 08.04.195(d) exists in current statute and CSHB 44() does not add the word "may" or otherwise amend that word as it appears in AS 08.04.195(d).

AS 08.04.240(a) concerns the application of a firm for a permit to engage in the practice of public accounting. The subsection provides that the "board *shall* grant a permit to engage in the practice of public accounting" to a firm that meets certain requirements. The word "shall" as used in AS 08.04.240(a) exists in current statute, and CSHB 44() does not add the word "shall" or otherwise amend that word.

The word "shall" is used to impose a duty, and the word "may" is used to grant a privilege or a discretionary power.¹ The use of the word "shall" in AS 08.04.240(a) imposes a duty on the board to issue a permit to a firm that meets the statutory requirements. The use of the word "may" in AS 08.04.195(d) allows the board to renew a license issued under AS 08.04.195(a) (licensure by reciprocity), but does not obligate the board to issue the license. You may want to reach out to the board for information regarding the board's process for renewing a license under AS 08.04.195(d), and whether the board has ever declined to renew a license under AS 08.04.195(d) for an applicant who was eligible for renewal.

¹ See *Manual of Legislative Drafting* at 65 (citing *Fowler v. City of Anchorage*, 583 P.2d 817 (Alaska 1978) and *Rutter v. State, Alaska Board of Fisheries*, 963 P.2d 1007 (Alaska 1998)).

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Please let me know if you would like to change the use of the words "shall" or "may" in AS 08.04.195 or AS 08.04.240.

If I may be of further assistance, please advise.

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