

SENATE BILL NO. 52

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FOURTH LEGISLATURE - FIRST SESSION

BY THE SENATE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

Introduced: 1/12/05

Referred: Labor and Commerce

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to the reorganization of certain functions of the division of banking,**
2 **securities, and corporations and the division of occupational licensing in the Department**
3 **of Commerce, Community, and Economic Development; and providing for an effective**
4 **date."**

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

6 * **Section 1.** AS 08.13.215(c) is amended to read:

7 (c) The owner of a shop for tattooing and permanent cosmetic coloring or for
8 body piercing shall prominently display

9 (1) a copy of the statement provided by the board under
10 AS 08.13.030(b) that advises the public of the health risks and possible consequences
11 of tattooing and permanent cosmetic coloring or body piercing, as applicable;

12 (2) the names, addresses, and telephone numbers of the [DIVISION
13 OF OCCUPATIONAL LICENSING,] Department of Commerce, Community, and
14 Economic Development[,], and the Department of Environmental Conservation, and a

1 description of how a complaint about the shop or a practitioner in the shop may be
2 filed with either entity or with the board.

3 * **Sec. 2.** AS.08.24.260 is amended to read:

4 **Sec. 08.24.260. Investigations.** The department may upon its own motion,
5 and shall, upon the sworn complaint in writing of a customer of a collection agency,
6 investigate the actions of a licensee claimed to have violated this chapter and for that
7 purpose shall have free access to the offices and place of business and, if the
8 complaint involves customer accounts, to all pertinent books, accounts, records,
9 papers, files, safes, and vaults of the licensee or certificate holder. If the complaint
10 involves the owing of money, or any other thing of value, by a licensee to the
11 complainant, when the licensee raises the issue of an offset or counterclaim, the
12 **department** [DIVISION] may require the complainant to submit all records and data
13 in the complainant's possession pertaining to the offset or counterclaim.

14 * **Sec. 3.** AS 08.32.071 is amended to read:

15 **Sec. 08.32.071. Renewal of registration.** At least 60 days before expiration
16 of a licensee's registration certificate, the **Department of Commerce, Community,**
17 **and Economic Development** [DIVISION OF OCCUPATIONAL LICENSING] shall
18 mail a form for renewal of registration to each licensed dental hygienist. Each
19 licensee who wishes to renew a registration certificate shall complete the form and
20 return it with the appropriate fee and evidence of continued professional competence
21 as required by the board. The **Department of Commerce, Community, and**
22 **Economic Development** [DIVISION OF OCCUPATIONAL LICENSING] shall, as
23 soon as practicable, issue a registration certificate valid for a stated number of years.
24 Each licensee shall keep the registration certificate beside or attached to the licensee's
25 license. Failure to receive the registration form does not exempt a licensee from
26 renewing registration.

27 * **Sec. 4.** AS 08.36.190 is amended to read:

28 **Sec. 08.36.190. Grading of examination.** Upon the conclusion of the written
29 examination and as soon as practicable, the papers shall be rated by an examiner. The
30 examiner shall prepare a report in duplicate on each written examination and a report
31 in duplicate on each practical examination. The examiner shall forward one copy of

1 each report on each candidate to the secretary of the board and one copy to the
 2 **department** [DIVISION OF OCCUPATIONAL LICENSING]. The secretary shall
 3 prepare a composite report on each applicant and file one copy of that report with the
 4 **department** [DIVISION OF OCCUPATIONAL LICENSING]. As soon as
 5 practicable, the **department** [DIVISION OF OCCUPATIONAL LICENSING] shall
 6 notify each candidate of the results of the examination.

7 * **Sec. 5.** AS 08.36.230 is amended to read:

8 **Sec. 08.36.230. Practice outside the state.** A dentist licensed to practice in
 9 this state and residing and practicing dentistry outside this state may maintain
 10 eligibility to practice in this state by registering the dentist's name and place of
 11 residence with the **department** [DIVISION OF OCCUPATIONAL LICENSING]
 12 every four years and submitting proof of continued professional competence as
 13 required by the board. If the dentist fails to register, the board may reinstate the
 14 dentist's license without examination upon payment of applicable fees established by
 15 regulations adopted under AS 08.01.065, payment of a penalty established under
 16 AS 08.01.100(b), presentation of proof of continued professional competence, and
 17 presentation of proof of active practice certified by the dental board having
 18 jurisdiction or, if there is no board with jurisdiction, by evidence satisfactory to the
 19 board.

