IN THE HOUSE BY MESSRS. BRONSON, PLUMMER, RILEY, AND TAYLOR

HOUSE BILL NO. 64

IN THE LEGISLATURE OF THE TERRITORY OF ALASKA

TWENTY-SECOND SESSION

A BILL

For an Act entitled: "An Act to provide for licensing of dentists; to establish a board of dental examiners and set forth its powers and duties; providing penalties, requirements, and application of licensing provisions; repealing Article 3, Chapter 3, Title 35, ACLA, 1949, as amended; and setting an effective date."

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

Article I

DEFINITIONS AND APPLICATION

Section 1. Practice of dentistry. Every person shall be deemed to be engaged in the practice of dentistry who does any of the following: (a) performs or holds himself out to the public as being able to perform dental operations; (b) diagnoses, treats, operates on, corrects or attempts to correct, or prescribes for any disease, lesions, pain, injury, deficiency, deformity, or physical condition, malocclusion or malposition of the human teeth, alveolar process, gums or jaws and adjacent tissues, whether mechanically or medically or by the use of X-ray; (c) performs or attempts to perform any operation incident to the replacement of teeth; (d) furnishes or supplies, by mail or otherwise, or constructs, reproduces, or repairs prosthetic dentures, bridges, appliances or other structures

to be used and worn as substitutes for natural teeth, except on prescription of a duly licensed and registered dentist and by the use of impressions or casts made by a duly licensed and registered dentist; (e) uses the word "dentist" or "dental surgeon" or the letters D.D.S. or D.M.D. or any other letters or titles which in any way represent him as being engaged in the practice of dentistry gratuitously or for hire or reward; (f) extracts or attempts to extract human teeth; (g) is an owner, manager or operator of a place where any of the acts and things described in subsections (a) through (f) are performed or done.

Sec. 2. Application of Act; exceptions. The provisions of this Act apply to any person who shall practice, offer or attempt to practice dentistry in Alaska; except the following: (a) dental surgeons or dentists in the military service in the discharge of official duties; (b) licensed hygienists in the performance of duties authorized by law; (c) dentists in the employ of the U. S. Public Health Service, U. S. Veterans' Administration, Alaska Native Service, or Alaska Department of Health, in the discharge of official duties; (d) clinicians demonstrating at meetings of dentists approved by the Board.

Article II

BOARD: POWERS AND DUTIES

Section 1. Board; qualifications. There is hereby created the Board of Dental Examiners, herein called the Board, to be composed of five members, each of whom shall be a citizen of the United States and a qualified resident dentist, who has been lawfully engaged in the practice of dentistry in Alaska for three years immediately preceding his appointment.

Sec. 2. Board; appointment; terms. The members shall be

appointed by the Governor, subject to confirmation by the Legislature in joint session for overlapping terms of five years, and until their successors are appointed and qualified. The first members appointed shall serve for terms of one, two, three, four, and five years. The term of all members shall commence upon July 1 of each year, and any vacancies shall be filled for the balance of the unexpired term. All appointments by the Governor shall be made from a list of names recommended by the Alaska Dental Society, and said list shall be supplied at least thirty days prior to the expiration of any term and not more than sixty days after the occurrence of a vacancy. The list must contain not less than two recommended dentists for each membership to be filled. The Governor shall make appointments within thirty days after receiving such list or lists.

Sec. 3. Officers; meetings. The Board shall elect from its membership a President and a Secretary-Treasurer, each to serve for a term of two years. The Board shall meet as often, and at such times and places, as may be necessary to conduct its business.

