HJR

1

FILE WITH HJR 1

Alaska State Legislature

IN SESSION:
POUCH V
JUNEAU, ALASKA 99811
(907) 465-4949

BOX 142
EAGLE RIVER, ALASKA
99577

Representative Randy Phillips

HOUSE DISTRICT ~~8~~ 1

MEMORANDUM

TO: SENATOR BILL RAY
CHAIRMAN, SENATE JUDICIARY COMMITTEE

FROM: REPRESENTATIVE RANDY PHILLIPS

DATE: MARCH 9, 1983

RE: HJR 1

For your information, I am enclosing backup information on CSHJR 1 (Jud)--amend Alaska Constitution/felon legislator forfeits office.

If you have any questions, please do not hesitate to contact me.

Encs.

MEMORANDUM State of Alaska

TO Hon. Terry Miller
Lieutenant Governor

DATE November 7, 1980

FILE NO. J-66-001-81

ATTN: Patty Ann Polley, Director
Division of Elections

TELEPHONE NO. 465-3665

FROM: WILSON L. CONDON
ATTORNEY GENERAL

SUBJECT Restoration of voting rights to convicted felons

By:
Laura L. Davis
Assistant Attorney General

You have requested that we respond to an inquiry by Akeela House of Anchorage regarding the scope of the disqualification of convicted felons from voting. We discuss the applicable provisions of the 1980 Election Code below. We will send copies of this memo and the attached information to Akeela House.

Attached is our memorandum dated August 14, 1968 on this subject. It provides background on the disqualification of convicted felons from voting in Alaska. The 1980 Election Code revised AS 15.05.030 to provide as follows:

> LOSS AND RESTORATION OF VOTING RIGHTS. (a) A person convicted of a crime that constitutes a felony involving moral turpitude under state law may not vote in a state or municipal election from the date of his conviction through the date of the restoration of voting rights under this section. The right to vote withdrawn under this section is automatically restored upon the unconditional discharge of the person.
>
> (b) The commissioner of health and social services shall establish procedures by which a person unconditionally discharged is advised of the restoration of voting rights withdrawn by a conviction. § 4, ch. 100, SLA 1980.

The new Election Code also amends AS 15.60.010 to include the following definitions of terms used in AS 15.05.030:

> (8) "felony involving moral turpitude" includes those crimes which are immoral or wrong in themselves such as murder, sexual assault, robbery. kidnapping, incest, arson, burglary, theft, and forgery; . . .

> (32) "unconditional discharge" means that a person is released from all disability arising under a conviction and sentence, including probation and parole. § 207, ch. 100, SLA 1980.

In our opinion, the new code has not changed the date upon which a voting disability or a felony conviction is imposed, but it has extended the disability to persons receiving suspended sentences. The disqualification attaches at the time of final judgment of conviction. A person is not disqualified from voting pending an appeal of a conviction. However, absent an appeal, a person who receives a suspended sentence, or a suspended imposition of sentence is disqualified until his or her unconditional discharge. Under the former law, such persons would not have been disqualified.

Under the new code, the definition of felony involving moral turpitude has been revised. The statutory definition mentions several specific crimes, and includes all crimes which are "immoral or wrong in themselves." The Criminal Division of the Department of Law in cooperation with the Division of Corrections of the Department of Health & Social Services, has developed a list of crimes contained in the revised Criminal Code which constitute the felonies involving moral turpitude. This list is attached for your guidance.

We hope that this answers your questions.

LLD/pjg

Enc.

cc w/enc.: Mike Dunham, Outreach Counselor
Akeela House - Anchorage

FELONIES INVOLVING MORAL TURPITUDE

Murder in the First Degree
Murder in the Second Degree
Manslaughter
Assault in the First Degree
Assault in the Second Degree
Kidnapping
Sexual Assault in the First Degree
Sexual Assault in the Second Degree
Sexual Assault in the Third Degree
Incest
Unlawful Exploitation of a Minor
Robbery in the First Degree
Robbery in the Second Degree
Extortion
Coercion
Theft in the First Degree
Theft in the Second Degree
Burglary in the First Degree
Burglary in the Second Degree
Arson in the First Degree
Arson in the Second Degree
Criminal Mischief in the First Degree
Criminal Mischief in the Second Degree
Forgery in the First Degree
Forgery in the Second Degree
Criminal Possession of a Forgery Device
Offering a False Instrument for Recording
Scheme to Defraud
Falsifying Business Records
Commercial Bribe Receiving
Commercial Bribery
Endangering the Welfare of a Minor
Bribery
Receiving a Bribe
Perjury
Perjury by Inconsistent Statements
Escape in the First Degree
Escape in the Second Degree
Promoting Contraband in the First Degree
Interference with Official Proceedings
Receiving a Bribe by a Witness or Juror
Jury Tampering
Misconduct by a Juror
Tampering with Physical Evidence
Hindering Prosecution in the First Degree
Terroristic Threatening
Riot
Criminal Possession of Explosives
Unlawful Furnishing of Explosives
Promoting Prostitution in the First Degree

House passes expulsion rule for lawmakers

by Bill White
Times Juneau Bureau

Juneau — A proposed constitutiona. amendement to expell from the legislature any lawmaker convicted of certain felonies passed the House today.

The 37-0 vote came after no debate on the measure, which was prompted by by the 1981 bribery convictions of former Bethel Sen. George Hohman. The measure now goes to the Senate.

The proposal calls for the expulsion of a legislator convicted of a felony involving "moral turpitude." The lawmaker would vacate his seat when the conviction by the trial court is affirmed by an appeals court or the period of appeal has expired.

The court would be ordered to hear any appeal quickly.

Hohman is the only Alaska lawmaker expelled from the legislature.

That action came 11 months ago, just over two months after a jury convicted Hohman on two felony counts of bribery.

The proposal, nowever, would not have applied to Hohman had it been in place when his bribery

See House, page A-4

House

(Continued from page A-1)

case came up. His conviction still is under appeal.

But the Senate, which is the judge of the qualifications of its own members, could have ousted Hohman on its own.

State law makes 20 references to "moral turpitude." But only once is it defined, and bribery is not included in the definition.

The section on who is eligible to vote says a "felony involving moral turpitude includes those crimes which are immoral or wrong in themselves such as murder, sexual assault, robbery, kidnapping, incest, arson, burglary, theft and forgery."

But a 1980 opinion from the attorney general listed 50 felonies involving moral turpitude, and the list includes bribery.

As introduced by Rep. Randy Phillips, R-Eagle River, the proposed constitutiona amendment would have expelled the lawmaker when the court entered his conviction in the record.

But the Judiciary Committee balked at not giving the lawmaker a chance to reverse the conviction on appeal.

Alaska State Legislature

IN SESSION:
POUCH V
JUNEAU ALASKA 99811
(907) 465-4949

BOX 142
EAGLE RIVER, ALASKA
99577
(907) 694-4949

Representative Randy Phillips

HOUSE DISTRICT 15

TO: MEMBERS
ALASKA HOUSE OF REPRESENTATIVES

FROM: REPRESENTATIVE RANDY PHILLIPS REP

DATE: FEBRUARY 9, 1983

RE: CS HJR 1 (JUDICIARY)

This resolution proposes an amendment to our State Constitution that would provide that once a legislator is convicted of a felony, he or she forfeits office. As with all proposed Constitutional amendments, if this resolution passes the Legislature, it will be presented to Alaska's voters in the next general election.

With a statement in our constitution that a legislator vacates his or her office on the date "that judgment of conviction is affirmed by the Supreme Court, or the period for appeal has expired", there would be no question as to when a legislator must vacate office and would speed up the process.

