

HOUSE CS FOR CS FOR SENATE BILL NO. 71(HES) am H

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - FIRST SESSION

BY THE HOUSE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

Amended: 5/17/99

Offered: 5/14/99

Sponsor(s): SENATE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to licensure by the State Medical Board."

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

3 * Section 1. AS 08.64 is amended by adding a new section to read:

4 Sec. 08.64.075. Designees. If this chapter authorizes a designee to perform
5 a duty, the board may designate a single board member, the executive secretary, or
6 another employee of the department.

7 * Sec. 2. AS 08.64.200(a) is amended to read:

8 (a) Except for foreign medical graduates as specified in AS 08.64.225, each
9 physician applicant shall

10 (1) submit a certificate of graduation from a legally chartered medical
11 school accredited by the Association of American Medical Colleges and the Council
12 on Medical Education of the American Medical Association;

13 (2) submit a certificate from a recognized hospital or hospitals
14 certifying that the applicant has satisfactorily performed the duties of resident physician
15 or intern for a period of

(A) one year if the applicant graduated from medical school before January 1, 1995, as evidenced by a certificate of completion of the first year of postgraduate training from the facility where the applicant completed the first year of internship or residency; and

(B) two years if the applicant graduated from medical school on or after January 1, 1995, as evidenced by a certificate of completion of the first year of postgraduate training from the facility where the applicant completed the first year of internship or residency and a certificate of successful completion of one additional year of postgraduate training at a recognized hospital;

(3) submit a list of negotiated settlements or judgments in claims or civil actions alleging medical malpractice against the applicant, including an explanation of the basis for each claim or action; **and**

(4) not have a license to practice medicine in another state, province, or territory which is currently suspended or revoked for disciplinary reasons[; AND

(5) BE A CITIZEN OF THE UNITED STATES OR BE LAWFULLY ADMITTED FOR PERMANENT RESIDENCE].

* **Sec. 3.** AS 08.64.205 is amended to read:

Sec. 08.64.205. Qualifications for osteopath applicants. Each osteopath applicant shall meet the qualifications prescribed in AS 08.64.200(a)(3) and (4) [AS 08.64.200(a)(3) - (5)] and shall

(1) submit a certificate of graduation from the legally chartered school of osteopathy approved by the board;

(2) submit a certificate from a hospital approved by the American Medical Association or the American Osteopathic Association **that** [WHICH] certifies that the osteopath has satisfactorily completed and performed the duties of intern or resident physician for

(A) one year if the applicant graduated from a school of osteopathy before January 1, 1995, as evidenced by a certificate of completion of the first year of postgraduate training from the facility where the applicant completed the first year of internship or residency; or

(B) two years if the applicant graduated from a school of osteopathy on or after January 1, 1995, as evidenced by a certificate of completion of the first year of postgraduate training from the facility where the applicant completed the first year of internship or residency and a certificate of successful completion of one additional year of postgraduate training at a recognized hospital;

(3) take the examination required by AS 08.64.210 or be certified to practice by the National Board of Examiners for Osteopathic Physicians and Surgeons.

* **Sec. 4.** AS 08.64.225 is amended to read:

Sec. 08.64.225. Foreign medical graduates. Applicants who are graduates of medical colleges not accredited by the Association of American Medical Colleges and the Council on Medical Education of the American Medical Association must meet the requirements of **AS 08.64.200(a)(3) and (4)** [AS 08.64.200(a)(2) - (5)] and 08.64.255, and must have passed examinations as specified by the board in regulations or be licensed by examination in another state or territory of the United States or province or territory of Canada.

* **Sec. 5.** AS 08.64.272(c) is amended to read:

(c) A permit issued under this section is valid for the period specified by the board, but not to exceed **18 months** [ONE YEAR] after the date of issue. **Upon application by a person who pays the required fee and has been accepted by an eligible institution in the state for the purpose of residency or internship, the board may renew a permit issued under this section for a period specified by the board, but not to exceed 18 months after the date of renewal.**

* **Sec. 6.** AS 08.64.275(a) is amended to read:

(a) A member of the board or its executive secretary may grant a temporary permit to a physician or osteopath for the purpose of substituting for another physician or osteopath licensed in this state. The permit is valid for 60 consecutive days. If circumstances warrant, an extension of the permit may be granted by the board **or its designee.**

* **Sec. 7.** AS 08.64.312(b) is amended to read:

(b) Before a license may be renewed, the licensee shall submit evidence to the

board **or its designee** that continuing education requirements prescribed by regulations adopted by the board have been met.

* **Sec. 8.** AS 08.64.312(c) is amended to read:

(c) The board **or its designee** may exempt a physician from the requirements of (b) of this section upon an application by the physician giving evidence satisfactory to the board **or its designee** that the physician is unable to comply with the requirements because of extenuating circumstances. However, a person may not be exempted from more than 15 hours of continuing education in a five-year period.

* **Sec. 9.** AS 08.64.326(a) is amended to read:

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

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

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

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

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

(A) a **class A or unclassified felony or a crime in another jurisdiction with elements similar to a class A or unclassified felony in this jurisdiction;**

(B) a **class B or class C felony or a crime in another jurisdiction with elements similar to a class B or class C felony in this jurisdiction** [OR OTHER CRIME] if the felony or other crime is substantially related to the qualifications, functions, or duties of the licensee; or

(C) [(B)] a crime involving the unlawful procurement, sale, prescription, or dispensing of drugs;

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

(6) intentionally or negligently permitted the performance of patient care by persons under the licensee's supervision that does not conform to minimum

professional standards even if the patient was not injured;

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

(8) has demonstrated

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

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

(C) unfitness because of physical or mental disability;

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

(10) has violated AS 18.16.010;

(11) has violated any code of ethics adopted by regulation by the board;

(12) has denied care or treatment to a patient or person seeking assistance from the physician if the only reason for the denial is the failure or refusal of the patient to agree to arbitrate as provided in AS 09.55.535(a); or

(13) has had a license or certificate to practice medicine in another state or territory of the United States, or a province or territory of Canada, **denied**, suspended, [OR] revoked, **surrendered while under investigation for an alleged violation, restricted, limited, conditioned, or placed on probation** unless the **denial**, suspension, [OR] revocation, **or other action** was caused by the failure of the licensee

1 to pay fees to that state, territory, or province.

2 * **Sec. 10. APPLICABILITY.** (a) AS 08.64.200, as amended by sec. 2 of this Act, and
3 AS 08.64.205, as amended by sec. 3 of this Act, apply to applications submitted on or after
4 the effective date of this Act.

5 (b) AS 08.64.326(a), as amended by sec. 9 of this Act, applies to crimes and licensing
6 actions that occur before, on, or after the effective date of this Act, when AS 08.64.326 is
7 implemented under AS 08.64.240(b) with respect to granting or denying an initial license to
8 an applicant under AS 08.64.

9 (c) AS 08.64.326(a), as amended by sec. 9 of this Act, applies to crimes and licensing
10 actions that occur on or after the effective date of this Act, when AS 08.64.326 is
11 implemented with respect to a disciplinary proceeding against a person licensed under
12 AS 08.64 before the effective date of this Act.