Sec. 4. Quorum; expense. A majority of the Board shall be a quorum, and a quorum of the Board shall be sufficient for the exercise of any power or duty conferred or imposed by this Act. Members of the Board shall be paid per diem and expenses in amounts authorized to be paid members of boards by general law. The Secretary-Treasurer of the Board shall receive a salary in an amount fixed by the Board, not to exceed $300 per annum, and shall be paid his necessary expenses incurred in the discharge of his official duties, including clerical and stenographic assistance, printing and postage. Such salary and expenses shall be certified by the President of the Board.

p. 3, line 1: after the word "Governor" insert the following: ", subject to confirmation by the Legislature in joint session assembled,"

1 Sec. 5. General powers. The Board shall have, but not by
2 way of limitation, the following powers and duties: (a) to
3 examine applicants for licenses to engage in the practice of
4 dentistry, and issue licenses to candidates who pass such exami-
5 nations as are required; (b) to issue annual certificates of
6 registration to licensed dentists in good standing; (c) to make
7 an annual report of its proceedings to the Governor and to mem-
8 bers of the Alaska Dental Society, and such report shall contain
9 a statement of moneys received and disbursed; (d) to affiliate
10 with the National Association of Dental Examiners, and pay
11 annual dues to the Association; (e) to hold hearings, and to
12 revoke, annul, or suspend the license of any person who has
13 violated any provision of this Act or rules and regulations of
14 the Board made in compliance with this Act; (f) to supply all
15 necessary forms for applications, licenses, permits, certificates,
16 or other papers and records required; (g) to enforce the provi-
17 sions of this Act; and, (h) to make, alter, or amend such rules
18 and regulations as may be necessary or desirable to carry into
19 effect the provisions of this Act.
20
21 Sec. 6. Records and reports. In addition to any other
22 requirements of this Act, the Board shall keep or make the
23 following: (a) a record of all its proceedings; (b) a file of
24 all applications for examination; (c) a file of all examination
25 papers for a period of four years after each examination; (d)
26 a register containing the name, office and home address, and
27 such other information deemed necessary by the Board, of each
28 person duly licensed as a dentist or dental hygienist, and a
29 register of licenses revoked by the Board, and such registers
shall include information on the status of each licensee.

Article III

EXAMINATION AND LICENSING

Section 1. License required. No persons, except those specifically exempted from the application of this Act, shall engage in the practice of, or attempt to practice, dentistry without a license or permit issued and certified by the Board, and a duly issued and current certificate of registration, as in this Act provided.

Sec. 2. Form of application. Any person wishing to engage in the practice of dentistry may make application for examination and licensing to the Board by submitting information satisfactory to the Board that: (a) he is at least 21 years of age; (b) he is of good moral character; (c) he is a citizen of the United States, or has declared his intention to become a citizen; (d) he is a graduate of a dental college approved by the Board of Dental Examiners and that he has been granted a D.D.S. or D.M.D. degree or the equivalent. Each applicant shall also submit a recent unmounted, autographed photograph of himself. Applications must be filed at least 30 days prior to the date scheduled for holding an examination.

Sec. 3. Examinations; where held. Examinations shall be given at such times and places as may be determined by the Board to be convenient and economical for the applicants and the Territory. At least once each year the Board shall appoint from its membership an examination committee of at least three persons which shall conduct such examination as may be directed by the Board, and report the results thereof to the Board for official action thereon; Provided, that if an examination is requested by applicant or applicants to be held outside the

Territory, the Board may require said applicant or applicants to pay the transportation costs of the members of the committee conducting the examination; and Provided further, that the examination committee, with the approval of the Board, may conduct an examination in the clinic of any approved dental school within the continental limits of the United States and admit to such examination dental students in their last year of school who would otherwise be eligible for admission to examination and licensing in Alaska upon completion of the course in such school.

Sec. 4. Examinations; contents. The subjects covered by examinations shall be both written and practical, and shall be given in four sections as follows: (a) Section I shall be a written examination in the following subjects: anatomy, physiology and hygiene; chemistry and metallurgy; and histology; (b) Section II shall be a written examination on the following subjects: operative dentistry, prosthetic dentistry; therapeutics and materia medica; oral surgery and pathology; (c) Section III shall be a practical or demonstrative examination in operative dentistry; (d) Section IV shall be practical or demonstrative examinations in prosthetic dentistry, and in crown and bridge dentistry.

Notwithstanding any other provisions of this section, the Board may by regulations prescribe additional subjects or subjects other than herein required, when it is determined by the Board that changed conditions in dental education make such changes desirable in order to maintain standards commensurate with advances in the field of dentistry.