Under the resolution, appeals from a lower court conviction are to be handled by the Supreme Court on an expedited basis. Rule 216, Appellate Rules of Procedure, presently provides three instances in which expedited appeals may be granted. It is anticipated that should this resolution be adopted by the voters that the Supreme Court would add a fourth class to this Rule. Rule 216 also provides that any notice of appeal under an expedited appeal must be filed within ten days after the entry of judgment in the lower court. The person appealing the conviction then has ten days to file the memoranda on appeal and there is then a ten-day reply period for the appellant. At this point the court may either require a reply memorandum from the person filing the appeal or may expeditiously dispose of the appeal.

I would urge your support of this resolution in order that this matter may be placed before Alaska's voters.

February 8, 1983

Randy:

Billy Berrier indicated to me that he thought that bribery under anyone's definition would be a crime involving moral turpitude.

He says that there is really no definition of "moral turpitude" in our statutes, and the one contained in the elections section is rather circular and broad.

He indicated that one test used in a few courts is whether or not the crime would involve fitness to carry on duties of a professional office. Under any test being used, bribery or accepting a bribe would effect the abilities of a legislator to carry out his or her professional duties.

He doesn't think you need be concerned about bribery being included in a definition of moral turpitude.

Janet

TO: REP

FROM: JSS

DATE: FEB. 8, 1983

RE: HJR 1

Attached are the following:

1. One page definition of bill

2. Copy of CSHJR 1 (Judiciary) given to me by Judiciary Committee as "official" version. Committee has talked to Clerk's Office and the printing problem is supposed to be taken care of and the right version should be delivered to offices today.

3. The list of statute references you gave me along with a copy of each statute involved. Most of the statutes just mention "moral turpitude" without giving a definition. A brief definition is enclosed within the statute highlighted; however, this applies to elections.

4. Copy of SLA 1982 Chapter 14, which contains reference to "moral turpitude" again as a basis for denial of license.

5. Statute Annotations '82 -- this is citation notes for the statutes.

a. Reference #2 of 7, 08.64.380. A mention is made under collateral references of 109 ALR 1459 -- What offenses involve moral turpitude within statute providing grounds for denying license. A copy of this referenced item is attached. Pertinent parts are highlighted

b. #5 of 7 makes reference to a 1980 AG opinion given to elections. This is also attached. As a part of the opinion is a listing of crimes involving moral turpitude (last page of opinion).

6. Black's Law Dictionary. Definition of "moral turpitude" and "turpitude" were copies for your reference.

7. Rules of Appellate Procedure of the State of Alaska, Rule 216 dealing with expedited appeals. Note section (d) and (h). Also note the three categories presently included in the scope of expedited appeals. Joe Brewer indicated that if HJR 1 passes, he would assume that the Court would add another category to cover the expedited appeal provisions of HJR 1.

ALASKA

STATE LEGISLATURE

February 4, 1983

MEMORANDUM

Instances of the phrase "Moral Terpitude" in Alaska Statutes:

AS 04.11.37
AS 05.15.060
AS 08.24.110
AS 08.24.290
AS 08.42.090
AS 08.54.110
AS 08.64.380
AS 08.88.171
AS 14.07.145
AS 14.20.030
AS 14.20.170
AS 14.20.175
AS 15.05.030
AS 15.07.135
AS 15.60.010
AS 18.65.440
AS 21.09.150
AS 21.22.020
AS 22.30.011
AS 22.30.070

CHAPTER = 04.11
SECTION = 04.11.370
TITLE = 04

HEADINGS TITLE 4.
Alcoholic Beverages.
CHAPTER 11.
Licensing.
ARTICLE 4.
Denial, Suspension, or Revocation of Licenses and Permits.

CITATION Sec. 04.11.370.

CATCH LINE
SUSPENSION AND REVOCATION OF LICENSES AND PERMITS.

TEXT A license or permit shall be suspended or revoked if the board finds that one or more of the following grounds exists:

(1) misrepresentation of a material fact on an application for a license or permit;

(2) continuation of activities authorized under a license or permit would be contrary to the best interest of the public;

(3) failure on the part of the licensee to correct

defects which constitute violations of this title, regulations adopted under this title, or other laws within a prescribed time after receipt of notice issued by the board or its agent;

(4) conviction of a licensee of a violation of a provision of this title, a regulation adopted under this title, or an ordinance adopted under AS 04.21.010;

(5) conviction of the agent or employee of a licensee of a violation of this title, a regulation adopted under this title, or an ordinance adopted under AS 04.21.010, if the licensee is found by the board to have either knowingly allowed the violation or to have recklessly or with criminal negligence failed to act in accordance with the duty prescribed under AS 04.21.020 with the result that an agent or employee violates a law, regulation, or ordinance;

(6) failure of the licensee to comply with the laws and regulations pertaining to public health in the state;

(7) use of the licensed premises as a resort for illegal possessors or users of narcotics, prostitutes, or pimps; in addition to any other legally competent evidence,

the character of the premises may be proved by the general reputation of the premises in the community as a resort for illegal possessors or users of narcotics, prostitutes, or pimps;

(8) occurrence of illegal gambling within the limits of the licensed premises;

(9) permitting any public offense involving moral turpitude to occur on the licensed premises;

(10) violation by a licensee of this title, a regulation adopted under this title, or an ordinance adopted under AS 04.21.010;

(11) violation by an agent or employee of a licensee of a provision of this title, a regulation adopted under this title, or an ordinance adopted under AS 04.21.010, if the licensee is found by the board to have either knowingly allowed the violation or to have recklessly or with criminal negligence failed to act in accordance with the duty prescribed under AS 04.21.030 with the result that the agent or employee violates the law, regulation, or ordinance.

HISTORY (Sec. 2 ch 131 SLA 1980)

END OF DOCUMENT

CHAPTER = 05.15
SECTION = 05.15.060
TITLE = 05

HEADINGS TITLE 5.
Amusements and Sports.
CHAPTER 15.
Games of Chance and Contests of Skill.
ARTICLE 1.
Administration.

CITATION Sec. 05.15.060.

CATCH LINE
REGULATIONS.

TEXT In accordance with the Administrative Procedure Act (AS 44.62), the commissioner of revenue shall adopt, no later than September 7, 1960, regulations necessary to carry out this chapter covering, but not limited to

(1) the issuance, renewal, and revocation of permits;

(2) a method of ascertaining net proceeds, the determination of items of expense which may be incurred or paid and the limitation of the amount of the items of expense

to prevent the proceeds from the activity permitted from being diverted to noncharitable, noneducational, nonreligious, or profit-making organizations, individuals or groups,

(3) the immediate revocation of permits if this chapter or regulations issued under it are violated,

(4) the requiring of detailed, sworn, financial reports of operations from permittees including detailed statements of receipts and payments;

(5) the investigation of permittees and their employees, including the fingerprinting of those permittees and employees whom he considers it advisable to fingerprint,

(6) exclusion from participation as a permittee or employee of a permittee of any person convicted of a felony, a crime involving moral turpitude, or violation of a municipal, state, or federal gambling law;

(7) the method and manner of conducting activity and awarding of prizes or awards, and the equipment which may be used;

(8) the number of activities which may be held,

operated, or conducted under a permit during a specified period;

(9) a method of accounting for receipts and disbursements including the keeping of records and requirements for the separate writing of all receipts, and disbursements by check only;

(10) the disposition of funds in possession of a permittee at the time a permit is surrendered, revoked or invalidated;

(11) other matters which the commissioner considers necessary to carry out this chapter or protect the best interest of the public.

HISTORY (Sec. 4 ch 37 SLA 1960)
END OF DOCUMENT

CHAPTER = 08.24
SECTION = 08.24.110
TITLE = 08

HEADINGS TITLE 8.
Business and Professions.
CHAPTER 24.
Collection Agencies.
ARTICLE 3.
Licensing.

CITATION Sec. 08.24.110.

