

SENATE CS FOR CS FOR HOUSE BILL NO. 35(HES) am S

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - FIRST SESSION

BY THE SENATE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

Amended: 5/8/95

Offered: 5/7/95

Sponsor(s): REPRESENTATIVES PARNELL, Bunde, Robinson, Toohey, B.Davis

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to sexual misconduct as grounds for imposing disciplinary**
2 **sanctions on persons licensed by the State Medical Board."**

3 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 *** Section 1.** AS 08.64.326(a) is amended to read:

5 (a) The board may impose a sanction if the board finds after a hearing that a
6 licensee

7 (1) secured a license through deceit, fraud, or intentional
8 misrepresentation;

9 (2) engaged in deceit, fraud, or intentional misrepresentation while
10 providing professional services or engaging in professional activities;

11 (3) advertised professional services in a false or misleading manner;

12 (4) has been convicted, including conviction based on a guilty plea or
13 plea of nolo contendere, of

14 (A) a felony or other crime if the felony or other crime is

1 substantially related to the qualifications, functions, or duties of the licensee;
2 or

3 (B) a crime involving the unlawful procurement, sale,
4 prescription, or dispensing of drugs;

5 (5) has procured, sold, prescribed, or dispensed drugs in violation of
6 a law, regardless of whether there has been a criminal action;

7 (6) intentionally or negligently permitted the performance of patient
8 care by persons under the licensee's supervision that does not conform to minimum
9 professional standards even if the patient was not injured;

10 (7) failed to comply with this chapter, a regulation adopted under this
11 chapter, or an order of the board;

12 (8) has demonstrated

13 (A) professional incompetence, gross negligence, or repeated
14 negligent conduct; the board may not base a finding of professional
15 incompetence solely on the basis that a licensee's practice is unconventional or
16 experimental in the absence of demonstrable physical harm to a patient;

17 (B) addiction to, severe dependency on, or habitual overuse of
18 alcohol or other drugs that impairs the licensee's ability to practice safely;

19 (C) unfitness because of physical or mental disability;

20 (9) engaged in unprofessional conduct, **in sexual misconduct**, or in
21 lewd or immoral conduct in connection with the delivery of professional services to
22 patients; **in this paragraph, "sexual misconduct" includes sexual contact, as**
23 **defined by the board in regulations adopted under this chapter, or attempted**
24 **sexual contact with a patient outside the scope of generally accepted methods of**
25 **examination or treatment of the patient, regardless of the patient's consent or lack**
26 **of consent, during the term of the physician-patient relationship, as defined by the**
27 **board in regulations adopted under this chapter, unless the patient was the**
28 **licensee's spouse at the time of the contact or, immediately preceding the**
29 **physician-patient relationship, was in a dating, courtship or engagement**
30 **relationship with the licensee;**

31 (10) has violated AS 18.16.010;

1 (11) has violated any code of ethics adopted by regulation by the board;
2 (12) has denied care or treatment to a patient or person seeking
3 assistance from the physician if the only reason for the denial is the failure or refusal
4 of the patient to agree to arbitrate as provided in AS 09.55.535(a); or
5 (13) has had a license or certificate to practice medicine in another state
6 or territory of the United States, or a province or territory of Canada, suspended or
7 revoked unless the suspension or revocation was caused by the failure of the licensee
8 to pay fees to that state, territory, or province.

9 * **Sec. 2.** APPLICABILITY. AS 08.64.326(a)(9), as amended by this Act, applies to
10 conduct by a licensee that occurs on or after the effective date of this Act.