

Offered: 5/6/83  
Referred: Rules

Original sponsor: Rules/Governor

1 IN THE HOUSE BY THE LABOR AND  
COMMERCE COMMITTEE  
2 CS FOR HOUSE BILL NO. 230 (L&C)  
3 IN THE LEGISLATURE OF THE STATE OF ALASKA  
4 THIRTEENTH LEGISLATURE - FIRST SESSION  
5 A BILL  
6 For an Act entitled: "An Act relating to licensing and regulation of the  
7 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  
12 as the State Medical Board, consisting of five [LICENSED] physicians  
13 licensed in the state [, RESIDING IN AS MANY SEPARATE ALASKA JUDICIAL  
14 DISTRICTS AS POSSIBLE,] and two persons with no direct financial  
15 interest in the health care industry. To the extent possible each  
16 physician member must reside in a geographical area of the state that  
17 is different from that of every other physician member.  
18 \* Sec. 2. AS 08.64.020 is amended to read:  
19 Sec. 08.64.020. [STATE MEDICAL BOARD] TERM OF OFFICE. Members  
20 shall be appointed for staggered terms [A TERM] of four years, subject  
21 to confirmation by a majority of the members of the legislature in  
22 joint session, and shall hold office until their successors are ap-  
23 pointed and qualified. A person who has served two successive com-  
24 plete terms may not be reappointed until four years after the ex-  
25 piration of the second term [THE TERMS OF THE PUBLIC MEMBERS OF THE  
26 BOARD SHALL BE STAGGERED SO THAT THEY DO NOT EXPIRE AT THE SAME TIME].  
27 \* Sec. 3. AS 08.64.040 is amended to read:  
28 Sec. 08.64.040. REMOVAL OF MEMBERS. The governor may remove a  
29 member of the board for cause. The board may by regulation provide

1 that unexcused absences from meetings are cause for removal.

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

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

5 Sec. 08.64.101. DUTIES. The board shall

6 (1) examine and issue licenses to applicants;

7 (2) submit an annual report of its proceedings to the  
8 governor, including a statement of money received and disbursed;

9 (3) after a hearing, impose disciplinary sanctions on  
10 persons who violate this chapter, or the regulations or orders of the  
11 board;

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

15 \* Sec. 5. AS 08.64.170(a) is amended to read:

16 (a) A person may not practice medicine, podiatry, osteopathy or  
17 acupuncture in the state unless the person 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  
22 licensing [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 acupunc-  
26 ture in the regular practice of dentistry, subject to the regulations  
27 of the Board of Dental Examiners; and

28 (4) a person who is licensed or authorized under another  
29 chapter of this title may engage in a practice which is authorized

1       under that chapter.

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

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

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

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

8                       (3) the applicant fails to comply with a requirement of  
9       this chapter.

10               (b) The board may refuse to grant a license to any applicant for  
11       the same reasons that it may impose disciplinary sanctions under  
12       AS 08.64.325.

13       \* Sec. 7. AS 08.64.250 is amended to read:

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

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

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

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

28               (a) The board may issue a temporary permit to an applicant who  
29       meets the requirements of AS 08.64.200, [OR] 08.64.205, or 08.64.209

1 and pays the required fee.

2 \* Sec. 9. AS 08.64.311 is amended to read:

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

5 \* Sec. 10. AS 08.64.315 is amended to read:

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

- |    |  |       |         |
|----|--|-------|---------|
| 8  | (1) application . . . . .                          | \$ 50 | [\$ 25] |
| 9  | (2) license by examination . . . . .               | 200   | [125]   |
| 10 | (3) license by <u>credentials</u> [ENDORSEMENT] or |       |         |
| 11 | waiver of examination . . . . .                    | 200   | [100]   |
| 12 | (4) temporary permit . . . . .                     | 50    | [ 25]   |
| 13 | (5) locum tenens permit . . . . .                  | 50    | [ 25]   |
| 14 | (6) license renewal [, BIENNIAL],                  |       |         |
| 15 | active . . . . .                                   | 600   | [100]   |
| 16 | (7) license renewal [, BIENNIAL],                  |       |         |
| 17 | inactive . . . . .                                 | 200   | [ 25]   |
| 18 | (8) license by reexamination . . . . .             | 150   | [ 75]   |

