

SB

5800

COMMITTEE REPORT

SENATE

FURTHER: None

4/25/80

Date: 5-7-80

Mr. President:

HEALTH, EDUCATION AND
SOCIAL SERVICES

The Committee on _____ has had SB 580
relating to professional licensing and the practice of medicine

under consideration and (a majority of the committee) (the committee)
reports it back with the following recommendations:

- do pass do not pass
- do pass with attached amendments(s)
- replace with CS for _____ same title
 new title
- and recommends _____
- AND attaches a "Letter of Intent" New Fiscal Note
- reports it back without recommendation
- referred to the _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

Robert Stimpert

Colletta

Steven Hachem
CHAIRMAN
DO PASS

Introduced 4-25-80

Logged 4-25-80

Referral: Finance

Comm. meeting: 5-7-80

active passed indiv. rec. taken Secretary @ 8:30 AM. 5-8-80

SB 580
By HESS

SB HESS 79-80
"An Act relating to professional
licensing and the practice
of medicine"

Introduced: 4/25/80
Referred: Health, Education
& Social Services

BY THE HEALTH, EDUCATION AND
SOCIAL SERVICES COMMITTEE

1 IN THE SENATE

2 SENATE BILL NO. 580

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to professional licensing and to the
7 regulation of the practice of medicine; and providing
8 for an effective date."

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

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

11 (c) After consulting with the State Medical Board (AS 08.64.010),
12 ~~The department shall employ~~ an individual to be assigned as the investi-
13 gator for that board. The investigator shall

14 (1) not be a member of the State Medical Board;

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

18 (3) at the request of the State Medical Board, conduct
19 investigations based on complaints filed with the department or with the
20 State Medical Board; and

21 (4) be directly responsible and accountable to the State
22 Medical Board, ~~except that only the department has authority to~~
23 ~~terminate his employment.~~

24 * Sec. 2. AS 08.01.100(a) is amended to read:

25 (a) Except as otherwise provided in this title, [ALL] licenses
26 shall be renewed biennially on the dates set by the department with the
27 approval of the respective board.

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

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

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

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

7 Sec. 08.64.020. [STATE MEDICAL BOARD] TERM OF OFFICE. Members
8 shall be appointed for staggered terms [A TERM] of four years, subject
9 to confirmation by a majority of the members of the legislature in joint
10 session, and shall hold office until their successors are appointed and
11 qualified. The terms of the public members of the board shall be stag-
12 gered so that they do not expire at the same time. A person who has
13 served two successive complete terms may not be reappointed until four
14 years from the expiration of the second term.

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

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

19 * Sec. 6. AS 08.64 is amended by adding new sections to read:

20 Sec. 08.64.085. MEETINGS OF THE BOARD. The board shall hold
21 meetings at least four times a year.

22 Sec. 08.64.115. DUTIES. The board shall

23 (1) after a hearing, impose disciplinary sanctions on persons
24 who violate this chapter, or the regulations or orders of the board;

25 (2) adopt regulations insuring that renewal of licenses is
26 contingent upon proof of continued competency on the part of the li-
27 censee.

28 * Sec. 7. AS 08.64.240 is amended to read:

29 Sec. 08.64.240. LICENSE REFUSED. If the applicant fails the exam-

1 ination, or is determined by the board to be [MCRALLY OR] professionally
2 unfit to practice medicine or osteopathy in this state, or fails to
3 comply with any of the other requirements of this chapter, the board
4 shall refuse to grant the license.

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

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

19 * Sec. 9. 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 and
22 pays the required fee.

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

24 Sec. 08.64.311. [BIENNIAL] LICENSE RENEWAL. Licenses shall be
25 renewed every four years [BIENNIALY].

26 * Sec. 11. 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 [S25]

- 1 (2) license by examination..... \$200 [125]
- 2 (3) license by credentials [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 due every four years
- 7 [, BIENNIAL], active..... \$300 [100]
- 8 (7) license renewal due every four years
- 9 [, BIENNIAL], inactive..... \$100 [25]
- 10 (8) license by reexamination..... \$75 [75]

11 * Sec. 12. AS 08.64.325 is repealed and re-enacted to read:

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

13 The board may impose a sanction when the board finds after a hearing
14 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 in the course of providing professional services or engaging in
19 professional activities;

20 (3) advertised professional services in a false or misleading
21 manner;

22 (4) has been convicted of a felony or other crime which
23 affects his ability to continue to practice competently and safely;

24 (5) intentionally or negligently engaged in or permitted the
25 performance of patient care by persons under his supervision which does
26 not conform to minimum professional standards regardless of whether
27 actual injury to the patient occurred;

28 (6) failed to comply with this chapter, with a regulation
29 adopted under this chapter, or with an order of the board;

- 1 (7) continued to practice after becoming unfit due to
2 (A) professional incompetence;
3 (B) failure to keep informed of or use current profes-
4 sional theories or practices;
5 (C) addiction or severe dependency on alcohol or other
6 drugs which impairs his ability to practice safely;
7 (D) physical or mental disability;
8 (8) engaged in unprofessional conduct or in lewd or immoral
9 conduct in connection with the delivery of professional service to
10 patients.

11 * Sec. 13. AS 08.64.330 is repealed and re-enacted to read:

12 Sec. 08.64.330. DISCIPLINARY SANCTIONS. (a) When it finds that a
13 licensee is guilty of an offense under AS 08.64.325, the board may
14 impose the following sanctions singly or in combination:

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

29 (b) The board may withdraw probation status if it finds that the

1 deficiencies which required the sanction have been remedied.

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

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

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

17 (f) The board shall seek consistency in the application of dis-
18 disciplinary sanctions, and significant departure from prior decisions
19 involving similar situations shall be explained in findings of fact or
20 orders.

21 * Sec. 14. 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. (a) Except for a physician assistant and a
24 physician-trained mobile intensive care paramedic under AS 08.64.170, a
25 person practicing medicine or osteopathy in the state without obtaining
26 and filing an appropriate license is guilty of a class B misdemeanor
27 [AND UPON CONVICTION IS PUNISHABLE BY A FINE OF NOT LESS THAN \$50 NOR
28 MORE THAN \$100, OR BY IMPRISONMENT FOR NOT LESS THAN 10 DAYS NOR MORE
29 THAN 90 DAYS, OR BY BOTH]. Evidence that the defendant has failed to

1 file a license with the clerk of the court is prima facie evidence that
2 the defendant is not licensed. Each day of illegal practice is a
3 separate offense.

4 (b) A person who practices or attempts to practice or who holds
5 himself out as practicing a system or mode of treating the sick or
6 afflicted in the state or who diagnoses, treats, operates for, or
7 prescribes for an ailment, blemish, deformity, disease, disfigurement,
8 disorder, injury or other mental or physical condition of any person,
9 without having a valid unrevoked and unsuspended license or author-
10 ization as provided in this chapter, or without being authorized to
11 perform the acts under a license, authorization or certificate obtained
12 in accordance with another provision of law, is guilty of a class B
13 misdemeanor.

14 * Sec. 15. AS 08.64.380(3) is amended by adding a new subparagraph to
15 read:

16 (I) refusing to provide emergency care which, in the
17 professional judgment of the licensee, is essential to prevent loss
18 of life, limb or immediate undue pain and suffering, and is within
19 the licensee's area of competence.

20 * Sec. 16. AS 08.64.030, 08.64.110, 08.64.160, 08.64.200(1), and 08.64.-
21 380(3)(C) are repealed.

22 * Sec. 17. This Act takes effect immediately in accordance with AS 01.10.-
23 070(c).

THE LEGISLATURE OF THE STATE OF ALASKA
ELEVENTH LEGISLATURE

SB 580

FISCAL NOTE

I. REQUEST

Bill/Resolution No. Senate Bill 580 - An Act relating to professional licensing and to the
Title regulation of the practice of medicine; and providing for an effective date.
Requested by Health, Education & Social Services Committee Date 4/30/80