CATCH LINE
QUALIFICATION FOR OPERATOR'S LICENSE.

TEXT (a) To qualify for an operator's license, the applicant shall:

(1) have been a resident of this state continuously for at least one year before the time of application;

(2) be a high school graduate, or have the equivalent education of a high school graduate,

(3) be of good moral character;

(4) not have been convicted of violating this chapter,

nor have any unsettled complaints under this chapter against the applicant;

(5) not have been convicted of a felony or a crime of larceny or embezzlement or a crime involving moral turpitude,

(6) be 12 years of age or older at the time of application;

(7) not be a disbarred attorney or have filed bankruptcy,

(8) pay the biennial license fee which is fixed at $100.

(b) The commissioner may waive or modify the requirements specified in (.) (2), (4), (5) and (7) of this section for good cause shown.

HISTORY (Sec. 1 ch 101 SLA 1968)

END OF DOCUMENT

CHAPTER = 08.24
SECTION = 08.24.290
TITLE = 08

HEADINGS TITLE 8.
Business and Professions.
CHAPTER 24.
Collection Agencies.
ARTICLE 3.
Licensing.

CITATION Sec. 08.24.290.

CATCH LINE
SUSPENSION, REVOCATION OR REFUSAL TO RENEW OR GRANT A LICENSE OR CERTIFICATE.

TEXT The department may suspend, revoke or refuse to renew or grant a license issued or applied for under this chapter if the licensee or applicant or a partner, associate, or major stockholder of a collection agency has since the date of the application been disbarred from the practice of law or been convicted of fraud, embezzlement, obtaining money under false pretenses, a crime involving moral turpitude, extortion, conspiracy to defraud,

violation of a provision of this chapter or violating a rule or regulation promulgated under authority of this chapter.

HISTORY (Sec. 1 ch 191 SLA 1968)

END OF DOCUMENT

CHAPTER = 08.42
SECTION = 08.42.090
TITLE = 08

HEADINGS TITLE 8.
Business and Professions.
CHAPTER 42.
Morticians.

CITATION Sec. 08.42.090.

CATCH LINE

GROUNDS FOR REFUSAL TO ISSUE OR RENEW LICENSES AND SUSPENSION OR REVOCATION OF LICENSES.

TEXT When the department has reason to believe that an applicant or licensee has been guilty of any of the following acts or omissions, it may conduct an investigation, and the department may, after proper hearing and notice in accordance with the Administrative Procedure Act (AS 44.62), refuse to issue, refuse to renew, or may suspend or revoke, a license upon a finding by the department of any of the following acts or omissions:

(1) fraud or misrepresentation in obtaining a license;

(2) misrepresentation or fraud in the practice of

mortuary science;

(3) false or misleading advertising,

(4) aiding or abetting an unlicensed person to practice mortuary science;

(5) using a casket or part of a casket which has previously been used as a receptacle for the burial or other final disposition of another dead human body,

(6) refusing to promptly surrender the custody of a dead human body upon the order of the person lawfully entitled to custody;

(7) solicitation of a dead human body by the licensee, the licensee's agents, servants or employees. if solicitation occurs after death, or while death is impending but this does not prohibit advertising or sales made on a pre-need basis,

(8) employment by the licensee of any person for the purpose of calling upon individuals or institutions to influence them to turn over a dead human body to a particular licensee immediately before an impending death or after death;

(9) the direct or indirect payment or offer of payment

for the purpose of obtaining a dead body by the licensee, the licensee's agents, servants or employees immediately before an impending death or after death;

(10) immediately before impending death or after death, solicitation or acceptance by a licensee of any payment for recommending or causing a dead human body to be disposed of in a specific crematory, mausoleum or cemetery; however, nothing in this section prevents the recommendation or solicitation for sales of space and merchandise in a specific crematory, mausoleum or cemetery, if the licensee has an ownership interest in the specific crematory, mausoleum or cemetery and the ownership interest is disclosed at the time of the solicitation, recommendation or sale;

(11) violation of a state law or regulation or municipal ordinance or regulation or federal law or regulation affecting the disposition of a dead human body, or contracts relating to the disposition of a dead human body;

(12) violation of any of the provisions of this chapter;

(13) conviction of a felony involving moral turpitude.

HISTORY (Sec. 1 ch 197 SLA 1976)

END OF DOCUMENT

CHAPTER = 08.54
SECTION = 08.54.110
TITLE = 08

HEADINGS TITLE 8.
Business and Professions.
CHAPTER 54.
Guides.
ARTICLE 2.
Licensing.

CITATION Sec. 08.54.110.

CATCH LINE

QUALIFICATIONS FOR REGISTERED GUIDE LICENSE.

TEXT A person is entitled to be licensed as a registered guide if the person

(1) is 21 years of age or more;

(2) is a resident of the state and maintains a permanent place of abode in the state;

(3) has practical field experience in the handling of firearms, hunting, judging trophies, field preparation of trophies, first aid and photography;

(4) is familiar with the terrain and transportation problems in the district for which the license is requested;

(5) has passed the qualification examination prepared and administered by the board;

(6) has demonstrated to the board sufficient standards of competence and ethical conduct and as not been convicted of a crime involving moral turpitude;

(7) has legally hunted in the state for all or part of each of five years in a manner directly contributing to the person's experience and competency as a guide;

(8) has been licensed as and performed the services of an assistant guide in the state for a part of each of three years;

(9) submits a written recommendation to the board from a registered guide for whom the applicant has worked;

(10) is capable of performing the physical duties associated with guiding activities;

(11) has been favorably recommended in writing by two hunters that the person has guided or assisted in guiding during each year of the person's three years as an assistant

guide, whose recommendations have been solicited by the board from a list provided by the applicant;

(12) meets additional qualifications which the board may require.

HISTORY (Sec. 1 ch 17 SLA 1973)

END OF DOCUMENT

CHAPTER = 08.64
SECTION = 08.64.380
TITLE = 08

HEADINGS TITLE 8.
Business and Professions.
CHAPTER 64.
Medicine.
ARTICLE 5.
General Provisions.

CITATION Sec. 08.64.380.

CATCH LINE

DEFINITIONS.

TEXT As used in this chapter

(1) "board" means the State Medical Board;

(2) "practice of medicine" or "practice of osteopathy" means

(A) maintaining an office or place of business for the purpose of treating the sick or injured for pay; or

(B) the public display of one's name and the letters "M.D.", "M.B." or "D.O." or the words

"physician" or "osteopath" or "osteopathic physician", or "osteopathic surgeon", or "osteopathic physician and surgeon", or a specialist designation such as "surgeon" or "dermatologist", "psychiatrist", or the like; or

(C) the assumption or promulgation of a title which tends to show that the person is willing or qualified to diagnose or treat the sick or injured; or

(D) for a fee prescribing, directing or recommending for the use of a person, a drug or medicine for the treatment, cure or relief of a disease, infirmity, bodily injury or defect; or

(E) for a fee performing a surgical operation for the cure, relief or reduction of disease, bodily injury, deformity, or defect; or

(F) Repealed by sec. 1 ch 117 SLA 1971.

(3) "unprofessional or dishonorable conduct" means

(A) a violation of the provisions of AS 18.16.010;

LIMITED EFFECTIVE DATE

(B) -Effective until January 1, 1983- habitual overuse of alcoholic beverages or depressant,

hallucinogenic or stimulant drugs, as defined in AS 17.12.150(3), or addiction to the use of narcotic drugs as defined in AS 17.10.230(13); !mELEC!x POSTPONED EFFECTIVE DATE

(B) -Effective January 1, 1983- habitual overuse of alcoholic beverages or controlled substances as defined in AS 11.71.900(4);

(C) conviction of an offense involving moral turpitude;

(D) Repealed by sec. 41 ch 177 SLA 1978.

