29-LS1526\A

HOUSE BILL NO. 352

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-NINTH LEGISLATURE - SECOND SESSION

BY REPRESENTATIVE GATTIS

Introduced: 2/24/16 Referred: Education, Labor and Commerce

A BILL

FOR AN ACT ENTITLED

1	"An Act relating to disciplinary sanctions imposed by the State Medical Board;
2	restricting employees and representatives of abortion services providers, and affiliates of
3	abortion services providers, from delivering instruction or distributing materials in
4	public schools and providing civil penalties for violations; relating to revocation or
5	suspension of teacher certificates; relating to the receipt of state funds by teachers and
6	school board members; and providing for an effective date.''
7	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:
8	* Section 1. AS 08.64.326(a) is amended to read:
9	(a) The board may impose a sanction if the board finds after a hearing that a
10	licensee
11	(1) secured a license through deceit, fraud, or intentional
12	misrepresentation;
13	(2) engaged in deceit, fraud, or intentional misrepresentation while

2 (3) advertised professional services in a false or misleading manner; 3 (4) has been convicted, including conviction based on a guilty plea or 4 plea of nolo contendere, of 5 (A) a class A or unclassified felony or a crime in another 6 jurisdiction; 8 (B) a class B or class C felony or a crime in another jurisdiction 9 with elements similar to a class B or class C felony in this jurisdiction if the 10 felony or other crime is substantially related to the qualifications, functions, or 11 duties of the licensee; or 12 (C) a crime involving the unlawful procurement, sale, 13 prescription, or dispensing of drugs; 14 (5) has procured, sold, prescribed, or dispensed drugs in violation of a 15 law regardless of whether there has been a criminal action; 16 (6) intentionally or negligently permitted the performance of patient 17 care by persons under the licensee's supervision that does not conform to minimum 18 professional standards even if the patient was not injured; 19 (7) failed to comply with this chapter, a regulation adopted under this 20 (A) professional incompetence, gross negligence, or repeated 18 <	1	providing professional services or engaging in professional activities;
4plea of nolo contendere, of5(A) a class A or unclassified felony or a crime in another6jurisdiction with elements similar to a class A or unclassified felony in this7jurisdiction;8(B) a class B or class C felony or a crime in another jurisdiction9with elements similar to a class B or class C felony in this jurisdiction if the10felony or other crime is substantially related to the qualifications, functions, or11duties of the licensee; or12(C) a crime involving the unlawful procurement, sale,13prescription, or dispensing of drugs;14(5) has procured, sold, prescribed, or dispensed drugs in violation of a15law regardless of whether there has been a criminal action;16(6) intentionally or negligently permitted the performance of patient17care by persons under the licensee's supervision that does not conform to minimum18professional standards even if the patient was not injured;19(7) failed to comply with this chapter, a regulation adopted under this20(A) professional incompetence, gross negligence, or repeated21(B) has demonstrated22(A) professional incompetence, spice is unconventional or23experimental in the absence of demonstrable physical harm to a patient;24(B) addiction to, severe dependency on, or habitual overuse of25alcohol or other drugs that impairs the licensee's ability to practice safely;26(C) unfitness because of physical or mental disability;29(9) engaged in unprofes	2	(3) advertised professional services in a false or misleading manner;
5(A) a class A or unclassified felony or a crime in another6jurisdiction with elements similar to a class A or unclassified felony in this7jurisdiction;8(B) a class B or class C felony or a crime in another jurisdiction9with elements similar to a class B or class C felony in this jurisdiction if the10felony or other crime is substantially related to the qualifications, functions, or11duties of the licensee; or12(C) a crime involving the unlawful procurement, sale,13prescription, or dispensing of drugs;14(5) has procured, sold, prescribed, or dispensed drugs in violation of a15law regardless of whether there has been a criminal action;16(6) intentionally or negligently permitted the performance of patient17care by persons under the licensee's supervision that does not conform to minimum18professional standards even if the patient was not injured;19(7) failed to comply with this chapter, a regulation adopted under this20(A) professional incompetence, gross negligence, or repeated21(B) has demonstrated22(A) professional incompetence, gross negligence, or repeated23incompetence solely on the basis that a licensee's practice is unconventional or24(B) addiction to, severe dependency on, or habitual overuse of25experimental in the absence of demonstrable physical harm to a patient;26(B) addiction to, severe dependency on, or nabitual overuse of27alcohol or other drugs that impairs the licensee's ability to prac	3	(4) has been convicted, including conviction based on a guilty plea or
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30 lewd or immoral conduct in connection with the delivery of professional services to	28	(C) unfitness because of physical or mental disability;
	29	(9) engaged in unprofessional conduct, in sexual misconduct, or in
31 patients; in this paragraph, "sexual misconduct" includes sexual contact, as defined by	30	lewd or immoral conduct in connection with the delivery of professional services to
	31	patients; in this paragraph, "sexual misconduct" includes sexual contact, as defined by