20 * **Sec. 6.** AS 08.36.250(a) is amended to read:

21 (a) At least 60 days before expiration of a licensee's registration certificate, the
 22 **department** [DIVISION OF OCCUPATIONAL LICENSING] shall mail a form for
 23 renewal of registration to each licensed dentist. A licensee who wishes to renew a
 24 license shall complete the form and return it with the appropriate fee and evidence of
 25 continued professional competence as required by the board. The **department**
 26 [DIVISION OF OCCUPATIONAL LICENSING] shall, as soon as practicable, issue a
 27 registration certificate valid for a stated number of years. A licensee shall keep the
 28 registration certificate beside or attached to the licensee's license. Failure to receive
 29 the registration form does not exempt a licensee from renewing registration.

30 * **Sec. 7.** AS 08.45.020 is amended to read:

31 **Sec. 08.45.020. Application for license.** A person desiring to practice

1 naturopathy shall apply in writing to the **department** [DIVISION OF
2 OCCUPATIONAL LICENSING OF THE DEPARTMENT OF COMMERCE,
3 COMMUNITY, AND ECONOMIC DEVELOPMENT].

4 * **Sec. 8.** AS 08.45.030 is amended to read:

5 **Sec. 08.45.030. Issuance of license.** The **department** [DIVISION] shall
6 issue a license to practice naturopathy to an applicant who provides proof satisfactory
7 to the **department** [DIVISION] that the applicant has received a degree from an
8 accredited four-year college or university, and

9 (1) on or before December 31, 1987, has graduated from a school of
10 naturopathy that required four years of attendance at the school and after graduation
11 has received a license in another state after passing an examination for licensure in
12 that state and is licensed by a state at the time of application; or

13 (2) after December 31, 1987, has

14 (A) graduated from a school of naturopathy that required four
15 years of attendance at the school and at the time of graduation the school was
16 accredited or a candidate for accreditation by the Council on Naturopathic
17 Medical Education or a successor organization recognized by the United States
18 Department of Education; and

19 (B) passed the Naturopathic Physicians Licensing Examination.

20 * **Sec. 9.** AS 08.45.035(a) is amended to read:

21 (a) The **department** [DIVISION] shall issue a temporary license to practice
22 naturopathy to an applicant who has applied for and is qualified to take the next
23 Naturopathic Physicians Licensing Examination offered after the date of application
24 and provides proof satisfactory to the **department** [DIVISION] that the applicant

25 (1) meets the requirements of AS 08.45.030(2)(A); and

26 (2) has not previously failed the Naturopathic Physicians Licensing
27 Examination.

28 * **Sec. 10.** AS 08.45.060 is amended to read:

29 **Sec. 08.45.060. Grounds for suspension, revocation, or refusal to issue a**
30 **license.** The **department** [DIVISION] may, after a hearing, impose a disciplinary
31 sanction on a person licensed under this chapter when the **department** [DIVISION]

1 finds that the licensee

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

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

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

7 (4) has been convicted of a felony or other crime that affects the
8 licensee's ability to continue to practice competently and safely;

9 (5) failed to comply with this chapter, with a regulation adopted under
10 this chapter, or with an order of the **department** [DIVISION];

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

12 (A) professional incompetence;

13 (B) addiction or severe dependency on alcohol or a drug that
14 impairs the licensee's ability to practice safely;

15 (C) physical or mental disability;

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

18 * **Sec. 11.** AS 08.45.070 is amended to read:

19 **Sec. 08.45.070. Disciplinary sanctions.** (a) When it finds that a licensee
20 under this chapter has violated AS 08.45.040 - 08.45.050 or is guilty of an offense
21 under AS 08.45.060, the **department** [DIVISION] may impose the following
22 sanctions singly or in combination:

23 (1) permanently revoke the license to practice;

24 (2) suspend the license for a determinate period of time;

25 (3) censure the licensee;

26 (4) issue a letter of reprimand to the licensee;

27 (5) place the licensee on probationary status and require the licensee to

28 (A) report regularly to the **department** [DIVISION] upon
29 matters involving the basis of probation;

30 (B) limit practice to those areas prescribed;

31 (C) continue professional education until a satisfactory degree

1 of skill has been attained in areas determined by the **department** [DIVISION]
2 to need improvement;

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

4 (b) The **department** [DIVISION] may withdraw probationary status of a
5 licensee if it finds that the deficiencies that required the sanction have been remedied.