(E) making untruthful or fraudulent statements in the application for examination, or deceiving or cheating during the examination for license, or procuring a license by deceit or fraud;

(F) violating the Controlled Substances Act (P.L. 91-513; 84 Stat. 1242) or any other federal law pertaining to medical practice and drugs;

(G) violating any code of ethics adopted by regulation by the State Medical Board;

(H) denial of care or treatment to a patient or

person seeking assistance from the physician if the sole reason for the denial is the failure or refusal of the patient to execute an agreement to arbitrate a dispute, controversy, or issue arising out of the care or treatment, as provided in AS 09.55.535(a).

(4) Repealed by sec. 27 ch 148 SLA 1970.

(5) "department" means the Department of Commerce and Economic Development;

(6) "acupuncture" means a medical practice to cure disease or relieve pain, alter function or induce anesthesia by piercing portions of the body with needles.

(7) "physician-trained mobile intensive care paramedic" means a person who

(A) has successfully completed the advanced first aid course prescribed by the board,

(B) is trained by a licensed physician

(i) to carry out all phases of cardio-pulmonary resuscitation,

(ii) to administer drugs under written or oral authorization of a licensed physician,

(iii) to administer intravenous solutions under written or oral authorization of a licensed physician; and

(C) has been examined and certified as a physician-trained mobile intensive care paramedic by the board or by the board's designated representatives;

(8) "emergency lifesaving service" means medical assistance given to a person whose physical condition, in the opinion of a reasonably prudent person, is such that the person's life is endangered;

(9) "practice of podiatry" means the medical, mechanical, and surgical treatment of ailments of the foot, the muscles and tendons of the leg governing the functions of the foot, and superficial lesions of the hand other than those associated with trauma; the use of preparations, medicines, and drugs as are necessary for the treatment of these ailments; the treatment of the local manifestations of systemic diseases as they appear in the hand and foot, except that

(A) a patient shall be concurrently referred to a

physician or osteopath for the treatment of the systemic disease itself;

(B) general anaesthetics may be used only in colleges of podiatry approved by the State Medical Board and in hospitals approved by the joint commission on the accreditation of hospitals, or the American Osteopathic Association; and

(C) the use of X ray or radium for therapeutic purposes is not permitted.

HISTORY (Secs. 35-3-94, 35-3-38 ACLA 1949, am sec. 27 ch 77 SLA 1969; am sec. 3 ch 103 SLA 1970; am secs. 25 - 27 ch 148 SLA 1970; am sec. 2 ch 32 SLA 1971; am sec. 1 ch 117 SLA 1971; am sec. 4 ch 85 SLA 1972; am sec. 4 ch 21 SLA 1974, am secs. 12, 13 ch 101 SLA 1974, am sec. 1 ch 127 SLA 1975; am sec. 4 ch 24 SLA 1976, am secs. 27 - 29, 41 ch 177 SLA 1978; am sec. 6 ch 45 SLA 1982)

END OF DOCUMENT

CHAPTER = 08.88
SECTION = 08.88.171
TITLE = 08

HEADINGS TITLE 8.
Business and Professions.
CHAPTER 88.
Real Estate Brokers and Salesmen.
ARTICLE 2.
Licensing.

CITATION Sec. 08.88.171.

CATCH LINE
ENTITLEMENT TO LICENSE.

TEXT (a) A person is entitled to a real estate broker license if the person is a resident of the state, if the person passes the real estate brokers examination, if the person applies for a license within six months after the person has taken the real estate brokers examination, if the person has had at least 24 months of active and continuous experience as a licensed real estate salesman, if the person is not under indictment for, or seven years have elapsed since the person has completed a

sentence imposed upon conviction of, forgery, theft, extortion, conspiracy to defraud creditors, or any other felony involving moral turpitude, and if the person is an owner of a real estate business or employed as a real estate broker by a corporation or a partnership, and if that corporation or partnership does not have an existing licensed broker. Unless the broker fails to pay the biennial renewal fee or unless the broker's license is suspended or revoked under AS 08.88.071(a)(3), the real estate broker's license continues in effect so long as the broker is an owner of real estate business, or the broker is employed as a real estate broker by a corporation or a partnership. If the broker stops being an owner of a real estate business, or stops being employed as a real estate broker by a corporation or partnership, the broker's license is suspended from the time the broker stops until

(1) the broker again becomes an owner of a real estate business or is again employed as a real estate broker by a corporation or a partnership, or

(2) the broker is employed by a licensed real estate broker as an associate real estate broker, in which case the

real estate broker license is returned to the commission, and the commission issues the broker an associate real estate broker license.

(b) A person is entitled to an associate real estate broker license if the person is a resident of the state, if the person passes the real estate brokers examination, if the person applies for a license within six months after the person has taken the examination, if the person has had at least 24 months of active and continuous experience as a licensed real estate salesman, if the person is not under indictment for, or five years have elapsed since the person has completed a sentence imposed upon conviction of, forgery, theft, extortion, conspiracy to defraud creditors, or any other felony involving moral turpitude, and if the person is employed by a licensed real estate broker as an associate real estate broker. Unless the associate broker fails to pay the biennial renewal fee or unless the associate broker's license is suspended or revoked under AS 08.88.071(a)(3), the associate real estate broker's license continues in effect so long as the associate broker is employed by a licensed real estate broker as an associate broker. If the associate broker

stops being employed by a licensed real estate broker, the associate broker's license is suspended from the time the associate broker stops until

(1) the associate broker again is employed by a real estate broker as an associate broker; or

(2) the associate broker becomes an owner of a real estate business, in which case the associate broker's associate real estate broker license is returned to the commission, and the commission issues the associate broker a real estate broker license.

(c) A person is entitled to a real estate salesman license if the person is a resident of the state, if the person passes the real estate salesman examination, if the person applies for a license within six months after the person has taken the examination, if the person is at least 19 years old, if the person is not under indictment for forgery, theft, extortion, conspiracy to defraud creditors, or any other felony involving moral turpitude, or, if convicted of such an offense, the person has completed the sentence imposed upon conviction, and if the person is employed by a real estate broker. Unless the salesman

fails to pay the biennial renewal fee or unless the real estate salesman's license is suspended or revoked under AS 08.88.071(a)(3), a real estate salesman's license continues in effect so long as the salesman is employed as a salesman by a licensed real estate broker. If the salesman stops being employed as a real estate salesman, the real estate salesman's license is suspended from the time the salesman stops until he again is employed as a salesman by a licensed real estate broker.

(d) A licensee shall promptly inform the commission of a change in business association that affects the status of the licensee's license under this section.

HISTORY (Sec. 1 ch 95 SLA 1964; am sec. 3 ch 130 SLA 1966; am sec. 1 ch 55 SLA 1969; am secs. 5 - 7 ch 20 SLA 1971; am secs. 12 - 15 ch 167 SLA 1980)

END OF DOCUMENT

CHAPTER = 14.07
SECTION = 14.07.145
TITLE = 14

HEADINGS TITLE 14.
Education.
CHAPTER 07.
Administration of Public Schools.
ARTICLE 2.
State Board of Education.

CITATION Sec. 14.07.145.

CATCH LINE
. COMMISSIONER OF EDUCATION.

TEXT (a) The board shall appoint the commissioner of education subject to the approval of the governor. The commissioner shall be the principal executive officer of the department.

(b) The commissioner shall be appointed without regard to political affiliation and shall have at least a master's degree with five years' experience in the field of education since receiving it, with at least three of the five years in an exclusively administrative position.

(c) The commissioner may be appointed by the board for a term of office not to exceed five years. The commissioner may be removed during his term of office by four members of the board for cause as defined in this section.