1 the board in regulations adopted under this chapter, or attempted sexual contact with a 2 patient outside the scope of generally accepted methods of examination or treatment of 3 the patient, regardless of the patient's consent or lack of consent, during the term of the 4 physician-patient relationship, as defined by the board in regulations adopted under 5 this chapter, unless the patient was the licensee's spouse at the time of the contact or, 6 immediately preceding the physician-patient relationship, was in a dating, courtship, 7 or engagement relationship with the licensee; 8 (10) has violated AS 18.16.010; 9 (11) has violated any code of ethics adopted by regulation by the 10 board; 11 (12) has denied care or treatment to a patient or person seeking 12 assistance from the physician if the only reason for the denial is the failure or refusal 13 of the patient to agree to arbitrate as provided in AS 09.55.535(a); [OR] 14 (13) has had a license or certificate to practice medicine in another 15 state or territory of the United States, or a province or territory of Canada, denied, 16 suspended, revoked, surrendered while under investigation for an alleged violation, 17 restricted, limited, conditioned, or placed on probation unless the denial, suspension, 18 revocation, or other action was caused by the failure of the licensee to pay fees to that 19 state, territory, or province; or 20 (14) has violated AS 14.03.092. 21 * Sec. 2. AS 08.64.331 is amended by adding a new subsection to read: (g) If the board finds that a licensee has violated AS 14.03.092, the board shall 22 23 suspend or revoke the licensee's license to practice. 24 * Sec. 3. AS 14.03 is amended by adding a new section to read: 25 Sec. 14.03.092. Restricting activities of abortion services providers and 26 affiliates in public schools. (a) An employee or representative of an abortion services 27 provider or of an affiliate of an abortion services provider may not

(1) present or deliver any instruction or program on any topic to
students at a public school;

30 (2) distribute materials to or display materials for students at a public
31 school; or

1	(3) provide materials of any kind to a person if
2	(A) the materials were created by or bear the identifying mark
3	of the abortion services provider or the affiliate of an abortion services
4	provider; and
5	(B) the employee or representative knows that the person to
6	whom the materials are provided intends to use the materials for instruction in
7	a public school or to distribute the materials to or display the materials for
8	students at a public school.
9	(b) A teacher or school board member may not knowingly authorize or allow a
10	person to take an action described in $(a)(1)$ or (2) of this section.
11	(c) An abortion services provider or an affiliate of an abortion services
12	provider whose employee or representative violates (a) of this section is liable in a
13	civil action for a penalty of \$5,000 or actual damages, whichever is greater, plus costs
14	and reasonable attorney fees, to each aggrieved student or the student's estate.
15	(d) A teacher or school board member who violates (b) of this section may not
16	receive state funds on or after the date of the violation.
17	(e) In this section,
18	(1) "abortion services provider" means a person who performs elective
19	abortions;
20	(2) "affiliate of an abortion services provider" means a person who has
21	a legal relationship with a person who performs elective abortions; for purposes of this
22	paragraph, a legal relationship is created by at least one written instrument
23	demonstrating
24	(A) common ownership, management, or control;
25	(B) the existence of a franchise; or
26	(C) the granting or extension of a license or other agreement
27	authorizing common use of a brand name, trademark, service mark, or other
28	registered identification mark;
29	(3) "elective abortion" has the meaning given in AS 47.07.068;
30	(4) "knows" and "knowingly" have the meaning given to "knowingly"
31	in AS 11.81.900(a);

