

Original sponsor(s): Rules/Governor

1 IN THE HOUSE BY THE FINANCE COMMITTEE
2 CS FOR HOUSE BILL NO. 146 (Finance)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 SIXTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act limiting civil liability for damages relating
7 to certain occupational licensing functions; au-
8 thorizing temporary courtesy licenses for certain
9 occupations; relating to powers and duties of the
10 State Medical Board; and providing for an effective
11 date."

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

13 * Section 1. AS 08.02.020 is amended to read:

14 Sec. 08.02.020. LIMITATION OF LIABILITY [FOR MEMBERS OF LICENS-
15 ING BOARDS AND PEER REVIEW COMMITTEES]. An action may not be brought
16 against a [A] person [IS NOT LIABLE] for damages resulting from

17 (1) [OR OTHER RELIEF IN AN ACTION BY REASON OF] the per-
18 son's good faith performance of a duty, function, or activity required
19 as

20 (A) a member of, or witness before, a licensing board
21 or peer review committee established to review a licensing mat-
22 ter; [,]

23 (B) a member of a committee appointed under AS 08.-
24 64.336(c);

25 (C) a contractor or agent of a contractor under
26 AS 08.64.101(6); or

27 (2) [BY REASON OF] a recommendation or action in accordance
28 with the prescribed duties of a licensing [THE] board, [OR] peer
29 review committee established to review a licensing matter, committee

1 appointed under AS 08.64.336(c), or contractor or agent of a contrac-
2 tor under AS 08.64.101(6) when the person acts in the reasonable
3 belief that the action or recommendation is warranted by facts known
4 to the person, [OR TO THE] board, [OR] peer review committee, commit-
5 tee appointed under AS 08.64.336(c), or contractor or agent of the
6 contractor under AS 08.64.101(6) after reasonable efforts to ascertain
7 the facts upon which the action or recommendation is made.

8 * Sec. 2. AS 08.02 is amended by adding a new section to read:

9 Sec. 08.02.030. COURTESY LICENSES. (a) A board established
10 under this title and the Department of Commerce and Economic Develop-
11 ment, with respect to an occupation that it regulates under this
12 title, may by regulation establish criteria for issuing a temporary
13 courtesy license to nonresidents who enter the state so that, on a
14 temporary basis, they may practice the occupation regulated by the
15 board or the department.

16 (b) The regulations adopted under (a) of this section may in-
17 clude limitations relating to the

- 18 (1) duration of the license's validity;
19 (2) scope of practice allowed under the license; and
20 (3) other matters considered important by the board or the
21 department.

22 * Sec. 3. AS 08.64.101 is amended to read:

23 Sec. 08.64.101. DUTIES. The board shall

- 24 (1) examine and issue licenses to applicants;
25 (2) develop written guidelines to ensure [INSURE] that
26 licensing requirements are not unreasonably burdensome and the issu-
27 ance of licenses is not unreasonably withheld or delayed;
28 (3) submit an annual report of its proceedings to the
29 governor, including a statement of money received and disbursed;

1 (4) after a hearing, impose disciplinary sanctions on
2 persons who violate this chapter [,] or the regulations or orders of
3 the board;

4 (5) adopt regulations ensuring [INSURING] that renewal of
5 licenses is contingent upon proof of continued competency on the part
6 of the licensee; and

7 (6) under regulations adopted by the board, contract [COOR-
8 DINATE] with private professional organizations to establish an im-
9 paired medical professionals program to identify, confront, evaluate,
10 and treat persons licensed under this chapter who abuse addictive
11 substances.

12 * Sec. 4. AS 08.64.130 is amended by adding new subsections to read:

13 (b) The board shall maintain records for each person licensed
14 under this chapter concerning malpractice actions and their outcomes
15 as reported under AS 08.64.200(a).

16 (c) The board shall make available to the public the information
17 maintained under (a) and (b) of this section for each person licensed
18 under this chapter.

19 * Sec. 5. AS 08.64.190 is amended to read:

20 Sec. 08.64.190. CONTENTS OF APPLICATION. The application must
21 [SHALL] state the name, age, residence, the duration of residence, the
22 time spent in medical or osteopathy study, the place, year, and school
23 in which degrees were granted, the applicant's medical work history,
24 and other information the board considers necessary. The application
25 shall be made under oath. The board may verify information in the
26 application through direct contact with the appropriate schools,
27 medical boards, or other agencies that can substantiate the
28 information.

