

Original sponsor: Health, Education and
Social Services Committee

Offered: 5/13/80

1 IN THE SENATE

BY THE RULES COMMITTEE

2

CS FOR SENATE BILL NO. 561 am

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

ELEVENTH LEGISLATURE - SECOND SESSION

5

A BILL

6

For an Act entitled: "An Act relating to professional licensing and to the
7 regulation of dentists and dental hygienists; and
8 providing for an effective date."

9

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

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

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(10) except as otherwise provided in this title, issue dup-

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licate licenses or certificates upon proof by the licensee of loss of
13 the original and payment by the licensee of a fee of \$2;

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

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(19) provide investigative services to the boards established

16

under AS 08.20, [AS 08.32,] AS 08.36, AS 08.64, AS 08.68, AS 08.71,

17

AS 08.72, AS 08.80, AS 08.84, and AS 08.86, for the purpose of assisting

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those boards in matters of professional discipline.

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

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(a) Except as otherwise provided in this title, [ALL] licenses

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shall be renewed biennially on the dates set by the department with the
22 approval of the respective board.

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

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Sec. 08.32.010. LICENSE REQUIRED. Except as provided in AS 08.32.

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095, a person may not [NO PERSON MAY] practice, offer or attempt to

26

practice, or advertise or announce oneself as prepared or qualified to

27

practice dental hygiene without a license.

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 AS 08.32.030 is repealed and re-enacted to read:

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

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

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

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

6 Sec. 08.32.070. REGISTRATION AND LICENSING OF DENTAL HYGIENISTS.

7 If the applicant passes the examination, the board shall register the
8 applicant and issue a license upon payment of all fees required un-
9 der AS 08.36.290. A licensed dental hygienist shall renew registration
10 and offer proof of continued competency as required by regulation of the
11 board every four years [CERTIFICATE. THE FEE FOR REGISTRATION IS \$20.
12 BEFORE MAY 1 OF EVERY OTHER YEAR AFTER THE YEAR OF REGISTRATION, EVERY
13 REGISTERED DENTAL HYGIENIST SHALL PAY A REGISTRATION FEE OF \$20].

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

15 Sec. 08.32.081. LAPSE AND REINSTATEMENT OF LICENSE. The failure,
16 neglect, or refusal of a licensed dental hygienist to pay the renewal
17 [BIENNIAL] registration fee constitutes a forfeiture of the license.
18 The board may reinstate the license without examination within two years
19 of the date on which payment was due upon written application, proof
20 of continued competency, and payment of all fees required under AS 08.-
21 36.290 [\$25].

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

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

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

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, 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) failure to keep informed of or use current profes-
28 sional theories or practices;

29 (C) addiction or severe dependency on alcohol or other

- 1 drugs which impairs his ability to practice safely;
2 (D) physical or mental disability;
3 (7) engaged in lewd or immoral conduct in connection with the
4 delivery of professional service to patients;
5 (8) performed clinical procedures for compensation without
6 being under the supervision of a licensed dentist.

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

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

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

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

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

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

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

2 (2) to register licensed dentists and licensed dental hy-
3 gienists who are in good standing;

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

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

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

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

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

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

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

22 (10) to order a licensed dentist or licensed dental hygienist
23 to submit to a reasonable physical or mental examination if his physical
24 or mental capacity to practice safely is at issue;

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

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

1 ficate of registration.

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

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

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

8 Sec. 08.36.130. EXAMINATION. An examination shall be given at
9 least once a year and at other times and at places determined by the
10 board to be convenient and economical for the applicants and the state.
11 At least once each year the board shall appoint [FROM ITS MEMBERSHIP] an
12 examination committee of at least three licensed dentists who have been
13 engaged in the practice of dentistry in the state for five years im-
14 mediately preceding appointment to conduct the examination for appli-
15 cants for licenses to practice dentistry. The board shall also appoint
16 an examination committee of at least two licensed dentists who have been
17 engaged in the practice of dentistry in the state for five years im-
18 mediately preceding appointment and one person licensed to practice den-
19 tal hygiene in the state to conduct the examination for applicants for
20 licenses to practice dental hygiene [PERSONS]. The examination com-
21 mittees [COMMITTEE] shall [CONDUCT AN EXAMINATION AT LEAST ONCE A YEAR
22 AND] report the results to the board for official action.

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

24 Sec. 08.36.230. PRACTICE OUTSIDE THE STATE. A dentist licensed to
25 practice in this state and residing and practicing dentistry outside of
26 this state, may maintain his eligibility to practice in this state by
27 [BIENNIALY] registering his name and place of residence with the divi-
28 sion of occupational licensing every four years and submitting proof of
29 competency as required by the board. If the dentist fails to register,

1 the board may reinstate his license without examination upon payment of
2 a penalty of \$25, payment of the delinquent registration fee under
3 AS 08.36.290(10), presentation of proof of continued competency [ALL
4 DELINQUENT REGISTRATION FEES], and presentation of proof of active
5 practice [AT HIS PLACE OF RESIDENCE,] certified by the dental board
6 having jurisdiction [AT HIS PLACE OF RESIDENCE,] or, if there is no
7 board with jurisdiction, by evidence satisfactory to the board.

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

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

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

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

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

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

23 (5) has not previously had a license to practice dentistry
24 revoked;

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

26 (7) is personally interviewed by the board;

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

28 Sec. 08.36.238. EXEMPTION FROM LICENSE REQUIREMENT. (a) A person
29 enrolled as a full-time student in an accredited school of dentistry may

1 perform procedures as part of a course of study without a license if

2 (1) the procedures are performed under the direct supervision
3 of a member of the faculty who is licensed under AS 08.36, or under the
4 direct supervision of a team of licensed faculty dentists, at least one
5 of whom is licensed under AS 08.36; and

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

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

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

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

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

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

1 Sec. 08.36.315. GROUNDS FOR DISCIPLINE, SUSPENSION OR REVOCATION
2 OF LICENSE. The board may revoke or suspend the license of a dentist,
3 and the licensee may be reprimanded, censured, or disciplined when the
4 board finds after a hearing that he

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

7 (2) engaged in deceit, fraud, or intentional misrepresenta-
8 tion in the course of providing professional dental services or engaging
9 in professional activities;

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

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

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

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

21 (7) continued to practice after becoming unfit due to

22 (A) professional incompetence;

23 (B) failure to keep informed of or use current profes-
24 sional theories or practices;

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

27 (D) physical or mental disability;

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

1 (9) permitted a dental hygienist who is employed by him or
2 working under his supervision to perform a dental procedure other than
3 those permitted under AS 08.32.110.

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

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

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

14 to

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

17 (B) limit practice to those areas prescribed;

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

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

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

25 (c) The board may summarily suspend a license before final hearing
26 or during the appeals process if the board finds that the licensee poses
27 a clear and immediate danger to the public health and safety if he
28 continues to practice. A person whose license is suspended under this
29 section shall be entitled to a hearing by the board no later than seven

1 days after the effective date of the order. He may appeal the sus-
2 pension after a hearing to a court of competent jurisdiction.

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

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

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

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

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

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

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

20 (2) "department" means the Department of Commerce and Eco-
21 nomic Development.

22 * Sec. 32. AS 08.32.020(a)(1), 08.32.150; AS 08.36.110(2), 08.36.210,
23 08.36.220, 08.36.310, 08.36.325, 08.36.330, and 08.36.350(2) are repealed.

24 * Sec. 33. This Act takes effect immediately in accordance with AS 01.10 -
25 070(c).