

Offered: 4/11/83
Referred: Labor & Commerce

Original sponsor: Rules/Governor

1 IN THE HOUSE
2
3 CS FOR HOUSE BILL NO. 230 (HESS)
4 IN THE LEGISLATURE OF THE STATE OF ALASKA
5 THIRTEENTH LEGISLATURE - FIRST SESSION
6 A BILL
7 For an Act entitled: "An Act relating to licensing and regulation of the
8 practice of medicine and extending the termination
9 date of the State Medical Board; and providing for an
10 effective date."
11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:
12 * Section 1. AS 08.01.050 is amended by adding a new subsection to
13 read:
14 (c) After consulting with the State Medical Board (AS 08.64.-
15 010), the department shall employ an individual who is not a member of
16 the board to be assigned as the investigator for the board. The
17 investigator shall
18 (1) conduct investigations into alleged violations of
19 AS 08.64, and into alleged violations of regulations and orders of the
20 State Medical Board;
21 (2) at the request of the State Medical Board, conduct
22 investigations based on complaints filed with the department or with
23 the board; and
24 (3) be directly responsible and accountable to the State
25 Medical Board, except that only the department has authority to termi-
26 nate the investigator's employment and the department shall provide
27 day to day and administrative supervision of the investigator.
28 * Sec. 2. AS 08.03.010(c)(11) is amended to read:
29 (11) State Medical Board (AS 08.64.010) -- June 30, 1987
[1983].

1 * Sec. 3. AS 08.64.010 is amended to read:

2 Sec. 08.64.010. CREATION AND MEMBERSHIP OF STATE MEDICAL BOARD.
3 The governor shall appoint a board of medical examiners, to be known
4 as the State Medical Board, consisting of five [LICENSED] physicians
5 licensed in the state and, residing in as many separate geographical
6 areas of the state [ALASKA JUDICIAL DISTRICTS] as possible, and two
7 persons with no direct financial interest in the health care industry.

8 * Sec. 4. AS 08.64.020 is amended to read:

9 Sec. 08.64.020. [STATE MEDICAL BOARD] TERM OF OFFICE. Members
10 shall be appointed for staggered terms [A TERM] of four years, subject
11 to confirmation by a majority of the members of the legislature in
12 joint session, and shall hold office until their successors are ap-
13 pointed and qualified. A person who has served two successive com-
14 plete terms may not be reappointed until four years after the ex-
15 piration of the second term [THE TERMS OF THE PUBLIC MEMBERS OF THE
16 BOARD SHALL BE STAGGERED SO THAT THEY DO NOT EXPIRE AT THE SAME TIME].

17 * Sec. 5. AS 08.64.040 is amended to read:

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

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

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

24 * Sec. 7. AS 08.64 is amended by adding a new section to read:

25 Sec. 08.64.101. DUTIES. The board shall
26 (1) examine and issue licenses to applicants;
27 (2) submit an annual report of its proceedings to the
28 governor, including a statement of money received and disbursed;
29 (3) after a hearing, impose disciplinary sanctions on

1 persons who violate this chapter, or the regulations or orders of the
2 board;

3 (4) adopt regulations insuring that renewal of licenses is
4 contingent upon proof of continued competency on the part of the
5 licensee.

6 * Sec. 8. AS 08.64.170 is amended to read:

7 Sec. 08.64.170. LICENSE TO PRACTICE MEDICINE OR OSTEOPATHY. (a)
8 A person may not practice medicine, podiatry, osteopathy or acupunc-
9 ture in the state unless the person is licensed under this chapter,
10 except that

11 (1) a physician assistant may examine, diagnose or treat
12 persons under the supervision, control, and responsibility of either a
13 physician licensed under this chapter or a physician exempted from
14 licensing [LICENSURE] under AS 08.64.370;

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

17 (3) a person licensed under AS 08.36 may perform acupunc-
18 ture in the regular practice of dentistry, subject to the regulations
19 of the Board of Dental Examiners; and

20 (4) a person who is licensed or authorized under another
21 chapter of this title may engage in a practice which is authorized
22 under that chapter.

23 * Sec. 9. AS 08.64.240 is repealed and reenacted to read:

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

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

27 (2) the board determines that the applicant is profession-
28 ally unfit to practice medicine or osteopathy in the state; or

29 (3) the applicant fails to comply with a requirement of

1 this chapter.

2 (b) The board may refuse to grant a license to any applicant for
3 the same reasons that it may impose disciplinary sanctions under
4 AS 08.64.326.

5 * Sec. 10. AS 08.64.250 is amended to read:

6 Sec. 08.64.250. LICENSURE BY CREDENTIALS [ENDORSEMENT]. The
7 board may waive the examination requirement and license by credentials
8 [ENDORSEMENT] if the physician or podiatry applicant meets the re-
9 quirements of AS 08.64.200 or 08.64.209, submits proof of continued
10 competence 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
13 States 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 has passed an ex-
17 amination given by the National Board of Podiatry Examiners if the
18 applicant is a podiatrist.

19 * Sec. 11. 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
22 and pays the required fee.

