

CS FOR SENATE BILL NO. 71(RLS)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - FIRST SESSION

BY THE SENATE RULES COMMITTEE

Offered: 5/4/99

Referred: Today's Calendar

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 08.64.200(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 or hospitals
10 certifying that the applicant has satisfactorily performed the duties of resident physician
11 or intern for a period of

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

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

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

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

12 (5) be a citizen of the United States or be lawfully admitted for
 13 permanent residence.

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

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

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

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

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

27 **(B) two years if the applicant graduated from a school of**
 28 **osteopathy on or after January 1, 1995, as evidenced by a certificate of**
 29 **completion of the first year of postgraduate training from the facility**
 30 **where the applicant completed the first year of internship or residency and**
 31 **a certificate of successful completion of one additional year of postgraduate**

1 **training at a recognized hospital:**

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

4 * **Sec. 3.** AS 08.64.272(c) is amended to read:

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

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

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

17 * **Sec. 5.** AS 08.64.312(b) is amended to read:

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

21 * **Sec. 6.** AS 08.64.312(c) is amended to read:

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

27 * **Sec. 7.** AS 08.64.326(a) is amended to read:

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

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

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

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

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

6 (A) a felony;

7 **(B) a misdemeanor in another jurisdiction with elements**
8 **similar to a felony in this jurisdiction** [OR OTHER CRIME IF THE
9 FELONY OR OTHER CRIME IS SUBSTANTIALLY RELATED TO THE
10 QUALIFICATIONS, FUNCTIONS, OR DUTIES OF THE LICENSEE]; or

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

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

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

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

20 (8) has demonstrated

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

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

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

28 (9) engaged in unprofessional conduct, in sexual misconduct, or in lewd
29 or immoral conduct in connection with the delivery of professional services to patients;
30 in this paragraph, "sexual misconduct" includes sexual contact, as defined by the board
31 in regulations adopted under this chapter, or attempted sexual contact with a patient

1 outside the scope of generally accepted methods of examination or treatment of the
 2 patient, regardless of the patient's consent or lack of consent, during the term of the
 3 physician-patient relationship, as defined by the board in regulations adopted under this
 4 chapter, unless the patient was the licensee's spouse at the time of the contact or,
 5 immediately preceding the physician-patient relationship, was in a dating, courtship,
 6 or engagement relationship with the licensee;

7 (10) has violated AS 18.16.010;

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

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

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

18 * **Sec. 8. APPLICABILITY.** (a) AS 08.64.200, as amended by sec. 1 of this Act, and
 19 AS 08.64.205, as amended by sec. 2 of this Act, apply to applications submitted on or after
 20 the effective date of this Act.

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

25 (c) AS 08.64.326(a), as amended by sec. 7 of this Act, applies to crimes and licensing
 26 actions that occur on or after the effective date of this Act, when AS 08.64.326 is
 27 implemented with respect to a disciplinary proceeding against a person licensed under
 28 AS 08.64 before the effective date of this Act.