

Introduced: 3/4/81
Referred: Health, Education &
Social Services and Judiciary

1 IN THE SENATE

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

2 SENATE BILL NO. 237

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - FIRST 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."

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

9 * Section 1. AS 08.64.010 is amended to read:

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

11 The governor shall appoint a board of medical examiners, to be known as
12 the State Medical Board, consisting of five [LICENSED] physicians li-
13 censed in the state and [,] residing in as many separate geographical
14 areas of the state [ALASKA JUDICIAL DISTRICTS] as possible, and two
15 persons with no direct financial interest in the health care industry.

16 * Sec. 2. AS 08.64.020 is amended to read:

17 Sec. 08.64.020. [STATE MEDICAL BOARD] TERM OF OFFICE. Members
18 shall be appointed for staggered terms [A TERM] of four years, subject
19 to confirmation by a majority of the members of the legislature in
20 joint session, and shall hold the office until their successors are ap-
21 pointed and qualified. A person who has served two successive complete
22 terms may not be reappointed until four years after the expiration of
23 the second term [THE TERMS OF THE PUBLIC MEMBERS OF THE BOARD SHALL BE
24 STAGGERED SO THAT THEY DO NOT EXPIRE AT THE SAME TIME].

25 * Sec. 3. AS 08.64.040 is amended to read:

26 Sec. 08.64.040. REMOVAL OF MEMBERS. The governor may remove a
27 member of the board for cause. The board may by regulation provide
28 that unexcused absences from meetings is cause for removal.

29 * Sec. 4. AS 08.64 is amended by adding new sections to read:

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

3 Sec. 08.64.101. DUTIES. The board shall

4 (1) examine and issue licenses to applicants;

5 (2) submit an annual report of its proceedings to the gover-
6 nor, including a statement of money received and disbursed;

7 (3) after a hearing, impose disciplinary sanctions on per-
8 sons who violate this chapter, or the regulations or orders of the
9 board;

10 (4) adopt regulations insuring that renewal of licenses is
11 contingent upon proof of continued competency on the part of the licen-
12 see.

13 * Sec. 5. AS 08.64.170 is amended to read:

14 Sec. 08.64.170. LICENSE TO PRACTICE MEDICINE OR OSTEOPATHY OR AS-
15 SIST AT CHILDBIRTH. (a) No person may practice medicine, podiatry,
16 osteopathy, [OR] acupuncture, or for a fee, donation, or other compensa-
17 tion assist at childbirth in the state unless he is licensed under this
18 chapter, except that

19 (1) a physician assistant may examine, diagnose or treat
20 persons under the supervision, control, and responsibility of either a
21 physician licensed under this chapter or a physician exempted from li-
22 icensing [LICENSURE] under AS 08.64.370;

23 (2) a physician-trained mobile intensive care paramedic may
24 render emergency lifesaving service; [AND]

25 (3) a person licensed under AS 08.36 may perform acupuncture
26 in the regular practice of dentistry, subject to the regulations of the
27 Board of Dental Examiners;

28 (4) a person may assist at childbirth if authorized under
29 regulations of the board or if licensed or subject to regulations

1 adopted under AS 08.68; and

2 (5) a person who is licensed or authorized under another
3 chapter of this title may engage in a practice which is authorized un-
4 der that chapter.

5 * Sec. 6. AS 08.64.240 is repealed and reenacted to read:

6 Sec. 08.64.240. LICENSE REFUSED. (a) The board shall refuse to
7 grant a license if

8 (1) the applicant fails or cheats during the examination;

9 (2) the board determines that the applicant is professional-
10 ly unfit to practice medicine or osteopathy in the state; or

11 (3) the applicant fails to comply with a requirement of this
12 chapter.

13 (b) The board may refuse to grant a license to any applicant for
14 the same reasons that it may impose disciplinary sanctions under AS 08.-
15 64.325.

16 * Sec. 7. AS 08.64.250 is amended to read:

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

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

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

1 * Sec. 8. AS 08.64.270(a) is amended to read:

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

5 * Sec. 9. AS 08.64.311 is amended to read:

6 Sec. 08.64.311. [BIENNIAL] LICENSE RENEWAL. Licenses shall be
7 renewed four years after the date of issue [BIENNIALY].

8 * Sec. 10. AS 08.64.315 is amended to read:

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

- 11 (1) application \$ 50 [\$25]
12 (2) license by examination 200 [125]
13 (3) license by credentials [ENDORSEMENT] or
14 waiver of examination 200 [100]
15 (4) temporary permit 50 [25]
16 (5) locum tenens permit 50 [25]
17 (6) license renewal [, BIENNIAL], active . . . 600 [100]
18 (7) license renewal [, BIENNIAL], inactive . . 200 [25]
19 (8) license by reexamination 150 [75]

20 * Sec. 11. AS 08.64.325 is repealed and reenacted to read:

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

22 (a) The board may impose a sanction if the board finds after a hearing
23 that a licensee

24 (1) secured a license through deceit, fraud, or intentional
25 misrepresentation;

26 (2) engaged in deceit, fraud, or intentional misrepresenta-
27 tion while providing professional services or engaging in professional
28 activities;

29 (3) advertised professional services in a false or mislead-

1 ing manner;

2 (4) has been convicted, including conviction based on a
3 guilty plea or plea of nolo contendere, of (A) a felony or other crime
4 if the felony or other crime is substantially related to the qualifica-
5 tions, functions, or duties of the licensee; or (B) a crime involving
6 the unlawful procurement, sale, prescription or dispensing of drugs;

