



LAWS OF ALASKA

1980

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Chapter No.

49

AN ACT

Relating to professional licensing and to the regulation of dentists and dental hygienists; and providing for an effective date.

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

THE ACT FOLLOWS ON PAGE 1, LINE 10

UNDERLINED MATERIAL INDICATES TEXT THAT IS BEING ADDED TO THE LAW AND BRACKETED MATERIAL IN CAPITAL LETTERS INDICATES DELETIONS FROM THE LAW; COMPLETELY NEW TEXT OR MATERIAL REPEALED AND RE-ENACTED IS IDENTIFIED IN THE INTRODUCTORY LINE OF EACH BILL SECTION.

Approved by the Governor: May 31, 1980
Actual Effective Date: June 1, 1980

AN ACT

Relating to professional licensing and to the regulation of dentists and dental hygienists; and providing for an effective date.

* Section 1. AS 08.01.050(a)(10) is amended to read:

(10) except as otherwise provided in this title, issue duplicate licenses or certificates upon proof by the licensee of loss of the original and payment by the licensee of a fee of \$2;

* Sec. 2. AS 08.01.050(a)(19) is amended to read:

(19) provide investigative services to the boards established under AS 08.20, [AS 08.32,] AS 08.36, AS 08.64, AS 08.68, AS 08.71, AS 08.72, AS 08.80, AS 08.84, and AS 08.86, for the purpose of assisting those boards in matters of professional discipline.

* Sec. 3. AS 08.01.100(a) is amended to read:

(a) Except as otherwise provided in this title, [ALL] licenses shall be renewed biennially on the dates set by the department with the approval of the respective board.

* Sec. 4. AS 08.32.010 is amended to read:

Sec. 08.32.010. LICENSE REQUIRED. Except as provided in AS 08.32.095, a person may not [NO PERSON MAY] practice, offer or attempt to practice, or advertise or announce oneself as prepared or qualified to practice dental hygiene without a license.

* Sec. 5. AS 08.32.030 is repealed and re-enacted to read:

Sec. 08.32.030. LICENSURE BY CREDENTIALS. The board may provide

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1 for the licensing without examination of a dental hygienist who

2 (1) meets the criteria of AS 08.32.020(a);

3 (2) has successfully passed a state or regional dental hy-
4 giene clinical examination which the board has determined is at least
5 equivalent in scope, quality, and difficulty to the Alaska clinical
6 examination;

7 (3) has been in active clinical dental hygiene practice
8 averaging no less than 14 hours per week for the two years immediately
9 preceding application for state licensure;

10 (4) has not failed the clinical dental hygiene examination of
11 this state;

12 (5) has not previously had a license to practice dental
13 hygiene issued by any state or region revoked;

14 (6) is personally interviewed by a board member;

15 (7) pays all fees required under AS 08.36.290;

16 (8) is not the subject of an unresolved complaint, review
17 procedure, or disciplinary proceeding undertaken by a professional
18 dental or dental hygienics association.

19 * Sec. 6. AS 08.32.040 is amended to read:

20 Sec. 08.32.040. APPLICATION AND FEE. An application for examina-
21 tion or determination of qualification for licensing by credentials
22 shall be accompanied by the applicant's certificate of graduation from
23 an accredited dental hygiene school and the fee provided under AS 08.36.-
24 290(1) [A FEE OF \$25].

25 * Sec. 7. AS 08.32.060 is amended to read:

26 Sec. 08.32.060. FREQUENCY AND CONTENT OF EXAMINATION. The
27 examination shall be held [ONCE EACH YEAR] at the same times and places
28 [TIME] as the examination of dentists under AS 08.36.130. The
29 examination shall cover subjects considered essential by the board for

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the practice of dental hygiene including a clinical examination on the removal of calcareous deposits, accretions, and stains from the exposed surfaces of the teeth beginning at the epithelial attachment by scaling and polishing techniques.

