

SENATE BILL NO. 71

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - FIRST SESSION

BY THE SENATE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

Introduced: 2/11/99

Referred: HESS, Labor and Commerce

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 08.64.200(a) is amended to read:

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

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

9 (2) submit a certificate from a recognized hospital certifying that the
10 applicant has satisfactorily performed the duties of resident physician or intern for a
11 period of

12 (A) one year if the applicant graduated from medical school
13 before January 1, 1989; and

14 (B) two years if the applicant graduated from medical school
15 on or after January 1, 1989;

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

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

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

8 * **Sec. 2.** AS 08.64.205 is amended to read:

9 **Sec. 08.64.205. Qualifications for Osteopath Applicants.** Each osteopath
 10 applicant shall meet the qualifications prescribed in AS 08.64.200(a)(3) and (4)
 11 [AS 08.64.200(a)(3) - (5)] and shall

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

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

18 (A) one year **if the applicant graduated from a school of**
 19 **osteopathy before January 1, 1989; or**

20 (B) **two years if the applicant graduated from a school of**
 21 **osteopathy on or after January 1, 1989;**

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

24 * **Sec. 3.** AS 08.64.225 is amended to read:

25 **Sec. 08.64.225. Foreign medical graduates.** Applicants who are graduates
 26 of medical colleges not accredited by the Association of American Medical Colleges
 27 and the Council on Medical Education of the American Medical Association **shall**

28 (1) [MUST] meet the requirements of AS 08.64.200(a)(3) and (4)
 29 [AS 08.64.200(a)(2) - (5)] and 08.64.255;

30 (2) **have successfully completed three years of post-graduate**
 31 **training as evidenced by a certificate of completion of the first year of post-**

1 graduate training from the facility where the applicant completed the first year
 2 of internship or residency and a certificate of successful completion of two
 3 additional years of post-graduate training at a recognized hospital; [,] and

4 (3) [MUST] have passed examinations as specified by the board in
 5 regulations [OR BE LICENSED BY EXAMINATION IN ANOTHER STATE OR
 6 TERRITORY OF THE UNITED STATES OR PROVINCE OR TERRITORY OF
 7 CANADA].

8 * **Sec. 4.** AS 08.64.275(a) is amended to read:

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

14 * **Sec. 5.** AS 08.64.275(b) is amended to read:

15 (b) A physician applying under (a) of this section shall pay the required fee
 16 and shall meet the requirements of **AS 08.64.279 and the requirements of either**
 17 **AS 08.64.200 or 08.64.225** [AND 08.64.279]. In addition, the physician shall submit
 18 evidence of holding a license to practice medicine in a state or territory of the United
 19 States or in a province or territory of Canada.

20 * **Sec. 6.** AS 08.64.312(b) is amended to read:

21 (b) Before a license may be renewed, the licensee shall submit evidence to the
 22 board **or its designee** that continuing education requirements prescribed by regulations
 23 adopted by the board have been met.

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

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

30 * **Sec. 8.** AS 08.64.326(a) is amended to read:

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

1 licensee

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

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

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

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

9 (A) a felony, **a misdemeanor in another jurisdiction with**
10 **elements similar to a felony in this jurisdiction, or a misdemeanor in this**
11 **or another jurisdiction** [OTHER CRIME] if the **misdemeanor** [FELONY OR
12 OTHER CRIME] is substantially related to the qualifications, functions, or
13 duties of the licensee; or

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

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

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

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

23 (8) has demonstrated

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

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

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

31 (9) engaged in unprofessional conduct, in sexual misconduct, or in lewd

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

10 (10) has violated AS 18.16.010;

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

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

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

21 * **Sec. 9. APPLICABILITY.** (a) AS 08.64.200, as amended by sec. 1 of this Act;
 22 AS 08.64.205, as amended by sec. 2 of this Act; AS 08.64.225, as amended by sec. 3 of this
 23 Act, and AS 08.64.275(b), as amended by sec. 5 of this Act, apply to applications submitted
 24 on or after the effective date of this Act.

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

29 (c) AS 08.64.326(a), as amended by sec. 8 of this Act, applies to crimes and licensing
 30 actions that occur on or after the effective date of this Act, when AS 08.64.326 is
 31 implemented with respect to a disciplinary proceeding against a person licensed under

1 AS 08.64 before the effective date of this Act.