II. FISCAL DETAIL

Agency Affected Commerce and Economic Development

Program Category Affected Consumer Protection

BRU, Program, or Subprogram(s) Affected Regulation and Licensing of Professions

(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 80	FY 81	FY 82	FY 83	FY 84	FY 85
100 PERSONAL SERVICES	-0-	37.2	40.0	42.6	45.6	49.0
200 TRAVEL	-0-	6.6	7.1	7.6	8.1	8.7
300 CONTRACTUAL	-0-	-0-	-0-	-0-	-0-	-0-
400 COMMODITIES	-0-	-0-	-0-	-0-	-0-	-0-
500 EQUIPMENT	-0-	-0-	-0-	-0-	-0-	-0-
600 LAND & STRUCTURES	-0-	-0-	-0-	-0-	-0-	-0-
700 GRANTS, CLAIMS, ETC.	-0-	-0-	-0-	-0-	-0-	-0-
TOTAL	-0-	43.8	47.1	50.2	53.7	57.7

FUNDING (Thousands of Dollars)

GENERAL FUND	-0-	43.8	47.1	50.2	53.7	57.7
FEDERAL FUNDS	-0-	-0-	-0-	-0-	-0-	-0-
OTHER (Specify Fund Source)	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS

FULL TIME	0	1	1	1	1	1
PART TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

Personnel Services (7% inflation factor used)

One Investigator located in Anchorage at Range 18A \$37,186.44

Travel (7% inflation factor used)

5 Days Per Diem per month at \$60.00 per day X 12 3,600.00

One Transportation at \$250.00 per month X 12 3,000.00

IV. DATE 4/30/80

PREPARED BY Ann Griggs, Director

AGENCY Occupational Licensing

PHONE 465-2534

Original: Legislative Finance

cc: Budget and Management

Prime Sponsor (First Legislator Named)

SB # 580

EQUIPMENT (This is a one time expense in FY'81)

1 Bookcase	\$ 84.76
1 four drawer file	181.90
1 chair	126.83
2 side chairs	121.52
1 desk	389.38
1 typewriter table	60.93
1 mat	35.46
1 typewriter	900.00
	<hr/>
Total	\$ 1,900.78

LAND AND STRUCTURES

(7% inflation factor used)

126 Square feet at \$1.25 per foot per month X 12 = \$1,890.00

WORK DRAFT

IN THE SENATE

BY THE HEALTH, EDUCATION AND
SOCIAL SERVICES COMMITTEE

SENATE BILL NO.

IN THE LEGISLATURE OF THE STATE OF ALASKA

ELEVENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to professional licensing and to the regulation of the practice of medicine; and providing for an effective date."

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(1) not be a member of the State Medical Board;

(2) conduct investigations into alleged violations of AS 08.64, and into alleged violations of regulations and orders of the State Medical Board;

(3) conduct investigations based on complaints directed at the department or the State Medical Board; and

(4) be directly responsible and accountable to the State Medical Board.

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

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licensed in the state and [,] residing in as many separate [ALASKA] judicial districts as possible, and two persons with no direct financial interest in the health care industry.

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Sec. 08.64.085. MEETINGS OF THE BOARD. The board shall hold meetings at least four times a year.

Sec. 08.64.115. DUTIES. The board shall

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

(2) as needed, establish requirements for licensing by regulation in addition to requirements set out in this chapter;

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

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ination, or is determined by the board to be [MORALLY OR] professionally unfit to practice medicine or osteopathy in this state, or fails to comply with any of the other requirements of this chapter, the board shall refuse to grant the license.

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

(2) passed an examination given by the National Board of Medical Examiners or the Federation of State Medical Boards of the United States if the applicant is a physician, or passed an examination given by the National Board of Podiatry Examiners if the applicant is a podiatrist.

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

(1) application..... \$ 50 (S25)

- (2) license by examination..... \$200 [125]
- (3) license by credentials [ENDORSEMENT] or
waiver of examination..... ~~\$100~~²⁰⁰ [100]
- (4) temporary permit..... \$50 [25]
- (5) locum tenens permit..... \$50 [25]
- (6) license renewal due every four years
[, BIENNIAL], active..... \$300 [100]
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- (1) secured a license through deceit, fraud, or intentional misrepresentation;
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- (3) advertised professional services in a false or misleading manner;
- (4) has been convicted of a felony or other crime which affects his ability to continue to practice competently and safely;
- (5) intentionally or negligently engaged in or permitted the performance of patient care by persons under his supervision which does not conform to minimum professional standards regardless of whether actual injury to the patient occurred;
- (6) failed to comply with this chapter, with a regulation adopted under this chapter, or with an order of the board;

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- (A) professional incompetence;
 - (B) failure to keep informed of or use current professional theories or practices;
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to

- (A) report regularly to the board upon matters involving the basis of probation;
- (B) limit practice to those areas prescribed;
- (C) continue professional education until a satisfactory degree of skill has been attained in those areas determined by the board to need improvement;

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

(b) The board may withdraw probation status if it finds that the deficiencies which required the sanction have been remedied.