29 * Sec. 6. AS 08.64.200 is amended to read:

1 Sec. 08.64.200. QUALIFICATIONS OF PHYSICIAN APPLICANTS. (a)

2 Except for foreign medical graduates as specified in AS 08.64.225,
3 each physician applicant shall

4 (1) [REPEALED

5 (2)] submit a certificate of graduation from a legally
6 chartered medical school accredited by the Association of American
7 Medical Colleges and the Council on Medical Education of the American
8 Medical Association;

9 (2) [(3)] submit a certificate from a recognized hospital
10 certifying that the applicant has satisfactorily performed the duties
11 of resident physician or intern for a period of one year;

12 (3) submit a list of negotiated settlements or judgments in
13 claims or civil actions alleging medical malpractice against the
14 applicant, including an explanation of the basis for each claim or
15 action;

16 (4) not have a license to practice medicine in another
17 state, province, or territory which is currently suspended or revoked
18 for disciplinary reasons; and

19 (5) be a citizen of the United States or be lawfully admit-
20 ted for permanent residence.

21 (b) The board shall determine whether each physician applicant
22 has any disciplinary or other actions recorded in the nationwide
23 disciplinary data bank of the Federation of State Medical Boards. If
24 the physician applicant was licensed or practiced in a jurisdiction
25 that does not record information with the data bank of the Federation
26 of State Medical Boards, the board shall contact the medical regula-
27 tory body of that jurisdiction to obtain comparable information about
28 the applicant.

29 * Sec. 7. AS 08.64.205 is amended to read:

1 Sec. 08.64.205. QUALIFICATIONS FOR OSTEOPATH APPLICANTS. Each
2 osteopath applicant shall meet the qualifications prescribed in
3 AS 08.64.200(a)(3) - (5) [AS 08.64.200(a)(4) AND (5)] and shall

4 (1) submit a certificate of graduation from the legally
5 chartered school of osteopathy approved by the board;

6 (2) submit a certificate from a hospital approved by the
7 American Medical Association or the American Osteopathic Association
8 which certifies that the osteopath has satisfactorily completed and
9 performed the duties of intern or resident physician for one year;

10 (3) take the examination required by AS 08.64.210 or be
11 certified to practice by the National Board of Examiners for Osteo-
12 pathic Physicians and Surgeons.

13 * Sec. 8. AS 08.64.209(a) is amended to read:

14 (a) Each applicant who desires to practice podiatry shall meet
15 the qualifications [QUALIFICATION] prescribed in AS 08.64.200(a)(3)
16 and (4) [AS 08.64.200(a)(4)] and shall

17 (1) submit a certificate of graduation from a legally
18 chartered school of podiatry approved by the board;

19 (2) take the examination required by AS 08.64.210; the
20 State Medical Board shall call to its aid a podiatrist of known abil-
21 ity who is licensed to practice podiatry to assist in the examination
22 and licensure of applicants for a license to practice podiatry;

23 (3) meet other qualifications of experience or education
24 which the board may require.

25 * Sec. 9. AS 08.64.225 is amended to read:

26 Sec. 08.64.225. FOREIGN MEDICAL GRADUATES. Applicants who are
27 graduates of medical colleges not accredited by the Association of
28 American Medical Colleges and the Council on Medical Education of the
29 American Medical Association must [OR ONE OF ITS AGENCIES SHALL] meet

1 the requirements of AS 08.64.200(a)(2) - (5) and 08.64.255. [AS 08.-
2 64.200(a)(3), (4) AND (5)] and must have passed examinations as spec-
3 ified by the board in regulations [AN EXAMINATION AND BE CERTIFIED BY
4 THE EDUCATION COUNCIL ON FOREIGN MEDICAL GRADUATES,] or be licensed by
5 examination in another state or territory of the United States or
6 province or territory of Canada.

7 * Sec. 10. AS 08.64.230(a) is amended to read:

8 (a) If the physician applicant passes the examination and meets
9 the requirements of AS 08.64.200 and 08.64.255, the board shall grant
10 a license to the applicant to practice medicine in the state.

11 * Sec. 11. AS 08.64.230(b) is amended to read:

12 (b) If the osteopath applicant passes the examination and meets
13 the requirements of AS 08.64.205 and 08.64.255, the board shall grant
14 a license to the applicant to practice osteopathy in the state.