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

20 Sec. 08.64.325. GROUNDS FOR IMPOSITION OF DISCIPLINARY SANC-  
21 TIONS. (a) The board may impose a sanction if the board finds after  
22 a hearing that a licensee

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

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

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

1 (4) has been convicted, including conviction based on a  
2 guilty plea or plea of nolo contendere, of

3 (A) a felony or other crime if the felony or other  
4 crime is substantially related to the qualifications, functions,  
5 or duties of the licensee; or

6 (B) a crime involving the unlawful procurement, sale,  
7 prescription or dispensing of drugs;

8 (5) has procured, sold, prescribed or dispensed drugs in  
9 violation of any law, regardless of whether there has been a criminal  
10 action;

11 (6) intentionally or negligently permitted the performance  
12 of patient care by persons under the licensee's supervision that does  
13 not conform to minimum professional standards even if the patient was  
14 not injured;

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

17 (8) has demonstrated

18 (A) professional incompetence, gross negligence, or  
19 repeated negligent conduct;

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

23 (C) unfitness because of physical or mental disabil-  
24 ity;

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

1 by 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  
4 denial is the failure or refusal of the patient to agree to arbitrate  
5 as provided in AS 09.55.535(a);

6 (13) has had a license or certificate to practice medicine  
7 in another state, a territory of the United States, or a province of  
8 Canada suspended or revoked unless the suspension or revocation was  
9 caused by the failure of the licensee to pay fees to that state,  
10 territory, or 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 that  
13 suspended or revoked a license or certificate constitute a prima facie  
14 case

15 (1) that the license or certificate was suspended or  
16 revoked; and

17 (2) of the grounds under which the suspension or revocation  
18 was granted.

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

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

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 the  
28 licensee to

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

1 the basis of probation;

2 (B) limit practice to those areas prescribed;

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

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

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

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

12 (c) The board may summarily suspend a license before final  
13 hearing or during the appeal process if the board finds that the  
14 licensee poses a clear and immediate danger to the public health and  
15 safety if the licensee continues to practice. A person whose license  
16 is suspended under this section is entitled to a hearing by the board  
17 no later than seven days after the effective date of the order. After  
18 a hearing, the person may appeal the suspension to a court of compe-  
19 tent jurisdiction.

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

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

28 (f) The board shall be consistent in the application of disci-  
29 plinary sanctions. A significant departure from earlier decisions of

1 the board involving similar situations must be explained in findings  
2 of fact or orders made by the board.

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

4 Sec. 08.64.360. PENALTY FOR PRACTICING WITHOUT A LICENSE OR IN  
5 VIOLATION OF CHAPTER. Except for a physician assistant, [AND] a  
6 physician-trained mobile intensive care paramedic under AS 08.64.170,  
7 and a person licensed or authorized under another chapter of this  
8 title who engages in practices for which that person is licensed or  
9 authorized under that chapter, a person practicing medicine or osteo-  
10 pathy in the state without a valid [OBTAINING AND FILING AN APPROPRI-  
11 ATE] license or permit is guilty of a class B misdemeanor [AND UPON  
12 CONVICTION IS PUNISHABLE BY A FINE OF NOT LESS THAN \$50 NOR MORE THAN  
13 \$100, OR BY IMPRISONMENT FOR NOT LESS THAN 10 DAYS NOR MORE THAN 90  
14 DAYS, OR BY BOTH]. Evidence that the defendant has failed to file a  
15 license with the clerk of the court is prima facie evidence that the  
16 defendant is not licensed. Each day of illegal practice is a separate  
17 offense.

18 \* Sec. 14. AS 08.64.380(2) is repealed and reenacted to read:

19 (2) "practice of medicine" or "practice of osteopathy"  
20 means:

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

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

1           specialist designation including "surgeon," "dermatologist," or  
2           any title which tends to show that the person is willing or  
3           qualified to diagnose or treat the sick or injured;

4       \* Sec. 15. AS 08.64.030, 08.64.110, 08.64.140, 08.64.200(1), and 08.-  
5 64.380(3) are repealed.