- * Sec. 8. AS 08.32.070 is amended to read:

Sec. 08.32.070. REGISTRATION AND LICENSING OF DENTAL HYGIENISTS. If the applicant passes the examination, the board shall register the applicant and issue a license upon payment of all fees required under AS 08.36.290. A licensed dental hygienist shall renew registration and offer proof of continued competency as required by regulation of the board every four years [CERTIFICATE. THE FEE FOR REGISTRATION IS \$20. BEFORE MAY 1 OF EVERY OTHER YEAR AFTER THE YEAR OF REGISTRATION, EVERY REGISTERED DENTAL HYGIENIST SHALL PAY A REGISTRATION FEE OF \$20].

- * Sec. 9. AS 08.32.081 is amended to read:

Sec. 08.32.081. LAPSE AND REINSTATEMENT OF LICENSE. The failure, neglect, or refusal of a licensed dental hygienist to pay the renewal [BIENNIAL] registration fee constitutes a forfeiture of the license. The board may reinstate the license without examination within two years of the date on which payment was due upon written application, proof of continued competency, and payment of all fees required under AS 08.-36.290 [\$25].

- * Sec. 10. AS 08.32 is amended by adding a new section to read:

Sec. 08.32.095. EXEMPTION FROM LICENSE REQUIREMENT. (a) A person enrolled as a full-time student in an accredited school of dental hygiene may perform dental hygiene procedures as part of a course of study without a license if

(1) the procedures are performed under the direct supervision of a member of the faculty who is licensed under AS 08.36, or under the direct supervision of a team of licensed faculty dentists, at least one

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1 of whom is licensed under AS 08.36; and

2 (2) the clinical program has received written approval from
3 the board.

4 (b) A person practicing dental hygiene under (a) of this section
5 is subject to all other provisions of this chapter and laws and regu-
6 lations which apply to the practice of dental hygiene by a licensed
7 dental hygienist.

8 * Sec. 11. AS 08.32.160 is repealed and re-enacted to read:

9 Sec. 08.32.160. GROUNDS FOR DISCIPLINE, SUSPENSION OR REVOCATION
10 OF LICENSE. The board may revoke or suspend the license of a dental
11 hygienist, or the licensee may be reprimanded, censured, or disciplined
12 when the board finds after a hearing that he

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

15 (2) engaged in deceit, fraud, or intentional misrepresen-
16 tation in the course of providing professional services or engaging in
17 professional activities;

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

20 (4) has been convicted of a felony or other crime which
21 affects his ability to continue to practice competently and safely;

22 (5) failed to comply with this chapter, with a regulation
23 adopted under this chapter or under AS 08.36, or with an order of the
24 board;

25 (6) continued to practice after becoming unfit due to

26 (A) professional incompetence;

27 (B) addiction or severe dependency on alcohol or other
28 drugs which impairs his ability to practice safely;

29 (C) physical or mental disability;

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(7) engaged in lewd or immoral conduct in connection with the delivery of professional service to patients;

(8) performed clinical procedures for compensation without being under the supervision of a licensed dentist.

* Sec. 12. AS 08.36.010 is amended to read:

Sec. 08.36.010. CREATION AND MEMBERSHIP OF BOARD. There is created the Board of Dental Examiners [, REFERRED TO IN THIS CHAPTER AS THE BOARD,] consisting of seven members. Four [FIVE] members shall be qualified resident dentists who have been engaged in the practice of dentistry in the state for five years immediately preceding appointment, one member shall be a dental hygienist licensed under AS 08.32, and two members shall be public members [ONE MEMBER WITH NO DIRECT FINANCIAL INTEREST IN THE HEALTH CARE INDUSTRY].

* Sec. 13. AS 08.36.020 is amended to read:

Sec. 08.36.020. APPOINTMENT AND TERM OF OFFICE [SERVICE OF MEMBERS]. Members of the board are appointed by the governor, subject to confirmation by the legislature in joint session. Each board member serves for a term of four [FIVE] years, and until his successor is appointed and qualified. The term begins on February 1. An appointment to a vacancy is for the unexpired term. A person who has served two successive complete terms may not be reappointed until four years from the expiration of the second term.