23 * Sec. 12. AS 08.64.311 is amended to read:

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

26 * Sec. 13. 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 <u>credentials</u> [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 [, BIENNIAL],		
7	active	600	[100]
8	(7) license renewal [, BIENNIAL],		
9	inactive	200	[25]
10	(8) license by reexamination	150	[75]

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

12 Sec. 08.64.326. GROUNDS FOR IMPOSITION OF DISCIPLINARY SANC-
13 TIONS. (a) The board may impose a sanction if the board finds after
14 a hearing 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 while providing professional services or engaging in professional
19 activities;

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

22 (4) has been convicted, including conviction based on a
23 guilty plea or plea of nolo contendere, of (A) a felony or other crime
24 if the felony or other crime is substantially related to the quali-
25 fications, functions, or duties of the licensee; or (B) a crime in-
26 volving the unlawful procurement, sale, prescription or dispensing of
27 drugs;

28 (5) has procured, sold, prescribed or dispensed drugs in
29 violation of any law, regardless of whether there has been a criminal

1 action;

2 (6) intentionally or negligently permitted the performance
3 of patient care by persons under the licensee's supervision which does
4 not conform to minimum professional standards even if the patient was
5 not injured;

6 (7) failed to comply with this chapter, a regulation adopt-
7 ed under this chapter, or with an order of the board;

8 (8) has demonstrated

9 (A) professional incompetence, gross negligence, or
10 repeated negligent conduct;

11 (B) addiction to, severe dependency on, or habitual
12 overuse of alcohol or other drugs which impairs the licensee's
13 ability to practice safely;

14 (C) unfitness because of physical or mental disabil-
15 ity;

16 (9) engaged in unprofessional conduct or in lewd or immoral
17 conduct in connection with the delivery of professional services to
18 patients;

19 (10) has violated AS 18.16.010;

20 (11) has violated any code of ethics adopted by regulation
21 by the board;

22 (12) has denied care or treatment to a patient or person
23 seeking assistance from the physician if the only reason for the
24 denial is the failure or refusal of the patient to agree to arbitrate
25 as provided in AS 09.55.535(a);

26 (13) has had a license or certificate to practice medicine
27 in another state, a territory of the United States, or a province of
28 Canada suspended or revoked unless the suspension or revocation was
29 caused by the failure of the licensee to pay fees to that state,

1 territory, or province.

2 (b) In any case involving (a)(13) of this section, the final
3 findings of fact, conclusions of law, and order of the authority which
4 suspended or revoked a license or certificate constitute a prima facie
5 case (1) that the license or certificate was suspended or revoked and
6 (2) of the grounds under which the suspension or revocation was
7 granted.

8 * Sec. 15. AS 08.64 is amended by adding a new section to read:

9 Sec. 08.64.331. DISCIPLINARY SANCTIONS. (a) If the board finds
10 that a licensee has committed an act set out in AS 08.64.326(a), the
11 board may

- 12 (1) permanently revoke a license to practice;
- 13 (2) suspend a license for a determinate period of time;
- 14 (3) censure a licensee;
- 15 (4) issue a letter of reprimand;
- 16 (5) place a licensee on probationary status and require the
17 licensee to
- 18 (A) report regularly to the board on matters involving
19 the basis of probation;
- 20 (B) limit practice to those areas prescribed;
- 21 (C) continue professional education until a satisfac-
22 tory degree of skill has been attained in those areas determined
23 by the board to need improvement;
- 24 (6) impose limitations or conditions on the practice of a
25 licensee; or
- 26 (7) impose one or more of the sanctions set out in (1) -
27 (6) of this subsection.

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

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

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

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

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

21 * Sec. 16. 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. Except for a physician assistant, [AND] a
24 physician-trained mobile intensive care paramedic under AS 08.64.170,
25 and a person licensed or authorized under another chapter of this
26 title who engages in practices for which that person is licensed or
27 authorized under that chapter, a person practicing medicine or osteo-
28 pathy in the state without a valid [OBTAINING AND FILING AN APPROPRI-
29 ATE] license or permit is guilty of a class B misdemeanor [AND UPON

1 CONVICTION IS PUNISHABLE BY A FINE OF NOT LESS THAN \$50 NOR MORE THAN
2 \$100, OR BY IMPRISONMENT FOR NOT LESS THAN 10 DAYS NOR MORE THAN 90
3 DAYS, OR BY BOTH. EVIDENCE THAT THE DEFENDANT HAS FAILED TO FILE A
4 LICENSE WITH THE CLERK OF THE COURT IS PRIMA FACIE EVIDENCE THAT THE
5 DEFENDANT IS NOT LICENSED]. Each day of illegal practice is a separ-
6 ate offense.

7 * Sec. 17. AS 08.64.380(2) is repealed and reenacted to read:

8 (2) "practice of medicine" or "practice of osteopathy"
9 means:

10 (A) for a fee, donation, or other consideration, to
11 diagnose, treat, operate on, prescribe for, or administer to any
12 human ailment, blemish, deformity, disease, disfigurement, disor-
13 der, injury, or other mental or physical condition; or to attempt
14 to perform or represent that a person is authorized to perform
15 any of the acts set out in this subparagraph;

16 (B) to use or publicly display a title in connection
17 with a person's name including "physician," "doctor of medicine,"
18 "M.D.," "doctor of osteopathic medicine," "D.O.," or a specialist
19 designation including "surgeon," "dermatologist," or any title
20 which tends to show that the person is willing or qualified to
21 diagnose or treat the sick or injured;

22 * Sec. 18. AS 08.64.030, 08.64.110, 08.64.140, 08.64.200(1), 08.64.325,
23 08.64.330, and 08.64.380(3) are repealed.

24 * Sec. 19. This Act takes effect immediately in accordance with AS 01.-
25 10.070(c).