7 (5) has procured, sold, prescribed or dispensed drugs in vi-
8 olation of any law, regardless of whether there has been a criminal ac-
9 tion;

10 (6) intentionally or negligently permitted the performance
11 of patient care by persons under his supervision which does not conform
12 to minimum professional standards even if the patient was not injured;

13 (7) failed to comply with this chapter, a regulation adopted
14 under this chapter, or with an order of the board;

15 (8) has demonstrated

16 (A) professional incompetence, gross negligence or re-
17 peated negligent conduct;

18 (B) addiction to, severe dependency on, or habitual
19 overuse of alcohol or other drugs which impairs his ability to
20 practice safely;

21 (C) unfitness because of physical or mental disability;

22 (9) engaged in unprofessional conduct or in lewd or immoral
23 conduct in connection with the delivery of professional services to
24 patients;

25 (10) has violated AS 18.16.010;

26 (11) has violated any code of ethics adopted by regulation by
27 the board;

28 (12) has denied care or treatment to a patient or person
29 seeking assistance from the physician if the only reason for the denial

1 is the failure or refusal of the patient to agree to arbitrate as pro-
2 vided in AS 09.55.535(a);

3 (13) has had his license or certificate to practice medicine
4 in another state, territory of the United States or a province or Can-
5 ada suspended or revoked unless the suspension or revocation was caused
6 by the failure of the licensee to pay fees to that state, territory or
7 province.

8 (b) In any case involving (a)(13) of this section, the final
9 findings of fact, conclusions of law and order of the authority which
10 suspended or revoked a license or certificate constitutes a prima facie
11 case that the license or certificate was suspended or revoked and the
12 grounds under which the suspension or revocation was granted.

13 * Sec. 12. AS 08.64.330 is repealed and reenacted to read:

14 Sec. 08.64.330. DISCIPLINARY SANCTIONS. (a) If the board finds
15 that a licensee has committed an act set out in AS 08.64.325(a), the
16 board may

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

22 to

23 (A) report regularly to the board on matters involving
24 the basis of probation;

25 (B) limit practice to those areas prescribed;

26 (C) continue professional education until a satisfac-
27 tory degree of skill has been attained in those areas determined
28 by the board to need improvement;

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

licensee; or

(7) impose one or more of the sanctions set out in (1) --
(6) of this subsection.

(b) The board may end the probation of a licensee if it finds that the deficiencies which required this sanction have been remedied.

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

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

(e) A license may be suspended upon receipt of a certified copy of evidence that the licensee's license to practice medicine in another state or territory of the United States or province of Canada has been suspended or revoked. The suspension remains in effect until a hearing can be held by the board.

(f) The board shall be consistent in the application of disciplinary sanctions. A significant departure from earlier decisions of the board involving similar situations must be explained in findings of fact or orders made by the board.

* Sec. 13. AS 08.64.360 is amended to read:

Sec. 08.64.360. PENALTY FOR PRACTICING WITHOUT A LICENSE OR IN VIOLATION OF CHAPTER. Except for a physician assistant, [AND] a physician-trained mobile intensive care paramedic under AS 08.64.170, or a person licensed or authorized under another chapter of this title who

1 engages in practices for which he is licensed or authorized under that
2 chapter, a person practicing medicine or osteopathy in the state with-
3 out a valid [OBTAINING AND FILING AN APPROPRIATE] license or permit is
4 guilty of a class B misdemeanor [AND UPON CONVICTION IS PUNISHABLE BY A
5 FINE OF NOT LESS THAN \$50 NOR MORE THAN \$100, OR BY IMPRISONMENT FOR
6 NOT LESS THAN 10 DAYS NOR MORE THAN 90 DAYS, OR BY BOTH]. Evidence
7 that the defendant has failed to file a license with the clerk of the
8 court is prima facie evidence that the defendant is not licensed. Each
9 day of illegal practice is a separate offense.

10 * Sec. 14. AS 08.64 is amended by adding a new section in art. IV to
11 read:

12 Sec. 08.64.369. ASSISTANCE AT CHILDBIRTH. The board shall adopt
13 regulations regarding the authorization under this chapter of a person
14 who assists at childbirth for a fee, donation, or other compensation,
15 and the medical services the person may perform, including but not lim-
16 ited to (1) qualifications, (2) application and authorization proce-
17 dures, (3) the scope of activities authorized, and (4) the supervisory
18 relationship, if any, between the person and a practicing physician.

19 * Sec. 15. AS 08.64.380(2) is repealed and reenacted to read:

20 (2) "practice of medicine" or "practice of osteopathy"

21 means:

22 (A) for a fee, donation or other consideration, to di-
23 agnose, treat, operate on, prescribe for, or administer to, any
24 human ailment, blemish, deformity, disease, disfigurement, disor-
25 der, injury, or other mental or physical condition; or to attempt
26 to perform or represent that a person is authorized to perform any
27 of the acts set out in this subparagraph;

28 (B) to use or publicly display a title in connection
29 with a person's name including "doctor of medicine," "M.D.," or

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29

"doctor of osteopathic medicine" or "D.O." or a specialist designation including "surgeon," "dermatologist," or a similar title, or any title which tends to show that the person is willing or qualified to diagnose or treat the sick or injured;

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

(5) "department" means the Department of Commerce and Economic Development.

* Sec. 17. AS 08.64.030, 08.64.110, 08.64.140, 08.64.200(1), and 08.64.-380(3) are repealed.