(d) In this section, "cause" is defined as

(1) incompetency which is the inability or the unintentional or intentional failure to perform the duties of the commissioner,

(2) immorality which is the commission of an act which, under the laws of the state, constitutes a crime involving moral turpitude, or

(3) malfeasance or misfeasance in office which includes, but is not limited to, the failure of the commissioner to comply with the rules or regulations adopted by the board.

(e) The commissioner shall receive the salary set out in AS 39.20.080.

(f) The commissioner shall employ and remove all classified personnel in the department subject to the State Personnel Act (AS 39.25). The commissioner may employ and remove personnel in

the exempt or partially exempt service subject to the approval of the board. Personnel in the exempt or partially exempt service have a right of appeal to the board if they are removed.

HISTORY (Sec. 1 ch 96 SLA 1967)

END OF DOCUMENT

CHAPTER = 14.20
SECTION = 14.20.030
TITLE = 14

HEADINGS TITLE 14.
Education.
CHAPTER 20.
Teachers and School Officials.
ARTICLE 1.
Teacher Certification.

CITATION Sec. 14.20.030.

CATCH LINE

CAUSES FOR REVOCATION AND SUSPENSION.

TEXT The commissioner or the Professional Teaching Practices Commission may revoke or suspend a certificate only for the following reasons:

(1) incompetency, which is defined as the inability or the unintentional or intentional failure to perform the teacher's customary teaching duties in a satisfactory manner,

(2) immorality, which is defined as the commission of an act which, under the laws of the state, constitutes a

crime involving moral turpitude;

(3) substantial noncompliance with the school laws of the state or the regulations of the department, or

(4) upon a determination by the Professional Teaching Practices Commission that there has been a violation of ethical or professional standards or contractual obligations.

HISTORY (Sec. 11 ch 98 SLA 1966; am sec. 1 ch 9 SLA 1975; am sec. 1 ch 103 SLA 1976)

END OF DOCUMENT

CHAPTER = 14.20
SECTION = 14.20.170
TITLE = 14

HEADINGS TITLE 14.
Education.
CHAPTER 20.
Teachers and School Officials.
ARTICLE 2.
Employment and Tenure.

CITATION Sec. 14.20.170.

CATCH LINE
DISMISSAL.

TEXT (a) A teacher, including a teacher who has acquired tenure rights, may be dismissed at any time only for the following causes:

(1) incompetency, which is defined as the inability or the unintentional or intentional failure to perform the teacher's customary teaching duties in a satisfactory manner;

(2) immorality, which is defined as the commission of an act which, under the laws of the state, constitutes a

crime involving moral turpitude; or

(3) substantial noncompliance with the school laws of the state, the regulations or bylaws of the department, the bylaws of the district, or the written rules of the superintendent.

(b) A teacher may be suspended temporarily with regular compensation during a period of investigation to determine whether or not cause exists for the issuance of a notification of dismissal according to AS 14.20.180.

HISTORY (Sec. 2 ch 92 SLA 1960; am sec. 21 ch 98 SLA 1966; am secs. 1, 2 ch 104 SLA 1966)

END OF DOCUMENT

CHAPTER = 14.20
SECTION = 14.20.175
TITLE = 14

HEADINGS TITLE 14.
Education.
CHAPTER 20.
Teachers and School Officials.
ARTICLE 2.
Employment and Tenure.

CITATION Sec. 14.20.175.

CATCH LINE

NONRETENTION.

TEXT (a) A teacher who has not acquired tenure rights is subject to nonretention for the school year following the expiration of the teacher's contract for any cause which the employer determines to be adequate. However, at the teacher's request, the teacher is entitled to a written statement of the cause for nonretention. The boards of city and borough school districts and regional educational attendance areas shall provide by regulation or bylaw a procedure under which a nonretained teacher

may request and receive an informal hearing by the board.

(b) A teacher who has acquired tenure rights is subject to nonretention for the following school year only for the following causes:

(1) incompetency, which is defined as the inability or the unintentional or intentional failure to perform the teacher's customary teaching duties in a satisfactory manner,

(2) immorality, which is defined as the commission of an act which, under the laws of the state, constitutes a crime involving moral turpitude;

(3) substantial noncompliance with the school laws of the state, the regulations or bylaws of the department, the bylaws of the district, or the written rules of the superintendent; or

(4) a necessary reduction of staff occasioned by a decrease in school attendance.

HISTORY (Sec. 22 ch 93 SLA 1966; am sec. 1 ch 11 SLA 1969; am sec. 13 ch 36 SLA 1970; am sec. 15 ch 121 SLA 1975)

END OF DOCUMENT

CHAPTER = 15.05
SECTION = 15.05.030
TITLE = 15

HEADINGS TITLE 15.
Elections.
CHAPTER 05.
Qualification of Voters.

CITATION Sec. 15.05.030.

CATCH LINE

TEXT LOSS AND RESTORATION OF VOTING RIGHTS.

(a) A person convicted of a crime that constitutes a felony involving moral turpitude under state law may not vote in a state or a municipal election from the date of the conviction through the date of the restoration of voting rights under this section. The right to vote withdrawn under this section is automatically restored upon the unconditional discharge of the person.

(b) The commissioner of health and social services shall establish procedures by which a person unconditionally discharged is advised of the restoration of voting rights withdrawn by a conviction.

HISTORY (Sec. 1.03 ch 83 SLA 1960; am sec. 4 ch 100 SLA 1980)

END OF DOCUMENT

CHAPTER = 15.07
SECTION = 15.07.135
TITLE = 15

HEADINGS TITLE 15.
Elections.
CHAPTER 07.
Registration of Voters.

CITATION Sec. 15.07.135.

CATCH LINE

SUSPENSION OF REGISTRATION OF CONVICTED PERSONS.

TEXT The director shall make reasonable efforts to obtain the names of persons convicted of a felony involving moral turpitude. The director shall also make reasonable efforts to obtain the names of persons unconditionally discharged from custody. The director shall suspend the registration of a person convicted of a felony involving moral turpitude until the person is unconditionally discharged from custody.

HISTORY (Sec. 19 ch 100 SLA 1980; 15.07.130(d))

END OF DOCUMENT

CHAPTER = 15.60
SECTION = 15.60.010
TITLE = 15

HEADINGS TITLE 15.
Elections.
CHAPTER 60.
General Provisions.

CITATION Sec. 15.60.010.

CATCH LINE
DEFINITIONS.

TEXT In this title, unless the context otherwise requires,

(1) "absentee voting official" means a person appointed to serve as an absentee voting official in accordance with AS 15.20.045;

(2) "ballot" means a hand-marked ballot and a punch-card ballot;

(3) "director" means the director of elections who is the chief elections officer of the state appointed in accordance with AS 15.10.105(a);

(4) "election board" means the local precinct board

composed of the three election judges;

(5) "election district" means one of the districts described in art. XIV, sec. 3, of the state constitution, as may be modified under art. VI of the state constitution;

(6) "election official" means election judges, clerks, counters, members of counting or review boards, employees of the division of elections and absentee voting officials;

(7) "federal election" means a general, special, or primary election held solely or in part for the purpose of selecting, nominating or electing a candidate for the office of President, Vice-President, presidential elector, United States senator or United States representative;

(8) "felony involving moral turpitude" includes those crimes which are immoral or wrong in themselves such as murder, sexual assault, robbery, kidnapping, incest, arson, burglary, theft, and forgery;

(9) "general election" means the election held on the Tuesday after the first Monday in November of even-numbered years;

(10) "hand-marked ballot" means a ballot designated to

be marked by hand with a pen or pencil;

(11) "lieutenant governor" includes an appointed lieutenant governor, governor, or acting governor if a vacancy has occurred in the office of lieutenant governor or governor;

(12) "limited political party" means a political group which organizes for the purpose of selecting candidates for electors for President and Vice-President;

(13) "local election" means a regular or special election held by a borough, city, school district, or regional educational attendance area;