Sec. 5. Examination; partial. A student 19 years of age or older who has satisfactorily completed regular courses of

instruction in dentistry in at least two different school years in an approved dental school, and who is certified by the dean of the college as having satisfactorily completed the subjects included in Section I of the examination may be admitted to Section I of the examination, and if such student passes Section I and subsequently takes the full examination, the requirements with regard to Section I are hereby waived.

Sec. 6. Examination; re-examination. An applicant must pass each subject of each section of the examination with a score of seventy-five (75%) per cent or higher to be eligible for licensing. If a candidate fails in one subject in each section he may at any subsequent examination be re-examined in that or those subjects. If a candidate fails in more than one subject in any section, and applies for re-examination at a subsequent examination, he shall be re-examined in the whole section. If a candidate fails the examination or any section thereof on two separate occasions he shall be denied readmission to any subsequent examination until he shall produce evidence satisfactory to the Board that he has pursued further study in preparation therefor.

Sec. 7. Examination; grading. Upon the conclusion of each written examination the papers shall be rated by each examiner as soon as practicable. Each examiner shall prepare a report in duplicate on each such written examination and a report in duplicate on each practical examination given. Each examiner shall forward one copy of each report on each candidate to the office of the Governor, and shall forward one copy of each such report to the Secretary-Treasurer of the Board. The Secretary-Treasurer shall thereupon prepare a composite report on each

candidate and file one copy of his report with the Governor. As soon as practicable the Board shall notify each candidate of his success or failure in the examination.

Sec. 8. Waiver of written examination; reciprocity. The Board may waive the requirement for written examination for any applicant who holds a certificate from the National Board ~~Dental Examiners~~, as ~~having successfully passed the theoretical or written examination given by the National Board~~ graduate of any approved dental school and has been licensed, and has been in legal and reputable practice of dentistry, in any state, territory, district or possession of the United States having requirements for licensing, and according reciprocal rights, equivalent to those set forth in this section.

Waiver of written and practical examination; reciprocity. If any applicant having the qualifications set forth in section 8 of this article, has been engaged in the practice of dentistry for a period of five years in any such state, territory, district or possession of the United States, the Board may, by unanimous consent, issue such applicant a license without examination.

Sec. 10. Practice outside Alaska; re-instatement. Any dentist holding a license to practice in Alaska duly issued by the Board, or its predecessor or predecessors, and residing and practicing dentistry outside of Alaska, may maintain his eligibility to practice in Alaska by annually registering his name and place of residence with the Board. If such person fails to register in any year his license to practice may be reinstated without examination upon payment of a penalty of $25.00, payment of all delinquent registra-

p. 8, line 4: after "reciprocity." insert "(a)"

p. 8, line 8: Place period after "Board". Delete last 3 words in line.

p. 8, line 8: after "Board." insert "(b)"

p. 8, line 9: substitute "shall" for "may"

p. 8, line 9: Begin new paragraph by inserting the following before line 9: "The Board ~~may~~ shall waive the requirement for written examination for any". Strike "a" at the beginning of line 9 and change the "and" to "who".

p. 8, line 13: delete "." and insert "provided however that said person meets the requirements of Article III Section 2 hereof"

p. 8, line 16: after "paragraph" strike "two" and insert "(b)"

p. 8, line 16: after words "section 8, Paragraph (2)" insert words "and Section 2, Article III,"

p. 8, line 16: after "Section 8" insert "paragraph 2".

p. 8, line 18: Add "immediately preceding his application to practice in Alaska,"

p. 8, line 19: delete after the word "Board" the following: "may, by unanimous consent". add after the word "board" "shall"

tion fees, and presentation of proof of active practice at his place of residence certified by the Secretary of the Dental Board having jurisdiction at such place of residence, or, if there is no such board, by evidence satisfactory to the Board.

Sec. 11. Issuance of License; recordation; display. The Board shall issue licenses to successful candidates. The holder of a license issued by the Board shall have the license registered in the office of the Clerk of the District Court of the Judicial Division of his place of residence and pay the required fee for such registration. The Clerk of Court, after registering the license, shall return it to the licensee who shall keep the license in a conspicuous place in the office where he practices.

