

Original sponsor: Sund

1 IN THE HOUSE BY THE LABOR AND
COMMERCE COMMITTEE
2 CS FOR HOUSE BILL NO. 70 (L&C)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 FIFTEENTH LEGISLATURE - FIRST SESSION
5 A BILL
6 For an Act entitled: "An Act relating to the State Medical Board; and
7 amending Rule 504(d) of the Alaska Rules of Evi-
8 dence."
9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:
10 * Section 1. AS 08.01.065 is amended by adding a new subsection to
11 read:
12 (e) An amount equal to the amount of fees collected for applica-
13 tions, licenses, and permits issued under AS 08.64 during the previous
14 calendar year shall be allocated each year by the department for
15 services provided to or on behalf of the State Medical Board by the
16 division of occupational licensing.
17 * Sec. 2. AS 08.64.210(b) is repealed and reenacted to read:
18 (b) The deadline for submitting an exam application to the board
19 shall be established by regulation.
20 * Sec. 3. AS 08.64.220(a) is amended to read:
21 (a) The board shall make the examination written and [ORAL AND]
22 sufficient to test the applicant's fitness to practice medicine or
23 osteopathy.
24 * Sec. 4. AS 08.64.311 is amended to read:
25 Sec. 08.64.311. LICENSE RENEWAL. Licenses shall be renewed two
26 [FOUR] years after the date of issue.
27 * Sec. 5. AS 08.64.313 is repealed and reenacted to read:
28 Sec. 08.64.313. INACTIVE LICENSE. A licensee who does not
29 practice in the state may hold an inactive license. A person who

1 practices in the state, however infrequently, shall hold an active
2 license.

3 * Sec. 6. AS 08.64.331(a) is amended to read:

4 (a) If the board finds that a licensee has committed an act set
5 out in AS 08.64.326(a), the board may

6 (1) permanently revoke a license to practice;

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

8 (3) censure a licensee;

9 (4) issue a letter of reprimand;

10 (5) place a licensee on probationary status and require the
11 licensee to

12 (A) report regularly to the board on matters involving
13 the basis of probation;

14 (B) limit practice to those areas prescribed;

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

18 (6) impose limitations or conditions on the practice of a
19 licensee; [OR]

20 (7) impose a civil fine of not more than \$10,000; or

21 (8) impose one or more of the sanctions set out in (1) -
22 (7) [(1) - (6)] of this subsection.

23 * Sec. 7. AS 08.64.336(b) is amended to read:

24 (b) A hospital that places a consultation requirement on,
25 revokes, suspends, conditions, restricts, or refuses to grant hospital
26 privileges to a person licensed to practice medicine and surgery or
27 osteopathy in this state [BECAUSE THAT PERSON POSES A DANGER TO THE
28 PUBLIC] shall report to the board the name and address of the person
29 and the reasons for placing a consultation requirement on, revoking,

1 suspending, conditioning, restricting, or refusing to grant hospital
2 privileges. A report is required under this subsection regardless of
3 whether the licensee voluntarily agrees to the action taken by the
4 hospital. A report is not required if the sole reason for the action
5 is the licensee's failure to complete hospital records in a timely
6 manner or to attend staff or committee meetings.

7 * Sec. 8. AS 08.64.336(c) is amended to read:

8 (c) Upon receipt of a report under (a) or (b) of this section,
9 the board shall investigate the matter and, upon a finding that there
10 is [OF] reasonable cause to believe that a practitioner is a danger to
11 the health or welfare of the public or the practitioner's patients,
12 the board [,] may appoint a committee of three qualified physicians to
13 examine the licensee and report their findings to the board. Notwith-
14 standing the provisions of this subsection, the board may summarily
15 suspend a license under AS 08.64.331(c) before appointing an examining
16 committee or before the committee makes or reports their findings.

17 * Sec. 9. AS 08.64.336 is amended by adding new subsections to read:

18 (e) A physician, hospital, or hospital committee that in good
19 faith submits a report under this section or participates in an inves-
20 tigation or judicial proceeding related to a report submitted under
21 this section is immune from civil or criminal liability for the sub-
22 mission or participation.