(14) "master register" means the list of all registered voters in the state which is maintained by the director of elections;

(15) "member of a political party" means a person who supports the political program of a party;

(16) "oath" includes affirmation, "sworn" includes affirmed;

(17) "official registration list" means the list of all voters qualified to vote at a particular election compiled in

accordance with AS 15.07.125;

(18) "party district committee" means the political party committee that performs the executive function for a region representing an area larger than a precinct and smaller than the state;

(19) "political group" means a group of organized voters which represents a political program and which does not qualify as a political party;

(20) "political party" means a group of organized voters which represents a political program and which nominated a candidate for governor who received at least 10 percent of the total vote cast at the preceding general election for governor;

(21) "precinct" means the territory within which resident voters may cast votes at one polling place;

(22) "presidential election year" means a year in which the presidential electors are elected;

(23) "proposition" means an initiative, referendum, or constitutional amendment submitted at an election to the public for vote;

(24) "punch-card ballot" means a ballot designed to be punched by a machine and counted by automatic data processing equipment;

(25) "qualified voter" means a person who has the qualification of a voter and is not disqualified as provided by art. V, sec. 2, of the state constitution and AS 15.05.030;

(26) "question" means an issue placed on the ballot to determine whether a judge or justice shall be accepted or rejected, whether a constitutional convention shall be called, whether a state debt shall be contracted, or whether a state official shall be recalled;

(27) "registration official" includes an employee of the division of elections when performing the task of voter registration and a person appointed to serve as a registration official in accordance with AS 15.07.081 or 15.07.100;

(28) "senate district" means the territory included in the election districts as designated in art. XIV, sec. 2, of the state constitution, as may be modified under art. VI of

the state constitution;

(29) "signature" or "subscription" includes a mark intended as a signature or subscription;

(30) "special election" means an election held at a time other than when the general or party primary election is held and an election called to be held with, and at the time of, the general or party primary election;

(31) "state chairman" means the party official elected as the highest ranking statewide party executive;

(32) "unconditional discharge" means that a person is released from all disability arising under a conviction and sentence, including probation and parole;

(33) "vacancy" exists in an office when the person elected or appointed to the office resigns, retires, dies, is recalled, is rejected by majority vote on the question at an election, is convicted of a corrupt practice, is removed by impeachment, or is expelled;

(34) "voter" means a person who presents himself for the purpose of voting either in person or by absentee ballot.

HISTORY: (Sec. 12.01 ch 83 SLA 1960; am sec. 11 ch 74 SLA 1972; am sec.

13 ch 38 SLA 1974; am sec. 22 ch 197 SLA 1975; am sec. 9 ch 208 SLA 1975; am sec. 207 ch 100 SLA 1980)

END OF DOCUMENT

CHAPTER = 18.65
SECTION = 18.65.440
TITLE = 18

HEADINGS TITLE 18.
Health and Safety.
CHAPTER 65.
Police Protection.
ARTICLE 4.
Security Guards.

CITATION Sec. 18.65.440.

CATCH LINE
REVOCATION OF LICENSE.

TEXT A security guard license issued under AS 18.65.400 - 18.65.490 is subject to revocation in accordance with the Administrative Procedure Act (AS 44.62) for the following reasons:

(1) false statements in an application issued under AS 18.65.400 - 18.65.490;

(2) violation of a provision of AS 18.65.400 18.65.490 or a regulation promulgated under AS 18.65.450;

(3) conviction of a felony or a crime involving moral

turpitude while licensed;

(4) knowing impersonation of a law enforcement officer; or

(5) knowingly continuing the employment of an individual as a security guard who has been convicted of a felony or a crime involving moral turpitude, or who has impersonated a law enforcement officer while employed by the licensee.

HISTORY (Sec. 1 ch 59 SLA 1976)

END OF DOCUMENT

CHAPTER = 21.09
SECTION = 21.09.150
TITLE = 21

HEADINGS TITLE 21.
Insurance.
CHAPTER 09.
Authorization of Insurers and General Requirements.

CITATION Sec. 21.09.150.

CATCH LINE
SUSPENSION OR REVOCATION FOR VIOLATIONS AND SPECIAL GROUNDS.

TEXT (a) The director may, in his discretion, suspend or revoke an insurer's certificate of authority if, after a hearing, he finds that the insurer has violated a lawful order of the director or a provision of this title other than those for which suspension or revocation is mandatory.

(b) The director shall, after a hearing, suspend or revoke an insurer 's certificate of authority if he finds that the insurer

(1) is in unsound condition, or in a condition, or using methods or practices in the conduct of its business,

which render its further transaction of insurance in Alaska injurious or hazardous to its policyholders or to the public;

(2) has refused to be examined or to produce its accounts, records, and files for examination, or that any of its officers have refused to give information with respect to its affairs, when required by the director;

(3) has failed to pay a final judgment rendered against it in Alaska within 30 days after the judgment became final (a judgment appealed from is not final until determined by the appell te court);

(4) with a frequency which indicates its general business practice in Alaska, has without just cause refused to pay proper claims arising under its policies, whether the claim is in favor of an insured or is in favor of a third person, or without just cause delays adjustment of claims, or compels the insured or claimant to accept less than the amount due them or to employ attorneys or to bring suit against the insurer or an insured to secure full payment or settlement of claims;

(5) is affiliated with and under the same general

management or interlocking directorate or ownership as another insurer which transacts direct insurance in Alaska without having a certificate of authority, except as permitted for surplus line insurance under ch. 33 of this title;

(6) has failed, after written request by the director, to remove or discharge an officer or director who has been convicted of a felony involving fraud, dishonesty, or moral turpitude.

(c) The director may, in his discretion and without advance notice or a hearing, immediately suspend the certificate of authority of an insurer against which proceedings for receivership, conservatorship, rehabilitation, or other delinquency proceedings, have been commenced in any state.

HISTORY (Sec. 1 ch 120 SLA 1966)

END OF DOCUMENT

CHAPTER = 21.22
SECTION = 21.22.020
TITLE = 21

HEADINGS TITLE 21.
Insurance.
CHAPTER 22.
Insurance Holding Companies.

CITATION Sec. 21.22.020.

CATCH LINE
CONTENT OF STATEMENT FOR ACQUISITION OR MERGER FILING.

TEXT The statement to be filed with the director as required in AS 21.22.010 shall be made under oath or affirmation and shall contain the following information:

(1) the name and address of each person by whom or on whose behalf the merger or other acquisition of control referred to in AS 21.22.010 is to be effected, who will be called the "acquiring party", as follows:

(A) if the person is an individual, his principal occupation and all offices and positions held during the past five years, and all felony convictions and

misdemeanor convictions involving moral turpitude during the past 10 years;

(B) if the person is not an individual,

(i) a report of the nature of its business operations during the past five years or for whatever lesser period the person and any of its predecessors have been in existence;

(ii) an informative description of the business intended to be done by the person and the person's subsidiaries; and

(iii) a list of all individuals who are or who have been selected to become directors or executive officers of the person, or who perform or will perform functions appropriate to those positions; the list shall include for each such individual the information required by (A) of this paragraph;

(2) a description of the consideration used or to be used in effecting the merger or other acquisition of control, including:

(A) the source, nature and amount;

(B) a description of any transaction in which funds were or are to be obtained for any such purpose; and

(C) the identity of persons furnishing the consideration; however, if a source of the consideration is a loan made in the lender's ordinary course of business, the director shall keep the identity of the lender confidential, if the person filing the statement so requests;

(3) fully audited financial information as to the earnings and financial condition of each acquiring party for the preceding five fiscal years or for whatever lesser period that an acquiring party, and any predecessors of that acquiring party have been in existence, and similar unaudited information as of a date not earlier than 90 days before the filing of the statement;