* Sec. 14. AS 08.36 is amended by adding a new section to read:

Sec. 08.36.025. REMOVAL OF BOARD MEMBERS. A member of the board may be removed from office by the governor for cause. The board may by regulation provide that unexcused absences from meetings constitute cause for removal.

* Sec. 15. AS 08.36.070(2) is amended to read:

(2) to register licensed dentists and licensed dental hy-

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1 gienists who are in good standing;

2 * Sec. 16. AS 08.36.070(5) is amended to read:

3 (5) to hold hearings, and order the disciplinary sanction [,
4 REVOKE, ANNUL, OR SUSPEND THE LICENSE] of a person who violates this
5 chapter, AS 08.32, or the [RULES AND] regulations of the board;

6 * Sec. 17. AS 08.36.070(7) is amended to read:

7 (7) to enforce the provisions of this chapter and AS 08.32,
8 and adopt [MAKE, ALTER,] or amend the [RULES AND] regulations necessary
9 [OR DESIRABLE] to make the provisions of this chapter and AS 08.32
10 effective.

11 * Sec. 18. AS 08.36.070 is amended by adding new paragraphs to read:

12 (8) to adopt regulations insuring that renewal of registra-
13 tion is contingent upon proof of continued competency by a licensed
14 dentist or licensed dental hygienist;

15 (9) to provide the department with the requirements for proof
16 of continued competency and to request the department to make these re-
17 quirements available to each licensed dentist and licensed dental hy-
18 gienist at least one year before the date on which the dentist or dental
19 hygienist must renew his registration;

20 (10) to order a licensed dentist or licensed dental hygienist
21 to submit to a reasonable physical examination if his physical capacity
22 to practice safely is at issue.

23 * Sec. 19. AS 08.36.100 is amended to read:

24 Sec. 08.36.100. LICENSE REQUIRED. Except as provided in AS 08.36.-
25 238, a person may not [NO PERSON, EXCEPT THOSE SPECIFICALLY EXEMPTED
26 FROM THE APPLICATION OF THIS CHAPTER, MAY] practice, or attempt to
27 practice, dentistry without a license or permit, and a current certi-
28 ficate of registration.

29 * Sec. 20. AS 08.36.110(4) is amended to read:

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(4) a graduate of a dental college accredited [APPROVED] by the Commission on Accreditation [COUNCIL ON DENTAL EDUCATION] of the American Dental Association, or its successor agency, at the time of graduation, and holds a D.D.S. or D.M.D. degree or the equivalent;

* Sec. 21. AS 08.36.130 is amended to read:

Sec. 08.36.130. EXAMINATION. An examination shall be given at least once a year and at other times and at places determined by the board to be convenient and economical for the applicants and the state. At least once each year the board shall appoint [FROM ITS MEMBERSHIP] an examination committee of at least three licensed dentists who have been engaged in the practice of dentistry in the state for five years immediately preceding appointment to conduct the examination for applicants for licenses to practice dentistry. The board shall also appoint an examination committee of at least two licensed dentists who have been engaged in the practice of dentistry in the state for five years immediately preceding appointment and one person licensed to practice dental hygiene in the state to conduct the examination for applicants for licenses to practice dental hygiene [PERSONS]. The examination committees [COMMITTEE] shall [CONDUCT AN EXAMINATION AT LEAST ONCE A YEAR AND] report the results to the board for official action.

* Sec. 22. AS 08.36.230 is amended to read:

Sec. 08.36.230. PRACTICE OUTSIDE THE STATE. A dentist licensed to practice in this state and residing and practicing dentistry outside of this state, may maintain his eligibility to practice in this state by [BIENNIALY] registering his name and place of residence with the division of occupational licensing every four years and submitting proof of competency as required by the board. If the dentist fails to register, the board may reinstate his license without examination upon payment of a penalty of \$25, payment of the delinquent registration fee under

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1 AS 08.36.290(10), presentation of proof of continued competency [ALL
2 DELINQUENT REGISTRATION FEES], and presentation of proof of active
3 practice [AT HIS PLACE OF RESIDENCE,] certified by the dental board
4 having jurisdiction [AT HIS PLACE OF RESIDENCE,] or, if there is no
5 board with jurisdiction, by evidence satisfactory to the board.