23 (f) A physician or hospital may not refuse to submit a report
24 under this section or withhold from the board or its investigators
25 evidence related to an investigation under this section on the grounds
26 that the report or evidence concerns a matter that was disclosed in
27 the course of a confidential physician-patient or psychotherapist-
28 patient relationship or during a meeting of a hospital medical staff,
29 governing body, or committee that was exempt from the public meeting

1 requirements of AS 44.62.310.

2 * Sec. 10. AS 08.64 is amended by adding new sections to read:

3 Sec. 08.64.337. SUBPOENA POWER. For the purposes of an inves-
4 tigation under this chapter, the board may issue a subpoena to, admin-
5 ister or cause to be administered an oath to, and examine or cause to
6 have examined the parts of the books, papers, and records of a person
7 to whom the board has issued a license or permit or to a person the
8 board reasonably believes has information relevant to the investiga-
9 tion. The superior court, on application of the board, shall enforce
10 the attendance and testimony of witnesses and the production and
11 examination of books, papers, and records.

12 Sec. 08.64.338. MEDICAL AND PSYCHIATRIC EXAMS. For the purposes
13 of an investigation under this chapter, the board may order a person
14 to whom it has issued a license or permit to submit to a medical or
15 psychiatric examination by a physician or other practitioner of the
16 healing arts appointed by the board. An examination shall be at the
17 board's expense. An examination may include the required submission
18 of biological specimens requested by the examining physician or prac-
19 titioner.

20 * Sec. 11. Rule 504(d) of the Alaska Rules of Evidence is amended to
21 read:

22 (d) EXCEPTIONS. There is no privilege under this rule:

23 (1) Condition and Element of Claim or Defense. As to
24 communications relevant to the physical, mental or emotional condition
25 of the patient in any proceeding in which the condition of the patient
26 is an element of the claim or defense of the patient, of any party
27 claiming through or under the patient, of any person raising the
28 patient's condition as an element of his own case, or of any person
29 claiming as a beneficiary of the patient through a contract to which

1 the patient is or was a party; or after the patient's death, in any
2 proceeding in which any party puts the condition in issue.

3 (2) Crime or Fraud. If the services of the physician or
4 psychotherapist were sought, obtained or used to enable or aid anyone
5 to commit or plan a crime or fraud or to escape detection or apprehen-
6 sion after the commission of a crime or a fraud.

7 (3) Breach of Duty Arising Out of Physician-Patient Rela-
8 tionship. As to a communication relevant to an issue of breach, by
9 the physician, or by the psychotherapist, or by the patient, of a duty
10 arising out of the physician-patient or psychotherapist-patient rela-
11 tionship.

12 (4) Proceedings for Hospitalization. For communications
13 relevant to an issue in proceedings to hospitalize the patient for
14 physical, mental or emotional illness, if the physician or psycho-
15 therapist, in the course of diagnosis or treatment, has determined
16 that the patient is in need of hospitalization.

17 (5) Required Report. As to information that the physician
18 or psychotherapist or the patient is required to report to a public
19 employee, or as to information required to be recorded in a public
20 office, if such report or record is open to public inspection, or as
21 to information or matters contained in or reasonably raised by a
22 report submitted under AS 08.64.336.

23 (6) Examination by Order of Judge. As to communications
24 made in the course of an examination ordered by the court of the
25 physical, mental or emotional condition of the patient, with respect
26 to the particular purpose for which the examination is ordered unless
27 the judge orders otherwise. This exception does not apply where the
28 examination is by order of the court upon the request of the lawyer
29 for the defendant in a criminal proceeding in order to provide the

1 lawyer with information needed so that he may advise the defendant
2 whether to enter a plea based on insanity or to present a defense
3 based on his mental or emotional condition.

4 (7) Criminal Proceeding. For physician-patient communice-
5 tions in a criminal proceeding. This exception does not apply to the
6 psychotherapist-patient privilege.

7 * Sec. 12. AS 08.64.260(b), (c), and (d) are repealed.