

Introduced: 4/25/80  
Referred: Health, Education  
& Social Services

BY THE HEALTH, EDUCATION AND  
SOCIAL SERVICES COMMITTEE

1 IN THE SENATE

2 SENATE BILL NO. 580

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 the practice of medicine; and providing  
8 for an effective date."

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

10 \* Section 1. AS 08.01.050 is amended by adding a new subsection to read:

11 (c) After consulting with the State Medical Board (AS 08.64.010),  
12 the department shall employ an individual to be assigned as the investi-  
13 gator for that board. The investigator shall

14 (1) not be a member of the State Medical Board;

15 (2) conduct investigations into alleged violations of  
16 AS 08.64, and into alleged violations of regulations and orders of the  
17 State Medical Board;

18 (3) at the request of the State Medical Board, conduct  
19 investigations based on complaints filed with the department or with the  
20 State Medical Board; and

21 (4) be directly responsible and accountable to the State  
22 Medical Board, except that only the department has authority to  
23 terminate his employment.

24 \* Sec. 2. AS 08.01.100(a) is amended to read:

25 (a) Except as otherwise provided in this title, [ALL] licenses  
26 shall be renewed biennially on the dates set by the department with the  
27 approval of the respective board.

28 \* Sec. 3. AS 08.64.010 is amended to read:

29 Sec. 08.64.010. CREATION AND MEMBERSHIP OF STATE MEDICAL BOARD.

1 The governor shall appoint a board of medical examiners, to be known as  
2 the State Medical Board, consisting of five [LICENSED] physicians  
3 licensed in the state and [,] residing in as many separate geographical  
4 areas of the state [ALASKA JUDICIAL DISTRICTS] as possible, and two  
5 persons with no direct financial interest in the health care industry.

6 \* Sec. 4. AS 08.64.020 is amended to read:

7 Sec. 08.64.020. [STATE MEDICAL BOARD] TERM OF OFFICE. Members  
8 shall be appointed for staggered terms [A TERM] of four years, subject  
9 to confirmation by a majority of the members of the legislature in joint  
10 session, and shall hold office until their successors are appointed and  
11 qualified. The terms of the public members of the board shall be stag-  
12 gered so that they do not expire at the same time. A person who has  
13 served two successive complete terms may not be reappointed until four  
14 years from the expiration of the second term.

15 \* Sec. 5. AS 08.64.040 is amended to read:

16 Sec. 08.64.040. REMOVAL OF MEMBERS. The governor may remove a  
17 member of the board for cause. The board may by regulation provide that  
18 unexcused absences from meetings constitute cause for removal.

19 \* Sec. 6. AS 08.64 is amended by adding new sections to read:

20 Sec. 08.64.085. MEETINGS OF THE BOARD. The board shall hold  
21 meetings at least four times a year.

22 Sec. 08.64.115. DUTIES. The board shall

23 (1) after a hearing, impose disciplinary sanctions on persons  
24 who violate this chapter, or the regulations or orders of the board;

25 (2) adopt regulations insuring that renewal of licenses is  
26 contingent upon proof of continued competency on the part of the li-  
27 censee.

28 \* Sec. 7. AS 08.64.240 is amended to read:

29 Sec. 08.64.240. LICENSE REFUSED. If the applicant fails the exam-

1 ination, or is determined by the board to be [MORALLY OR] professionally  
2 unfit to practice medicine or osteopathy in this state, or fails to  
3 comply with any of the other requirements of this chapter, the board  
4 shall refuse to grant the license.

5 \* Sec. 8. AS 08.64.250 is amended to read:

6 Sec. 08.64.250. LICENSURE BY CREDENTIALS [ENDORSEMENT]. The board  
7 may waive the examination requirement and license by credentials [EN-  
8 DORSEMENT] if the physician or podiatry applicant meets the requirements  
9 of AS 08.64.200 or 08.64.209, submits proof of continued competency  
10 as required by regulation, pays the required fee and has

11 (1) an active license from a board of medical examiners  
12 established under the laws of a state or territory of the United States  
13 or a province of Canada issued after thorough examination; or

14 (2) passed an examination given by the National Board of  
15 Medical Examiners or the Federation of State Medical Boards of the  
16 United States if the applicant is a physician, or passed an examination  
17 given by the National Board of Podiatry Examiners if the applicant is  
18 a podiatrist.

19 \* Sec. 9. AS 08.64.270(a) is amended to read:

20 (a) The board may issue a temporary permit to an applicant who  
21 meets the requirements of AS 08.64.200, [OR] 08.64.205, or 08.64.209 and  
22 pays the required fee.

23 \* Sec. 10. AS 08.64.311 is amended to read:

24 Sec. 08.64.311. [BIENNIAL] LICENSE RENEWAL. Licenses shall be  
25 renewed every four years [BIENNIALY].

26 \* Sec. 11. AS 08.64.315 is amended to read:

27 Sec. 08.64.315. FEES. The following fees are imposed under this  
28 chapter:

29 (1) application..... \$ 50 [\$25]

- 1 (2) license by examination..... \$200 [125]
- 2 (3) license by credentials [ENDORSEMENT] or
- 3 waiver of examination.....\$200 [100]
- 4 (4) temporary permit..... \$50 [25]
- 5 (5) locum tenens permit..... \$50 [25]
- 6 (6) license renewal due every four years
- 7 [, BIENNIAL], active..... \$300 [100]
- 8 (7) license renewal due every four years
- 9 [, BIENNIAL], inactive..... \$100 [25]
- 10 (8) license by reexamination..... \$75 [75]

