

Original sponsor: Rules/Governor

Offered: 4/15/81
Referred: Judiciary

1 IN THE SENATE

BY THE HEALTH, EDUCATION AND
SOCIAL SERVICES COMMITTEE

2 CS FOR SENATE BILL NO. 237 (HESS)

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 the regulation of the practice of
7 medicine."

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

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

10 (c) After consulting with the State Medical Board (AS 08.64.010),
11 the department shall employ an individual who is not a member of the
12 board to be assigned as the investigator for the board. The investi-
13 gator shall

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

17 (2) at the request of the State Medical Board, conduct in-
18 vestigations based on complaints filed with the department or with the
19 board; and

20 (3) be directly responsible and accountable to the State
21 Medical Board, except that only the department has authority to termi-
22 nate his employment.

23 * Sec. 2. AS 08.64.010 is amended to read:

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

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

1 * Sec. 3. AS 08.64.020 is amended to read:

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

10 * Sec. 4. AS 08.64.040 is amended to read:

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

14 * Sec. 5. AS 08.64 is amended by adding new sections to read:

15 Sec. 08.64.075. EXECUTIVE OFFICER OF THE BOARD. After consulting
16 with the board, the department shall employ an individual who is not a
17 member of the board to serve as the executive officer of the board.
18 The executive officer shall

19 (1) perform the administrative duties required by the depart-
20 ment, by the board, and by this chapter;

21 (2) carry out regulations and policies of the board; and

22 (3) assist the board in conducting continuing education
23 programs and examinations of applicants for licenses.

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

26 * Sec. 6. AS 08.64 is amended by adding a new section to read:

27 Sec. 08.64.101. DUTIES. The board shall

28 (1) examine and issue licenses to applicants;

29 (2) submit an annual report of its proceedings to the gover-

1 nor, including a statement of money received and disbursed;

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

5 (4) adopt regulations insuring that renewal of licenses is
6 contingent upon proof of continued competency on the part of the licen-
7 see.

8 * Sec. 7. AS 08.64.240 is repealed and reenacted to read:

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

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

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

14 (3) the applicant fails to comply with a requirement of this
15 chapter.

16 (b) The board may refuse to grant a license to any applicant for
17 the same reasons that it may impose disciplinary sanctions under AS 08.-
18 64.325.

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

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

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

28 (2) passed an examination given by the National Board of
29 Medical Examiners or the Federation of State Medical Boards of the

1 United States if the applicant is a physician, or passed an examination
2 given by the National Board of Podiatry Examiners if the applicant is a
3 podiatrist.

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

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

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

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

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

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

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

23 * Sec. 12. AS 08.64.325 is repealed and reenacted to read:

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

25 (a) The board may impose a sanction if the board finds after a hearing
26 that a licensee

27 (1) secured a license through deceit, fraud, or intentional
28 misrepresentation;

29 (2) engaged in deceit, fraud, or intentional misrepresenta-

1 tion while providing professional services or engaging in professional
2 activities;

3 (3) advertised professional services in a false or mislead-
4 ing manner;

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

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

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

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

18 (8) has demonstrated

19 (A) professional incompetence, gross negligence or re-
20 peated negligent conduct;

21 (B) addiction to, severe dependency on, or habitual
22 overuse of alcohol or other drugs which impairs his ability to
23 practice safely;

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

25 (9) engaged in unprofessional conduct or in lewd or immoral
26 conduct in connection with the delivery of professional services to
27 patients;

28 (10) has violated AS 18.16.010;

29 (11) has violated any code of ethics adopted by regulation by

1 the board;

2 (12) has denied care or treatment to a patient or person
3 seeking assistance from the physician if the only reason for the denial
4 is the failure or refusal of the patient to agree to arbitrate as pro-
5 vided in AS 09.55.535(a);

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

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

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

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

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

25 to

26 (A) report regularly to the board on matters involving
27 the basis of probation;

28 (B) limit practice to those areas prescribed;

29 (C) continue professional education until a satisfac-

1 tory degree of skill has been attained in those areas determined
2 by the board to need improvement;

3 (6) impose limitations or conditions on the practice of a
4 licensee; or

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

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

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

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

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

24 (f) The board shall be consistent in the application of disci-
25 plinary sanctions. A significant departure from earlier decisions of
26 the board involving similar situations must be explained in findings of
27 fact or orders made by the board.

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

29 Sec. 08.64.360. PENALTY FOR PRACTICING WITHOUT A LICENSE OR IN

1 VIOLATION OF CHAPTER. Except for a physician assistant, [AND] a physi-
2 cian-trained mobile intensive care paramedic under AS 08.64.170, or a
3 person licensed or authorized under another chapter of this title who
4 engages in practices for which he is licensed or authorized under that
5 chapter, a person practicing medicine or osteopathy in the state with-
6 out a valid [OBTAINING AND FILING AN APPROPRIATE] license or permit is
7 guilty of a class B misdemeanor [AND UPON CONVICTION IS PUNISHABLE BY A
8 FINE OF NOT LESS THAN \$50 NOR MORE THAN \$100, OR BY IMPRISONMENT FOR
9 NOT LESS THAN 10 DAYS NOR MORE THAN 90 DAYS, OR BY BOTH]. Evidence
10 that the defendant has failed to file a license with the clerk of the
11 court is prima facie evidence that the defendant is not licensed. Each
12 day of illegal practice is a separate offense.

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

14 (2) "practice of medicine" or "practice of osteopathy"
15 means:

16 (A) for a fee, donation or other consideration, to
17 diagnose, treat, operate on, prescribe for, or administer to, any
18 human ailment, blemish, deformity, disease, disfigurement, disor-
19 der, or injury; or to attempt to perform or represent that a
20 person is authorized to perform any of the acts set out in this
21 subparagraph;

22 (B) to use or publicly display a title in connection
23 with a person's name including "doctor of medicine," "M.D.," or
24 "doctor of osteopathic medicine" or "D.O." or a specialist desig-
25 nation including "surgeon," "dermatologist," or a similar title,
26 or any title which tends to show that the person is willing or
27 qualified to diagnose or treat the sick or injured;

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

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

1 omic Development.

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

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