15 * Sec. 12. AS 08.64.240(a) is amended to read:

16 (a) The board may not grant a license if

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

18 (2) the applicant has surrendered a license in another
19 jurisdiction while under investigation and the license has not been
20 reinstated in that jurisdiction;

21 (3) the board determines that the applicant is profession-
22 ally unfit to practice medicine or osteopathy in the state; or

23 (4) [(3)] the applicant fails to comply with a requirement
24 of this chapter.

25 * Sec. 13. AS 08.64.250 is amended to read:

26 Sec. 08.64.250. LICENSE BY CREDENTIALS. The board may waive the
27 examination requirement and license by credentials if the physician or
28 podiatry applicant meets the requirements of AS 08.64.200 or 08.64.-
29 209, submits proof of continued competence as required by regulation,

1 pays the required fee and has

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

6 (2) passed an examination as specified [GIVEN] by the board
7 in regulations [NATIONAL BOARD OF MEDICAL EXAMINERS OR THE FEDERATION
8 OF STATE MEDICAL BOARDS OF THE UNITED STATES IF THE APPLICANT IS A
9 PHYSICIAN, OR PASSED AN EXAMINATION GIVEN BY THE NATIONAL BOARD OF
10 PODIATRY EXAMINERS IF THE APPLICANT IS A PODIATRIST].

11 * Sec. 14. AS 08.64.270 is amended to read:

12 Sec. 08.64.270. TEMPORARY PERMITS. (a) The board may issue a
13 temporary permit to a physician applicant, osteopath applicant, or
14 podiatry applicant who meets the requirements of AS 08.64.200, 08.64.-
15 205, [OR] 08.64.209, or 08.64.225 and pays the required fee.

16 (b) A temporary permit issued under this section is valid for
17 six [EIGHT] months and shall be reviewed by the board at the next
18 regularly scheduled board meeting that occurs after its issuance [OR
19 UNTIL THE BOARD MEETS TO CONSIDER THE APPLICATION, WHICHEVER OCCURS
20 FIRST].

21 (c) A temporary permit issued under this section may not be
22 renewed [AT THE BOARD'S DISCRETION ONE TIME ONLY].

23 * Sec. 15. AS 08.64.270 is amended by adding new subsections to read:

24 (d) The fee for a permit issued under this section is one-fourth
25 of the fee for a biennial license, plus the appropriate application
26 fee.

27 (e) Upon application by the permittee and approval of the board,
28 a permit issued under this section may be converted to a biennial
29 license upon payment of the biennial fee minus the six-month permit

1 fee paid under (d) of this section, plus the appropriate application
2 fee.

3 * Sec. 16. AS 08.64.272(b) is amended to read:

4 (b) For the limited purpose of residency or internship, the
5 board may issue a permit to an applicant without examination if the
6 applicant meets the requirements of AS 08.64.200(a)(1) [AS 08.64.-
7 200(a)(2)] and applicable regulations of the board, meets the require-
8 ments of AS 08.64.279, pays the required fee, and has been accepted by
9 an eligible institution in the state for the purpose of residency or
10 internship.

11 * Sec. 17. AS 08.64.275(a) is amended to read:

12 (a) A member of the board or its executive secretary may grant a
13 temporary permit to a physician or osteopath for the purpose of sub-
14 stituting for another physician or osteopath licensed in this state.
15 The permit is valid for 60 [120] consecutive days. If circumstances
16 warrant, an extension of the permit may be granted by the board.

17 * Sec. 18. AS 08.64.275(b) is amended to read:

18 (b) A physician applying under (a) of this section shall pay the
19 required fee and shall meet the requirements of AS 08.64.200 and
20 08.64.279. In addition, the physician shall submit evidence of hold-
21 ing a license to practice medicine in a state or territory of the
22 United States or in a territory or province of Canada.

23 * Sec. 19. AS 08.64.275(c) is amended to read:

24 (c) An osteopath applying under (a) of this section shall pay
25 the required fee and shall meet the requirements of AS 08.64.205 and
26 08.64.279. In addition, the osteopath shall submit evidence of hold-
27 ing a license to practice in a state or territory of the United States
28 or in a territory or province of Canada.

29 * Sec. 20. AS 08.64.275 is amended by adding a new subsection to read:

1 (e) Permits and extensions of permits issued under this section
2 to an individual are not valid for more than 240 days during any
3 consecutive 24 months.

