

Original sponsor: Health, Education and
Social Services Committee

Offered: 5/17/80
Referred: Finance

1 IN THE SENATE

BY THE COMMERCE COMMITTEE

2 HOUSE CS FOR 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. 08.64.075. EXECUTIVE OFFICER OF THE BOARD. (a) The depart-
21 ment, in consultation with the board, shall employ an individual who is
22 not a member of the board to serve as executive officer of the board.

23 (b) The executive officer shall

24 (1) perform the administrative duties required by this
25 chapter and the department;

26 (2) carry out regulations and policy decisions made by the
27 board;

28 (3) assist the board in conducting examinations, continuing
29 education programs, and other administrative work for the board."

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

3 Sec. 08.64.115. DUTIES. The board shall

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

6 (2) adopt regulations insuring that renewal of licenses is
7 contingent upon proof of continued competency on the part of the li-
8 censee.

9 * Sec. 7. AS 08.64.240 is amended to read:

10 Sec. 08.64.240. LICENSE REFUSED. If the applicant fails the exam-
11 ination, or is determined by the board to be [MORALLY OR] professionally
12 unfit to practice medicine or osteopathy in this state, or fails to
13 comply with any of the other requirements of this chapter, the board
14 shall refuse to grant the license.

15 * Sec. 8. AS 08.64.250 is amended to read:

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

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

24 (2) passed an examination given by the National Board of
25 Medical Examiners or the Federation of State Medical Boards of the
26 United States if the applicant is a physician, or passed an examination
27 given by the National Board of Podiatry Examiners if the applicant is
28 a podiatrist.

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

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

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

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

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

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

- (1) application..... \$ 50 [\$25]
- (2) license by examination..... \$200 [125]
- (3) license by credentials [ENDORSEMENT] or
waiver of examination.....\$200 [100]
- (4) temporary permit..... \$50 [25]
- (5) locum tenens permit..... \$50 [25]
- (6) license renewal due every four years
[, BIENNIAL], active..... \$600 [100]
- (7) license renewal due every four years
[, BIENNIAL], inactive..... \$200 [25]
- (8) license by reexamination..... \$150 [75]

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

Sec. 08.64.325. GROUNDS FOR IMPOSITION OF DISCIPLINARY SANCTIONS. The board may impose a sanction when the board finds after a hearing that a licensee

- (1) secured a license through deceit, fraud, or intentional misrepresentation;
- (2) engaged in deceit, fraud, or intentional misrepresentation in the course of providing professional services or engaging in professional activities;

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

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

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

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

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

12 (A) professional incompetence;

13 (B) addiction or severe dependency on alcohol or other
14 drugs which impairs his ability to practice safely;

15 (C) physical or mental disability;

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

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

20 Sec. 08.64.330. DISCIPLINARY SANCTIONS. (a) When it finds that a
21 licensee is guilty of an offense under AS 08.64.325, the board may
22 impose the following sanctions singly or in combination:

23 (1) permanently revoke a license to practice;

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

25 (3) censure a licensee;

26 (4) issue a letter of reprimand;

27 (5) place a licensee on probationary status and require him

28 to

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

1 the basis of probation;

2 (B) limit practice to those areas prescribed;

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

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

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

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

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

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

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

29 * Sec. 14. AS 08.64.360 is amended to read:

1 Sec. 08.64.360. PENALTY FOR PRACTICING WITHOUT A LICENSE OR IN
2 VIOLATION OF CHAPTER. (a) Except for a physician assistant and a
3 physician-trained mobile intensive care paramedic under AS 08.64.170, a
4 person practicing medicine or osteopathy in the state without obtaining
5 and filing an appropriate license is guilty of a class B misdemeanor
6 [AND UPON CONVICTION IS PUNISHABLE BY A FINE OF NOT LESS THAN \$50 NOR
7 MORE THAN \$100, OR BY IMPRISONMENT FOR NOT LESS THAN 10 DAYS NOR MORE
8 THAN 90 DAYS, OR BY BOTH]. Evidence that the defendant has failed to
9 file a license with the clerk of the court is prima facie evidence that
10 the defendant is not licensed. Each day of illegal practice is a
11 separate offense.

12 (b) A person who practices or attempts to practice or who holds
13 himself out as practicing a system or mode of treating the sick or
14 afflicted in the state or who diagnoses, treats, operates for, or
15 prescribes for an ailment, blemish, deformity, disease, disfigurement,
16 disorder, injury or other mental or physical condition of any person,
17 without having, when required, a valid unrevoked and unsuspended license
18 or authorization as provided in this chapter, or without being authorized
19 to perform the acts under a license, authorization or certificate, when
20 required, in accordance with another provision of law, is guilty of a
21 class B misdemeanor.

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

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

28 * Sec. 16. AS 08.64.380(5) is amended to read:

29 (5) "department" means the Department of Commerce and Econo-

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* Sec. 17. AS 08.64.030, 08.64.110, 08.64.160, 08.64.200(1), and 08.64.-
380(3)(C) are repealed.

* Sec. 18. This Act takes effect immediately in accordance with AS 01.10.-
070(c).