Sec. 12. Annual registration. At least sixty days before the first day of January of each year, the Secretary-Treasurer shall mail to every licensed dentist a blank form for annual registration. Each licensee shall fill in said form and mail it, together with the proper fee, to the Secretary-Treasurer. Upon receipt of the completed form the Secretary-Treasurer shall, as soon as practicable, issue a registration certificate valid for the year in which issued. Each licensee shall keep the current registration certificate beside or attached to his license. Failure to receive the registration form shall not exempt a dentist from annual registration.

Sec. 13. Branch office registration. Every licensee who practices in an established office other than that address for which his annual registration certificate is issued shall obtain a branch office registration certificate for each such office.

Sec. 14. Permits; isolated areas. The Board may designate as isolated areas specific places and regions remote from major population centers which are not served by any licensed dentists, either resident or itinerant, and which have a geographical location such as to work serious financial hardship, extended loss of time, or arduous and costly travel upon non-indigent residents needing dental care. The Board shall annually designate each such isolated area, and may issue an annual permit authorizing treatment of residents not otherwise entitled to care by the Alaska Department of Health or the Alaska Native Service, by dentists employed by the Alaska Native Service or the United States Public Health Service and serving such area or areas.

Sec. 15. Temporary permits. The Board may issue a temporary permit to any dentist not licensed in Alaska, ~~from a jurisdiction for which reciprocity is granted,~~ to practice in any place in Alaska, having no regular dental services available, for short periods of time, not to exceed 180 days. Each such permit shall state the name and home address of the permittee, and shall state the place or places and the period of time during which such permit is valid.

Sec. 16. Fees and penalties. The Board shall impose and collect the following fees and penalties.

(a) For the issuance of an original license, a fee of $15.00.

(b) For examination of an applicant, a fee of $25.00.

(c) For re-examination of an applicant, a fee of $10.00 for each section or part thereof as the case may be, on which re-examined.

p. 10, lines 15 & 16: strike "from a jurisdiction for which reciprocity is granted"

(d) For annual registration, a fee of $10.00

(e) For each branch office registration, a fee of $10.00

(f) For each temporary permit, a fee of $25.00.

(g) For failure to pay the annual registration fee by July 1 of the year for which due, a penalty of $10.00

(h) For re-instatement as provided in section 10 of this article, a penalty of $25.00.

All such fees and penalties shall be tendered with the applications for which due and payable.

Sec. 17. Deposit of fees. The Secretary-Treasurer shall at least once each month deposit all fees and penalties, collected by or on behalf of the Board, in the Territorial Treasury, and all proper expenses of the Board shall be paid by duly issued Territorial Warrants in compliance with appropriations for such purposes.

Article IV

UNLAWFUL ACTS: SANCTIONS

Section 1. Grounds for revocation of license. The license and registration of any person may be revoked, suspended, or annulled, or such person may be reprimanded, censured, or otherwise disciplined, by the Board after due hearing when such person is guilty of any of the following acts or things: (a) secured a license through deceit, fraud, or willful misrepresentation of a material fact; (b) been convicted of a crime involving moral turpitude; (c) chronic or persistent inebriety or addiction to habit-forming drugs, and is therefore incompetent to continue the practice of dentistry; (d) willful and gross malpractice or willful and gross neglect in the practice of