4 * Sec. 21. AS 08.64 is amended by adding new sections to read:

5 Sec. 08.64.276. RETIRED STATUS LICENSE. (a) On retiring from
6 practice and payment of an appropriate one-time fee, a licensee in
7 good standing with the board may apply for the conversion of an active
8 or inactive license to a retired status license. A person holding a
9 retired status license may not practice medicine, osteopathy, or
10 podiatry in the state. A retired status license is valid for the life
11 of the license holder and does not require renewal. A person holding
12 a retired status license is exempt from AS 08.64.312.

13 (b) A person with a retired status license may apply for active
14 licensure. Before issuing an active license under this subsection,
15 the board may require the applicant to meet reasonable criteria as
16 determined under regulations of the board, that may include submission
17 of continuing medical education credits, reexamination requirements,
18 physical and psychiatric examination requirements, an interview with
19 the entire board, and review of information in the national data bank
20 of the National Federation of State Medical Boards.

21 Sec. 08.64.279. INTERVIEW REQUIRED FOR PERMITS. An applicant
22 for an intern permit, a resident permit, or a temporary permit for
23 locum tenens practice must be interviewed in person by at least one
24 member of the board, the executive secretary of the board, or a person
25 designated for that purpose by the board.

26 * Sec. 22. AS 08.64.326(a) is amended to read:

27 (a) The board may impose a sanction if the board finds after a
28 hearing that a licensee

29 (1) secured a license through deceit, fraud, or intentional

1 misrepresentation;

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

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

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

9 (A) a felony or other crime if the felony or other
10 crime is substantially related to the qualifications, functions,
11 or duties of the licensee; or

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

14 (5) has procured, sold, prescribed, or dispensed drugs in
15 violation of a law, regardless of whether there has been a criminal
16 action;

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

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

23 (8) has demonstrated

24 (A) professional incompetence, gross negligence, or
25 repeated negligent conduct;

26 (B) addiction to, severe dependency on, or habitual
27 overuse of alcohol or other drugs that [WHICH] impairs the
28 licensee's ability to practice safely;

29 (C) unfitness because of physical or mental disabil-

1 ity;

2 (9) engaged in unprofessional conduct or in lewd or immoral
3 conduct in connection with the delivery of professional services to
4 patients;

5 (10) has violated AS 18.16.010;

6 (11) has violated any code of ethics adopted by regulation
7 by the board;

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

12 (13) has had a license or certificate to practice medicine
13 in another state or [,] territory of the United States, or a province
14 or territory of Canada suspended or revoked unless the suspension or
15 revocation was caused by the failure of the licensee to pay fees to
16 that state, territory, or province.

17 * Sec. 23. AS 08.64.335 is amended to read:

18 Sec. 08.64.335. REPORTS OF DISCIPLINARY ACTION OR LICENSE SUS-
19 PENSION OR SURRENDER. The board shall promptly report to the Fed-
20 eration of State Medical Boards for inclusion in the nationwide disci-
21 plinary data bank license and permit refusals under AS 08.64.240,
22 actions taken by the board under AS 08.64.331, and license and permit
23 suspensions or surrenders under AS 08.64.332 or 08.64.334.

24 * Sec. 24. AS 08.64.336(e) is amended to read:

25 (e) A physician, hospital, [OR] hospital committee, or private
26 professional organization contracted with under AS 08.64.101(6) to
27 identify, confront, evaluate, and treat individuals licensed under
28 this chapter who abuse addictive substances that in good faith submits
29 a report under this section or participates in an investigation or

1 judicial proceeding related to a report submitted under this section
2 is immune from civil liability for the submission or participation.

3 * Sec. 25. AS 08.64.380(7) is amended to read:

4 (7) "practice of medicine" or "practice of osteopathy"
5 means:

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

12 (B) to use or publicly display a title in connection
13 with a person's name including "doctor of medicine," "physician,"
14 "M.D.," or "doctor of osteopathic medicine" or "D.O." or a spe-
15 cialist designation including "surgeon," "dermatologist," or a
16 similar title in such a manner as [, OR ANY TITLE WHICH TENDS] to
17 show that the person is willing or qualified to diagnose or treat
18 the sick or injured;

19 * Sec. 26. This Act takes effect immediately under AS 01.10.070(c).