6 * Sec. 23. AS 08.36 is amended by adding new sections to read:

7 Sec. 08.36.234. LICENSURE BY CREDENTIALS. The board may provide
8 for the licensing without examination of a dentist who

9 (1) is a graduate of a dental college approved by the Commis-
10 sion on Accreditation of the American Dental Association, or its
11 successor agency;

12 (2) has been licensed to practice dentistry in another state,
13 territory, or region with licensing requirements similar to or higher
14 than those of this state at the time of licensure;

15 (3) has been engaged in continuous active practice averaging
16 at least 20 hours per week for the five years immediately preceding the
17 application;

18 (4) is not the subject of an unresolved complaint, review
19 procedure, or disciplinary proceeding undertaken by a professional
20 dental association;

21 (5) has not previously had a license to practice dentistry
22 revoked;

23 (6) has not failed the clinical examination of this state;

24 (7) is personally interviewed by the board;

25 (8) pays all fees required under AS 08.36.290.

26 Sec. 08.36.238. EXEMPTION FROM LICENSE REQUIREMENT. (a) A person
27 enrolled as a full-time student in an accredited school of dentistry may
28 perform procedures as part of a course of study without a license if

29 (1) the procedures are performed under the direct supervision

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of a member of the faculty who is licensed under AS 08.36, or under the direct supervision of a team of licensed faculty dentists, at least one of whom is licensed under AS 08.36; and

(2) the clinical program has received written approval from the board.

(b) A person practicing dentistry under (a) of this section is subject to all other provisions of this chapter and to other laws and regulations which apply to the practice of dentistry.

* Sec. 24. AS 08.36.248 is amended to read:

Sec. 08.36.248. SUSPENSION OR REVOCATION OF SPECIALTY LICENSES. The board may suspend or revoke a specialty license upon any grounds set out in AS 08.36.315 [AS 08.36.310], and the procedure [FOR SUSPENSIONS AND REVOCATIONS] shall be the same as for the revocation or suspension of a [REGULAR] license to practice dentistry.

* Sec. 25. AS 08.36.250 is amended to read:

Sec. 08.36.250. RENEWAL OF [BIENNIAL] REGISTRATION. At least 60 days before January 1 of every fourth [OTHER] year, the division of occupational licensing shall mail a form for renewal of [BIENNIAL] registration to each licensed dentist and licensed dental hygienist. Each licensee shall complete the form and return it together with the registration fee and offer proof of continued competency as required by the board. The division of occupational licensing shall, as soon as practicable, issue a registration certificate valid for the years for which it is issued. Each licensee shall keep the registration certificate beside or attached to his license. Failure to receive the registration form does not exempt a licensee [DENTIST] from renewing [BIENNIAL] registration.

* Sec. 26. AS 08.36.260 is amended to read:

Sec. 08.36.260. BRANCH OFFICE REGISTRATION. A licensee who prac-

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tices in an established office with an address other than that address for which his [BIENNIAL] registration certificate is issued shall obtain a branch office registration certificate for each office.

* Sec. 27. AS 08.36.290 is repealed and re-enacted to read:

Sec. 08.36.290. FEES AND PENALTIES. The following fees and penalties shall be imposed by the board as applicable:

- (1) filing fee for examination and licensing application..... \$ 25
- (2) examination fee:
 - dentist..... \$200
 - dental hygienist..... 75
- (3) credential review fee:
 - dentist..... \$200
 - dental hygienist..... 75
- (4) initial license fee:
 - dentist..... \$ 30
 - dental hygienist..... 20
- (5) registration fee (due every four years):
 - dentist..... \$200
 - dental hygienist..... 100
- (6) filing fee for reexamination application..... \$ 25
- (7) specialty license fee..... \$ 30
- (8) branch office registration fee..... \$100
- (9) temporary permit to practice dentistry..... \$ 50
- (10) delinquent registration fee..... \$ 10
- (11) duplicate license fee..... \$ 10