dentistry; (e) hiring, supervising, permitting or aiding unlicensed persons to practice dentistry; (f) by reason of insanity or contagious or infectious disease an improper person to continue in the practice of dentistry; (g) practiced or offered to practice dentistry under any name except the name in which his license was issued; (h) used the name of any company, association, corporation, trade name, dental clinic, or business name in connection with the practice of dentistry; (i) knowingly practiced in the employment of or in association with any person who is practicing in an unlawful manner; (j) employed or made use of advertising solicitors or free-publicity press agents; (k) willfully deceived or attempted to deceive the Board with reference to any matter under investigation by the Board; (l) advertised professional superiority; (m) advertised any free dental work or free examination; (n) advertised prices for professional service; (o) advertising to perform any dental operation painlessly; (p) advertised by means of a large display, glaring light signs, or signs containing as a part thereof the representation of a tooth, teeth, bridgework, or any portion of the human head; (q) advertised by any medium other than the carrying or publishing of a modest professional card or the display of a modest window or street sign at the licensee's office displaying the name, address, profession, office hours, telephone number and specialty; (r) permitted the use of his name as a dentist by others in the sale or advertisement of products; (s) violated any provision of this Act; (t) advertised as a specialist in any branch of dentistry, unless he devoted a major portion of his entire practice to that branch; (u) engaged in the practice of fee-splitting; (v) engaged in

unprofessional conduct.

Sec. 2. Complaint. Proceedings to revoke or suspend any license may be taken by the Board only upon the complaint of another and must contain a request that the Board take action against the alleged offender. All complaints must be in writing verified by a person or persons familiar with the facts therein charged, and two copies thereof shall be filed with the Secretary-Treasurer.

Sec. 3. Hearing; order and service. Upon receiving a complaint, the Board shall, if after investigation the Board deems the complaint sufficient, pass an order setting a time and place for a hearing thereon. The Secretary-Treasurer shall cause a copy of the order and complaint, or of an amended complaint drawn by the Board, to be served upon the accused at least ten days before the time set for the hearing. Service upon the accused shall be by delivery of a copy of the order and complaint to the accused in person; or, if such personal service cannot reasonably be made, the service shall be by delivery to his last known residence and business addresses, or by registered mail to his last known residence and business addresses; and any of such means of service shall be sufficient notice to justify proceedings with a hearing of the charges. Failure of the licensee to appear shall not invalidate any action on the proceedings taken by the Board.

Sec. 4. Conduct of hearings. The Board shall conduct hearings under such rules as the Board may adopt, and may administer oaths and subpoena and compel attendance of witnesses, deemed by the Board or the licensee to have knowledge which would aid the Board in reaching a proper decision and for the

enforcement of this Act, in the same manner as the District Court of Alaska in civil proceedings. The accused shall have the right of benefit of counsel.

Sec. 5. Order of revocation. The Board may, by a majority vote of the members of the Board, evidenced by the signatures of such members on the order, reprimand a licensee or order an accused licensee's license suspended for such time as the Board may determine, or order his license revoked.

Sec. 6. Appeal. Any person whose license has been revoked or suspended may file a written notice of appeal therefrom with the Secretary-Treasurer. Upon receiving such notice the Secretary-Treasurer shall transmit the record of the proceedings on the hearing to the Governor and Attorney General. The Governor and Attorney General shall review the proceedings as disclosed by the record and may affirm, deny, reverse, amend, or modify the action of the Board. The decision of the Governor and Attorney General shall be the final administrative action on the case.

Sec. 7. Injunction. When it appears to the Board that any person is violating any of the provisions of this Act, the Board may in its own name cause suit to be brought in a court of competent jurisdiction to enjoin any person from doing any acts or thing constituting such violation.

Sec. 8. Violation of Act. Any person who violates any provision of this Act and no specific remedy is provided herein, is guilty of a misdemeanor punishable by a fine of not more than $500.00, or imprisonment for not more than six months, or both such fine and imprisonment.

Article V

GENERAL PROVISIONS

Section 1. Construction of Act. The provisions of this Act are not intended to be retroactive and no license shall be suspended or revoked for any violation of this Act, nor any penalties, fines, or injunctions applied, when such violations occurred prior to the effective date of this Act, or any rule or regulation promulgated in pursuance of this Act.

Sec. 2. Repealer. Article 3 of Chapter 3 of Title 35, Alaska Compiled Laws Annotated, 1949, as amended (being Sections 35-3-41 through 35-3-55, ACLA 1949, as amended) is hereby repealed.

Sec. 3. Effective date. This Act shall take effect and be in force from and after its passage and approval, or upon its becoming law without such approval, and it is so enacted.