(4) any plans or proposals which each acquiring party may have to

(A) [illegible]

(B) sell its assets or merge or consolidate it with any person; or

(C) make any other material change in its business or corporate structure or management;

(5) the number of shares of any security referred to in AS 21.22.010 which each acquiring party proposes to acquire, and the terms of the offer, request, invitation, agreement, or acquisition referred to in AS 21.22.010 - 21.22.200, and a statement as to the method by which the fairness of the proposal was determined;

(6) the amount of each class of any security referred to in AS 21.22.010 which is beneficially owned or concerning which there is a right to acquire beneficial ownership by each acquiring party;

(7) a full description of any contracts, arrangements or understandings with respect to any security referred to in AS 21.22.010 in which an acquiring party is involved, including but not limited to transfer of any of the securities, joint ventures, loan or option arrangements, puts or calls, guarantees of loans, guarantees against loss or

guarantees of profits, division of losses or profits, or the giving or withholding of proxies, this description shall identify the persons with whom those contracts, arrangements or understandings have been entered into;

(8) a description of the purchase of any security referred to in AS 21.22.010 during the 12 calendar months preceding the filing of the statement, by any acquiring party, including the dates of purchase, names of the purchasers, and consideration paid or agreed to be paid;

(9) a description of any recommendations to purchase a security referred to in AS 21.22.010 made during the 12 calendar months preceding the filing of the statement, by an acquiring party, or by anyone based upon interviews or at the suggestion of the acquiring party;

(10) copies of all tender offers for, requests or invitations for tenders of exchange offers for, and agreements to acquire or exchange any securities referred to in AS 21.22.010, and, if distributed, of additional soliciting material;

(11) the terms of any agreement, contract or

understanding made with a broker-dealer as to solicitation of securities referred to in AS 21.22.010 for tender, and the amount of any fees, commissions or other compensation to be paid to a broker-dealer;

(12) any additional information as the director may by order or regulation prescribe as necessary or appropriate for the protection of policyholders and securityholders of the issuer or in the public interest.

HISTORY: Sec. 1 ch 222 SLA 1976

END OF DOCUMENT

CHAPTER = 22.30
SECTION = 22.30.011
TITLE = 22

HEADINGS TITLE 22.
Judiciary.
CHAPTER 30.
Judicial Qualifications.

CITATION Sec. 22.30.011.

CATCH LINE
POWERS AND DUTIES OF THE COMMISSION.

TEXT (a) The commission shall on its own motion or on receipt of a written complaint inquire into an allegation that a judge

(1) has been convicted of a crime punishable as a felony under state or federal law or convicted of a crime that involves moral turpitude under state or federal law;

(2) suffers from a disability that seriously interferes with the performance of judicial duties and that is or may become permanent;

(3) within a period of not more than six years before the start of the current term, committed an act or acts that

constitute

(A) wilful misconduct in office,

(B) wilful and persistent failure to perform judicial duties,

(C) conduct prejudicial to the administration of justice, or

(D) conduct that brings the judicial office into disrepute, or

(4) is habitually intemperate.

(b) The commission may hold a hearing on an allegation under (a) of this section. A hearing under this section is a hearing under AS 44.62.310(c)(2) and is private unless a public hearing is requested by the judge.

(c) A judge appearing before the commission at the hearing is entitled to counsel, may present evidence, and may cross-examine witnesses.

(d) The commission may, after a hearing held under (b) of this section,

(1) exonerate the judge of the charges,

(2) reprimand the judge publicly or privately;

(3) refer the matter to the supreme court with a recommendation that the judge be suspended, removed, or retired from office or publicly or privately censured by the supreme court.

(e) A decision by the commission to reprimand a judge publicly or privately may be appealed by the judge to the supreme court.

(f) If the commission decides to reprimand a judge privately, the commission shall forward the reprimand to the judge. A copy of the reprimand shall be sent to the chief justice of the supreme court. A private reprimand is confidential.

(g) If the commission exonerates a judge, a copy of the proceedings and report of the commission may be made public on the request of the judge.

HISTORY: [illegible] SB 214 [illegible]

END OF DOCUMENT

CHAPTER = 22.30
SECTION = 22.30.070
TITLE = 22

HEADINGS TITLE 22.
Judiciary.
CHAPTER 30.
Judicial Qualifications.

CITATION Sec. 22.30.070.

CATCH LINE
DISQUALIFICATION, SUSPENSION, REMOVAL, RETIREMENT AND CENSURE OF JUDGES.

TEXT (a) A judge is disqualified from acting as a judge, without loss of salary, while there is pending (1) an indictment or an information charging the judge in the United States with a crime punishable as a felony under Alaska or federal law, or (2) a recommendation to the supreme court by the commission for the removal or retirement of the judge.

(b) On recommendation of the commission or after an appeal under AS 22.30.011(e), the supreme court may publicly or privately censure or suspend a judge from office without salary

when in the United States the judge pleads guilty or no contest or is found guilty of a crime punishable as a felony under state or federal law or of a crime that involves moral turpitude under state or federal law. If the conviction is reversed, suspension terminates, and the judge shall be paid his salary for the period of suspension. If the judge is suspended and the conviction becomes final, the supreme court shall remove the judge from office.

(c) On recommendation of the commission or after an appeal under AS 22.30.011(e), the supreme court may (1) retire a judge for disability that seriously interferes with the performance o duties and that is or may become permanent, and (2) publicly or privately censure or remove a judge for action occurring not more than six years before the commencement of the judge's current term which constitutes wilful misconduct in the office, wilful and persistent failure to perform duties, habitual intemperance, conduct prejudicial to the administration of justice, or conduct that brings the judicial office into disrepute.

(d) A judge retired by the supreme court shall be considered to have retired voluntarily. A judge removed by the supreme

court is ineligible for judicial office for a period of three years.

(e) A supreme court justice who has participated in proceedings involving a judge or justice of any court may not participate in an appeal involving that judge or justice in that particular matter.

HISTORY (Sec. 1 ch 213 SLA 1960; am secs. 3, 4 ch 50 SLA 1981)

CHAPTER = CH014

CHAPTER NUMBER

CH014

SPECIAL INFO

CHAPTER 14

Source: SB 238 am H

Approved by the Governor: March 22, 1982

Actual Effective Date: July 2, 1982

RELATING TO

AN ACT

Relating to the practice of nursing; and providing for an effective date.

TEXT

* Section 1. AS 08.68.010 is amended to read:

Sec. 08.68.010. CREATION AND MEMBERSHIP OF BOARD OF NURSING. There is created a Board of Nursing, consisting of seven members ap- pointed by the governor. One member shall be (_a licensed practical nurse_) currently involved in institutional nursing service, one member (_shall be_) (_a registered nurse engaged in baccalaureate nursing education,

three_) (_members shall be registered nurses_) IN COMMUNITY OR PUBLIC HEALTH NURSING AND TWO MEMBERS IN BASIC OR CONTINUING NURSING EDUCATION, ONE NURSE- at large, and two (_members shall be_) persons who have no direct financial interest in the health care industry.

* Sec. 2. AS 08.68.050 is amended to read:

Sec. 08.68.050. REMOVAL (_OF BOARD MEMBERS_) FROM OFFICE. (_A mem_) (_ber of the board may be removed from office by the governor for cause._) (_The board may by

(_ings is cause for removal_) -THE GOVERNOR MAY REMOVE ANY BOARD MEMBER FOR NEGLECT OF DUTY REQUIRED BY LAW, OR FOR UNPROFESSIONAL OR DISHONORABLE CONDUCT AFTER A FAIR AND IMPARTIAL HEARING-.