* Sec. 28. AS 08.36 is amended by adding a new section to read:

Sec. 08.36.315. GROUNDS FOR DISCIPLINE, SUSPENSION OR REVOCATION OF LICENSE. The board may revoke or suspend the license of a dentist,

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and the licensee may be reprimanded, censured, or disciplined when the board finds after a hearing that he

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

(2) engaged in deceit, fraud, or intentional misrepresentation in the course of providing professional dental services or engaging in professional activities;

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

(4) has been convicted of a felony or other crime which affects his ability to continue to practice dentistry competently and safely;

(5) intentionally or negligently engaged in or permitted the performance of patient care by persons under his supervision which does not conform to minimum professional standards of dentistry regardless of whether actual injury to the patient occurred;

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

(7) continued to practice after becoming unfit due to

(A) professional incompetence;

(B) failure to keep informed of or use current professional theories or practices;

(C) addiction or severe dependency on alcohol or other drugs which impairs his ability to practice safely;

(D) physical or mental disability;

(8) engaged in lewd or immoral conduct in connection with the delivery of professional service to patients;

(9) permitted a dental hygienist who is employed by him or working under his supervision to perform a dental procedure other than

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those permitted under AS 08.32.110.

* Sec. 29. AS 08.36.320 is repealed and re-enacted to read:

Sec. 08.36.320. DISCIPLINARY SANCTIONS. (a) When it finds that a dentist or dental hygienist is guilty of an offense under AS 08.32.160 or AS 08.36.315, the board may impose the following sanctions singly or in combination:

- (1) permanently revoke a license to practice;
- (2) suspend a license for a determinate period of time;
- (3) censure a licensee;
- (4) issue a letter of reprimand;
- (5) place a licensee on probationary status and require him

to

(A) report regularly to the board upon matters involving the basis of probation;

(B) limit practice to those areas prescribed;

(C) continue professional education until a satisfactory degree of skill has been attained in those areas determined by the board to need improvement;

(6) impose limitations or conditions on the practice of a licensee.

(b) The board may withdraw probation status if it finds that the deficiencies which required the sanction have been remedied.

(c) The board may summarily suspend a license before final hearing or during the appeals process if the board finds that the licensee poses a clear and immediate danger to the public health and safety if he continues to practice. A person whose license is suspended under this section shall be entitled to a hearing by the board no later than seven days after the effective date of the order. He may appeal the suspension after a hearing to a court of competent jurisdiction.

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(d) The board may reinstate a license which has been suspended or revoked if the board finds after a hearing that the applicant is able to practice with skill and safety.

(e) The board shall seek consistency in the application of disciplinary sanctions, and significant departure from prior decisions involving similar situations shall be explained in findings of fact or orders.

* Sec. 30. AS 08.36.340 is amended to read:

Sec. 08.36.340. PENALTIES. A person who violates any provision of AS 08.32 or AS 08.36 [THIS CHAPTER] for which no specific penalty is provided [,] is guilty of a class B misdemeanor [AND IS PUNISHABLE BY A FINE OF NOT MORE THAN \$500, OR BY IMPRISONMENT FOR NOT MORE THAN SIX MONTHS, OR BY BOTH].

* Sec. 31. AS 08.36 is amended by adding a new section to read:

Sec. 08.36.370. DEFINITIONS. In this chapter, unless the context requires otherwise,

(1) "board" means the Board of Dental Examiners;

(2) "department" means the Department of Commerce and Economic Development.

* Sec. 32. AS 08.32.020(a)(1), 08.32.150; AS 08.36.110(2), 08.36.210, 08.36.220, 08.36.310, 08.36.325, 08.36.330, and 08.36.350(2) are repealed.

* Sec. 33. This Act takes effect immediately in accordance with AS 01.10.070(c).