 * Sec. 4. AS 14.20.030(a) is amended to read: (a) The commissioner or the Professional Teaching Practices Commission may revoke or suspend a certificate only for the following reasons:	1	(5) "teacher" has the meaning given in AS 14.20.350.
4 may revoke or suspend a certificate only for the following reasons: 5 (1) incompetency, which is defined as the inability or the unintentional 6 or intentional failure to perform the teacher's customary teaching duties in a 7 satisfactory manner; 8 (2) immorality, which is defined as the commission of an act which, 9 under the laws of the state, constitutes a crime involving moral turpitude; 10 (3) substantial noncompliance with the school laws of the state or the 11 regulations of the department; [OR] 12 (4) upon a determination by the Professional Teaching Practices 13 Commission that there has been a violation of ethical or professional standards or 14 contractual obligations; or 15 (5) a violation of AS 14.03.092. 16 * Sec. 5. AS 14.20.170(a) is amended to read: 17 (a) A teacher, including a teacher who has acquired tenure rights, may be 18 dismissed at any time only for the following causes: 19 (1) incompetency, which is defined as the commission of an act that, 21 satisfactory manner; 22 (2) immorality, which is defined as the commission of an act that, 23 under the laws of the state, constitu	2	* Sec. 4. AS 14.20.030(a) is amended to read:
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7 satisfactory manner; 8 (2) immorality, which is defined as the commission of an act which, 9 under the laws of the state, constitutes a crime involving moral turpitude; 10 (3) substantial noncompliance with the school laws of the state or the 11 regulations of the department; [OR] 12 (4) upon a determination by the Professional Teaching Practices 13 Commission that there has been a violation of ethical or professional standards or 14 contractual obligations; or 15 (5) a violation of AS 14.03.092. 16 * Sec. 5. AS 14.20.170(a) is amended to read: 17 (a) A teacher, including a teacher who has acquired tenure rights, may be 18 dismissed at any time only for the following causes: 19 (1) incompetency, which is defined as the inability or the unintentional 20 or intentional failure to perform the teacher's customary teaching duties in a 21 satisfactory manner; 22 (2) immorality, which is defined as the commission of an act that, 23 under the laws of the state, constitutes a crime involving moral turpitude; [OR] 24 (3) substantial noncompliance with the school laws of the state, the 25 regulations or bylaws	5	(1) incompetency, which is defined as the inability or the unintentional
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 * Sec. 6. AS 14.20.175(b) is amended to read: (b) A teacher who has acquired tenure rights is subject to nonretention for the following school year only for the following causes: 	26	of the superintendent: or
 (b) A teacher who has acquired tenure rights is subject to nonretention for the following school year only for the following causes: 	27	(4) a violation of AS 14.03.092.
30 following school year only for the following causes:	28	* Sec. 6. AS 14.20.175(b) is amended to read:
	29	(b) A teacher who has acquired tenure rights is subject to nonretention for the
31 (1) the school district demonstrates that	30	following school year only for the following causes:
	31	(1) the school district demonstrates that

1	(A) the district has fully complied with the requirements of
2	AS 14.20.149 with respect to the tenured teacher;
3	(B) the teacher's performance, after completion of the plan of
4	improvement, failed to meet the performance objectives set out in the plan; and
5	(C) the evaluation of the teacher established that the teacher
6	does not meet the district performance standards;
7	(2) immorality, which is defined as the commission of an act that,
8	under the laws of the state, constitutes a crime involving moral turpitude; [OR]
9	(3) substantial noncompliance with the school laws of the state, the
10	regulations or bylaws of the department, the bylaws of the district, or the written rules
11	of the superintendent <u>; or</u>
12	(4) a violation of AS 14.03.092.
13	* Sec. 7. The uncodified law of the State of Alaska is amended by adding a new section to
14	read:
15	SEVERABILITY. Under AS 01.10.030, if any provision of this Act or the application
16	of this Act to any person or circumstance is held invalid, the remainder of this Act and the
17	application to other persons or circumstances are not affected.
18	* Sec. 8. This Act takes effect immediately under AS 01.10.070(c).