6 (c) The **department** [DIVISION] may summarily suspend a license before
7 final hearing or during the appeals process if the **department** [DIVISION] finds that
8 the licensee poses a clear and immediate danger to the public health and safety if the
9 licensee continues to practice. A licensee whose license is suspended under this
10 section is entitled to a hearing by the **department** [DIVISION] no later than seven
11 days after the effective date of the order. The licensee may appeal the suspension after
12 a hearing to a court of competent jurisdiction.

13 * **Sec. 12.** AS 08.45.070(c), as amended by sec. 14, ch. 163, SLA 2004, is further amended
14 to read:

15 (c) The **department** [DIVISION] may summarily suspend a license before
16 final hearing or during the appeals process if the **department** [DIVISION] finds that
17 the licensee poses a clear and immediate danger to the public health and safety if the
18 licensee continues to practice. A licensee whose license is suspended under this
19 section is entitled to a hearing conducted by the office of administrative hearings
20 (AS 44.64.010) not later than seven days after the effective date of the order. The
21 licensee may appeal the suspension after a hearing to a court of competent jurisdiction.

22 * **Sec. 13.** AS 08.45.200 is amended by adding a new paragraph to read:

23 (4) "department" means the Department of Commerce, Community,
24 and Economic Development.

25 * **Sec. 14.** AS 08.64.050 is amended to read:

26 **Sec. 08.64.050. Oath of office.** Each member shall take an oath of office.
27 The oath shall be filed and preserved in the [DIVISION OF OCCUPATIONAL
28 LICENSING OF THE] department.

29 * **Sec. 15.** AS 10.13.810(b) is amended to read:

30 (b) The department may appoint as conservator one of the employees of the
31 [DIVISION OF BANKING, SECURITIES, AND CORPORATIONS OF THE]

1 department or another competent and disinterested person. The **department**
 2 [DIVISION] shall be reimbursed out of the assets of the conservatorship for all money
 3 expended by the **department** [DIVISION] in connection with the conservatorship.
 4 Upon the approval of the department, the expenses of the conservatorship paid for by
 5 the **department** [DIVISION] shall be paid out of the assets of the licensee. Payment
 6 of the **department** [DIVISION] expenses shall take priority over other payments from
 7 the assets and shall be fully paid before a final distribution is made.

8 * **Sec. 16.** AS 10.20.530 is amended to read:

9 **Sec. 10.20.530. Service on commissioner.** When a foreign corporation
 10 authorized to transact business in the state, or not authorized to transact business in the
 11 state but doing so, fails to appoint or maintain a registered agent in the state, or when a
 12 registered agent cannot with reasonable diligence be found at the registered office, or
 13 when the certificate of authority of a foreign corporation is suspended or revoked, the
 14 commissioner is an agent upon whom process, notice, or demand may be served.
 15 Service on the commissioner shall be made by delivering to and leaving with the
 16 commissioner, or **the commissioner's** [A] designee [IN THE CORPORATION
 17 DIVISION OF THE DEPARTMENT], duplicate copies of the process, notice or
 18 demand, accompanied by a fee established by the department by regulation. The
 19 commissioner shall immediately have one copy forwarded by registered or certified
 20 mail, addressed to the corporation at its principal office in the state or country under
 21 whose laws it is incorporated. Service on the commissioner is returnable in not less
 22 than 30 days.

23 * **Sec. 17.** AS 13.36.145(b) is amended to read:

24 (b) The separate fund of securities required by (a)(2) of this section shall be
 25 marked as a separate fund for (a)(2) of this section. Withdrawals from or additions to
 26 the separate fund may be made from time to time, as long as the required value is
 27 maintained. The income of the securities in the separate fund belongs to the corporate
 28 trustee. In the statements of its financial condition published or delivered to the
 29 [DIVISION OF BANKING, SECURITIES, AND CORPORATIONS IN THE]
 30 Department of Commerce, Community, and Economic Development, the corporate
 31 trustee shall show as separate items the amount of trust funds that it has deposited with

1 itself and the amount of securities that it holds as security for the payment of the
2 deposits.