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

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

(e) A license may be suspended until a hearing can be held to determine the licensee's fitness to practice in the state upon receipt of certified evidence that his license to practice medicine in another state, territory or province of the United States or Canada has been suspended or revoked.

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the defendant is not licensed. Each day of illegal practice is a separate offense.

(b) A person who practices or attempts to practice or who holds himself out as practicing a system or mode of treating the sick or afflicted in the state or who diagnoses, treats, operates for, or prescribes for an ailment, blemish, deformity, disease, disfigurement, disorder, injury or other mental or physical condition of any person, without having a valid unrevoked and unsuspended license or authorization as provided in this chapter, or without being authorized to perform the acts under a license, authorization or certificate obtained in accordance with another provision of law, is guilty of a class B misdemeanor.

* Sec. 15. AS 08.64.380(3) is amended by adding a new subparagraph to read:

(I) refusing to provide emergency care which, in the professional judgment of a licensee, is essential to prevent loss of life, limb or immediate undue pain and suffering, and is within a licensee's area of competence.

* Sec. 16. AS 08.64.030, 08.64.110, 08.64.160, 08.64.200(1), and 08.64.-380(3)(C) are repealed.

* Sec. 17. This Act takes effect immediately in accordance with AS 01.10.070(c).

MEDICAL BOARD - SECTIONAL

- Sec. 1 -- Establishes investigative position to be assigned to Medical Board
- Sec. 2 -- With the exception of our health boards, DOL is mandated to issue licenses biennially as currently provided for in statute
- Sec. 3 -- Adds language, physicians licensed in the state instead of "licensed" physicians; and deletes reference to "Alaska" judicial district so it reads . . . "in as many separate ~~judicial districts~~ ^{geographical areas of THE STATE} as possible . . ."
- Sec. 4 -- Provides for board members to serve "staggered terms" of four years and limits board membership to two consecutive four year terms
- Sec. 5 -- Allows the board to constitute unexcused absences as grounds for removal of a board member
- Sec. 6 -- Adds a new section allowing the board to have four meetings annually (they currently have three)
-- AND ADDS "CONTINUED COMPETENCY" REQUIREMENT
- Sec. 7 -- Deletes reference to "morally"
- Sec. 8 -- Provides for "licensure by credentials: and includes podiatry as a specialty whereby an individual can be licensed under this section. Also this section adds the "proof of continued competency requirement" provision to the licensure by credentials requirements
- Sec. 9 -- Allows issuance of temporary permit to podiatrist
- Sec. 10 - Provides for license renewal to occur every four years
- Sec. 11 - Fees section
- Sec. 12 - Grounds for disciplinary sanction
- Sec. 13 - Enumerates disciplinary sanctions
- Sec. 14 - Penalty section. Subsection (b) is added
- Sec. 15 - Adds sec (I) to definition of unprofessional or dishonorable conduct
- Sec. 16 - Repeal section
- Sec. 17 - Effective date

WORK DRAFT HILL

WORKSHOP RECOMMENDED CHANGES - MEDICAL BOARD

SB 580

- Page 1, line 21 - Give Department of Commerce "hire/fire" authority but assign investigator to State Medical Board
- Page 2, line 1 - Have physicians on the Board reside in different "geographic regions" of the state
- Page 2, line 23 - Section 6 - Delete AS 08.64.115(2) under "duties" section
- Page 4, line 3 - Licensure by credential fee - \$200
- Page 5, line 12 - Re: to AS 08.64.330 should read AS 08.64.325

Page 1, line 22

Page 2, line 3

Page 4, line 3

Page 5, line 13