11 \* Sec. 12. AS 08.64.325 is repealed and re-enacted to read:

12 Sec. 08.64.325. GROUNDS FOR IMPOSITION OF DISCIPLINARY SANCTIONS.

13 The board may impose a sanction when the board finds after a hearing  
14 that a licensee

15 (1) secured a license through deceit, fraud, or intentional  
16 misrepresentation;

17 (2) engaged in deceit, fraud, or intentional misrepresenta-  
18 tion in the course of providing professional services or engaging in  
19 professional activities;

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

22 (4) has been convicted of a felony or other crime which  
23 affects his ability to continue to practice competently and safely;

24 (5) intentionally or negligently engaged in or permitted the  
25 performance of patient care by persons under his supervision which does  
26 not conform to minimum professional standards regardless of whether  
27 actual injury to the patient occurred;

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

- 1 (7) continued to practice after becoming unfit due to
- 2 (A) professional incompetence;
- 3 (B) failure to keep informed of or use current profes-
- 4 sional theories or practices;
- 5 (C) addiction or severe dependency on alcohol or other
- 6 drugs which impairs his ability to practice safely;
- 7 (D) physical or mental disability;
- 8 (8) engaged in unprofessional conduct or in lewd or immoral
- 9 conduct in connection with the delivery of professional service to
- 10 patients.

11 \* Sec. 13. AS 08.64.330 is repealed and re-enacted to read:

12 Sec. 08.64.330. DISCIPLINARY SANCTIONS. (a) When it finds that a

13 licensee is guilty of an offense under AS 08.64.325, the board may

14 impose the following sanctions singly or in combination:

- 15 (1) permanently revoke a license to practice;
- 16 (2) suspend a license for a determinate period of time;
- 17 (3) censure a licensee;
- 18 (4) issue a letter of reprimand;
- 19 (5) place a licensee on probationary status and require him

20 to

21 (A) report regularly to the board upon matters involving

22 the basis of probation;

23 (B) limit practice to those areas prescribed;

24 (C) continue professional education until a satisfactory

25 degree of skill has been attained in those areas determined by the

26 board to need improvement;

27 (6) impose limitations or conditions on the practice of a

28 licensee.

29 (b) The board may withdraw probation status if it finds that the

1 deficiencies which required the sanction have been remedied.

2 (c) The board may summarily suspend a license before final hearing  
3 or during the appeals process if the board finds that the licensee poses  
4 a clear and immediate danger to the public health and safety if he  
5 continues to practice. A person whose license is suspended under this  
6 section shall be entitled to a hearing by the board no later than seven  
7 days after the effective date of the order. He may appeal the  
8 suspension after a hearing to a court of competent jurisdiction.

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

12 (e) A license may be suspended until a hearing can be held to  
13 determine the licensee's fitness to practice in the state upon receipt  
14 of certified evidence that his license to practice medicine in another  
15 state, territory or province of the United States or Canada has been  
16 suspended or revoked.

17 (f) The board shall seek consistency in the application of dis-  
18 ciplinary sanctions, and significant departure from prior decisions  
19 involving similar situations shall be explained in findings of fact or  
20 orders.

21 \* Sec. 14. AS 08.64.360 is amended to read:

22 Sec. 08.64.360. PENALTY FOR PRACTICING WITHOUT A LICENSE OR IN  
23 VIOLATION OF CHAPTER. (a) Except for a physician assistant and a  
24 physician-trained mobile intensive care paramedic under AS 08.64.170, a  
25 person practicing medicine or osteopathy in the state without obtaining  
26 and filing an appropriate license is guilty of a class B misdemeanor  
27 [AND UPON CONVICTION IS PUNISHABLE BY A FINE OF NOT LESS THAN \$50 NOR  
28 MORE THAN \$100, OR BY IMPRISONMENT FOR NOT LESS THAN 10 DAYS NOR MORE  
29 THAN 90 DAYS, OR BY BOTH]. Evidence that the defendant has failed to

1 file a license with the clerk of the court is prima facie evidence that  
2 the defendant is not licensed. Each day of illegal practice is a  
3 separate offense.

4 (b) A person who practices or attempts to practice or who holds  
5 himself out as practicing a system or mode of treating the sick or  
6 afflicted in the state or who diagnoses, treats, operates for, or  
7 prescribes for an ailment, blemish, deformity, disease, disfigurement,  
8 disorder, injury or other mental or physical condition of any person,  
9 without having a valid unrevoked and unsuspended license or author-  
10 ization as provided in this chapter, or without being authorized to  
11 perform the acts under a license, authorization or certificate obtained  
12 in accordance with another provision of law, is guilty of a class B  
13 misdemeanor.

14 \* Sec. 15. AS 08.64.380(3) is amended by adding a new subparagraph to  
15 read:

16 (I) refusing to provide emergency care which, in the  
17 professional judgment of the licensee, is essential to prevent loss  
18 of life, limb or immediate undue pain and suffering, and is within  
19 the licensee's area of competence.

20 \* Sec. 16. AS 08.64.030, 08.64.110, 08.64.160, 08.64.200(1), and 08.64.-  
21 380(3)(C) are repealed.

22 \* Sec. 17. This Act takes effect immediately in accordance with AS 01.10.-  
23 070(c).

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