3 * **Sec. 18.** AS 18.18.100(n) is amended to read:

4 (n) A hospice program may not use a direct service provider whose name is
5 listed on an abuse registry maintained by the Department of Commerce, Community,
6 and Economic Development [, DIVISION OF OCCUPATIONAL LICENSING]. A
7 hospice program shall contact **that department** [THE DIVISION] for a determination
8 of whether a prospective direct service provider's name is on an abuse registry
9 maintained by **that department** [THE DIVISION] and may not allow the person to
10 provide hospice services until **that department** [THE DIVISION] has responded to
11 the inquiry. The Department of Commerce, Community, and Economic Development
12 may adopt regulations to implement this subsection.

13 * **Sec. 19.** AS 34.80.090(4) is amended to read:

14 (4) "financial institution" means a financial institution

15 (A) whose accounts are insured by an agency of the federal
16 government;

17 (B) that is located in this state and does not meet the
18 requirements of (A) of this paragraph, but is subject to regulation by the
19 [DIVISION OF BANKING, SECURITIES AND CORPORATIONS IN THE]
20 Department of Commerce, Community, and Economic Development; or

21 (C) that is located in another state and does not meet the
22 requirements of (A) of this paragraph, but is subject to regulation in the other
23 state by an agency comparable to the [DIVISION OF BANKING,
24 SECURITIES AND CORPORATIONS IN THE] Department of Commerce,
25 Community, and Economic Development;

26 * **Sec. 20.** AS 37.05.146(c)(34) is amended to read:

27 (34) receipts of the [DIVISION OF THE] Department of Commerce,
28 Community, and Economic Development **relating to** [THAT REGULATES] banking,
29 securities, and corporations **functions**;

30 * **Sec. 21.** AS 40.25.110(e) is amended to read:

31 (e) Notwithstanding other provisions of this section to the contrary, the Bureau

1 of Vital Statistics and the library archives in the Department of Education and Early
 2 Development may continue to charge the same fees that they were charging on
 3 September 25, 1990, for performing record searches, and may increase the fees as
 4 necessary to recover agency expenses on the same basis that was used by the agency
 5 immediately before September 25, 1990. Notwithstanding other provisions of this
 6 section to the contrary, **regarding banking, securities, and corporations matters** the
 7 [DIVISION OF BANKING, SECURITIES, AND CORPORATIONS IN THE]
 8 Department of Commerce, Community, and Economic Development may continue to
 9 charge the same fees that the former Department of Commerce and Economic
 10 Development was charging on July 1, 1999, for performing record searches and may
 11 increase the fees as necessary to recover agency expenses on the same basis that was
 12 used by the former Department of Commerce and Economic Development
 13 immediately before July 1, 1999.

14 * **Sec. 22.** AS 46.03.375(a) is amended to read:

15 (a) The department shall adopt regulations governing the certification of
 16 persons who install, test, close, repair, or significantly change the configuration of
 17 underground petroleum storage tanks and tank systems. The certification program
 18 shall be administered by the [DIVISION OF OCCUPATIONAL LICENSING,]
 19 Department of Commerce, Community, and Economic Development. In consultation
 20 with the Department of Environmental Conservation, the **Department of Commerce,**
 21 **Community, and Economic Development** [DIVISION] shall make every reasonable
 22 attempt to ensure that opportunities for obtaining certification under this section are
 23 available throughout the state. The **Department of Commerce, Community, and**
 24 **Economic Development** [DIVISION] shall organize presentation of national training
 25 courses that are available in the state and assist residents of isolated communities who
 26 request assistance in becoming certified. The **Department of Commerce,**
 27 **Community, and Economic Development** [DIVISION] may contract with the
 28 University of Alaska, a vocational technical school, or a regional nonprofit
 29 organization to provide the education and testing necessary for certification.

30 * **Sec. 23.** AS 46.03.375(b) is amended to read:

31 (b) The **Department of Commerce, Community, and Economic**

1 **Development** [DIVISION] shall establish fees applicable to certification under this
2 section in an amount necessary to cover the costs of the certification program. The
3 fees shall be collected by the **Department of Commerce, Community, and**
4 **Economic Development** [DIVISION].

5 * **Sec. 24.** AS 08.45.200(2) and AS 46.03.375(g)(2) are repealed.

6 * **Sec. 25.** Section 12 of this Act takes effect July 1, 2005.

7 * **Sec. 26.** Except as provided in sec. 25 of this Act, this Act takes effect immediately under
8 AS 01.10.070(c).