* Sec. 3. AS 08.68.060 is amended to read:

Sec. 08.68.060. QUALIFICATIONS OF (_REGISTERED NURSE AND LICENSED_) (_PRACTICAL NURSE_) BOARD MEMBERS. The five members of the board who are nurses shall be licensed -PROFESSIONAL NURSES- in the state, and shall have been actively engaged in nursing for not less than four years

before appointment, (_three_) -TWO- years of which were within the five years (_immediately_) preceding appointment.

* Sec. 4. AS 08.68.070 is amended to read:

Sec. 08.68.070. ELECTION OF OFFICERS. The board shall annually elect a chairman and (_secretary_) -SECRETARY-TREASURER- from among its members.

* Sec. 5. AS 08.68.080 is amended to read:

Sec. 08.68.080. MEETINGS. The board shall meet at least (_four_) (_times_) -ONCE- a year.

* Sec. 6. AS 08.68.100 is repealed and reenacted to read:

Sec. 08.68.100. DUTIES AND POWERS OF BOARD. (a) The board shall

(1) adopt regulations necessary to implement this chapter, including regulations pertaining to practice as an advanced nurse practitioner and a nurse anesthetist;

(2) approve curricula and adopt standards for basic education programs that prepare persons for licensing under AS 08.68.190;

(3) provide for surveys of the basic nursing education programs in the state at the times it

considers necessary;

(4) accredit education programs that meet the requirements of this chapter and of the board, and deny, revoke, or suspend accreditation of education programs for failure to meet the requirements;

(5) examine, license, and renew the licenses of qualified applicants;

(6) prescribe requirements for competence before a former nurse may resume the practice of nursing under this chapter;

(7) keep a record of its proceedings, and submit annual reports to the governor and legislature;

(8) define by regulation the qualifications and duties of the executive secretary and delegate authority to the executive secretary that is necessary to conduct board business.

(b) The board may

(1) conduct hearings upon charges of alleged violations of this chapter or regulations adopted under it;

(2) invoke, or request the department to invoke, disciplinary action against a licensee;

(3) prescribe requirements for competence to continue practice.

* Sec. 7. AS 08.68.111(a) and (b) are amended to read:

Sec. 08.68.111. EXECUTIVE (_SECRETARY_) -OFFICER- OF BOARD. (a) The Department of Commerce and Economic Development, in consultation with the Board of Nursing, shall employ a licensed, registered nurse, who is not a member of the board, to serve as executive (_secretary_) -OFFICER- of

the board.

(b) The executive (_secretary_) -OFFICER- shall (_perform duties as_) (_prescribed by the board._) -BE A NURSE HAVING A BACHELOR'S DEGREE OR HIGHER,(_ _)CURRENTLY LICENSED IN THE STATE AND WITH NOT LESS THAN FIVE YEARS OF ACTIVE NURSING EXPERIENCE, OF WHICH NOT LESS THAN TWO YEARS WITHIN THE PRECEDING FIVE YEARS HAS BEEN IN AN ADMINISTRATIVE OR A TEACHING CAPACITY IN AN ACCREDITED INSTITUTION ACCEPTABLE TO THE BOARD. IF A LICENSED PROFESSIONAL NURSE HOLDING A BACHELOR'S DEGREE IS NOT AVAILABLE TO FILL THE

POSITION OF EXECUTIVE OFFICER, THE BOARD MAY WAIVE THE REQUIREMENT FOR A BACHELOR'S DEGREE AND APPOINT A LICENSED PROFESSIONAL NURSE POSSESSING OTHER QUALIFICATIONS IN EDUCATION AND ADMINISTRATIVE EXPERIENCE WHICH THE BOARD CONSIDERS ACCEPTABLE. HOWEVER, THE APPOINTEE SHALL COMPLETE THE REQUIREMENTS FOR THE AWARD OF A BACHELOR'S DEGREE IN FOUR YEARS AFTER APPOINTMENT TO THE POSITION OF EXECUTIVE OFFICER. ANNUALLY, THE APPOINTEE SHALL OFFER THE BOARD EVIDENCE OF SATISFACTORY PROGRESS TOWARD AWARD OF A BACHELOR'S DEGREE. IF AFTER THE ANNUAL REVIEW THE BOARD BELIEVES THAT THE APPOINTEE HAS NOT MADE SATISFACTORY PROGRESS TOWARD AWARD OF A BACHELOR'S DEGREE, THE DEPARTMENT MAY DISMISS THE APPOINTEE, NOTWITHSTANDING THE PROVISIONS OF AS 39.25.170.-

* Sec. 8. AS 08.68.170 is amended to read:

Sec. 08.68.170. QUALIFICATIONS OF (_REGISTERED OR PRACTICAL_) -PROFESSIONAL- NURSE APPLICANTS. An applicant for a license to practice (_regis-_) (_tered or practical_) -PROFESSIONAL- nursing shall submit to the board on forms and in the manner prescribed by the board, written evidence, verified by oath, that the applicant has -COMPLETED AN

APPROVED FOUR YEAR HIGH SCHOOL COURSE OF STUDY OR THE EQUIVALENT AS DETERMINED BY THE APPROPRIATE EDUCATIONAL AGENCY, AND HAS- successfully completed (1) a (_re-_) (_gistered or practical_) -PROFESSIONAL- nursing education program accredited by the board; or (2) a (_registered or practical_) -PROFESSIONAL- nursing education program outside the state which, in the opinion of the board, meets the minimum requirements of the board for an accredited program of study in this state at the time the applicant graduated; or (3) a (_registered or practical_) -PROFESSIONAL- nursing education program accredited by the National League for Nursing at the time the applicant graduated.

* Sec. 9. AS 08.68.190 is amended to read:

Sec. 08.68.190. LICENSE BY EXAMINATION. The applicant shall pass a written examination (_as prescribed by_) -IN THE SUBJECTS WHICH- the board -PRESCRIBES-. The board shall issue a license to an applicant who passes the examination to practice (_registered_) -PROFESSIONAL NURSING- or practical nursing provided the other qualifications outlined in AS 08.-68.170 and 08.68.180 are also met. The board shall conduct

examinations annually and as often as it considers necessary (_in each region of the_) (_state_).

* Sec. 10. AS 08.68.200 is amended to read:

Sec. 08.68.200. LICENSE BY ENDORSEMENT. The board may issue a license by endorsement to practice (_as a registered or practical nurse_) -PROFESSIONAL NURSING OR TO PRACTICE PRACTICAL NURSING-, whichever is appropriate, to an applicant who

(_(1)_) is licensed as either a (_registered or_) -PROFESSIONAL NURSE OR A- practical nurse under the laws

of another state or territory, if in the opinion of the board the applicant meets the qualifications required for licensing in the state, and meets the requirements of (_AS 08.68.170; or_)

(_(2) meets the requirements of AS 08.68.170 and has success-_) (_fully completed the Canadian Nurses' Association Testing Service exami-_) (_nation if the board determines it is comparable to the examination ad-_) (_ministered by this state_) -EITHER AS 08.68.170 OR 08.68.180, WHICHEVER IS APPLICABLE-.

* Sec. 11. AS 08.68.210(a)(2) is amended to read:

(2) meets the requirements of -EITHER- AS 08.68.170 -OR 08.68.180, WHICHEVER IS APPLICABLE-, and

* Sec. 12. AS 08.68.210(b) is amended to read:

(b) The board may issue a nonrenewable permit to an applicant for license by examination if (_(1) the applicant_) -HE- meets the qualifications of AS 08.68.170(_;_) or (_(2) the applicant is a graduate of a foreign_) (_school of nursing and has successfully completed the examination ad-_) (_ministered by the Commission on Graduates of Foreign Nursing Schools_) -AS 08.68.180, WHICHEVER IS APPLICABLE, AND PAYS THE REQUIRED FEE-. The permit will be valid for a period not extending beyond the time when the results are published of the first examination the applicant is eligible to take after the permit is issued.

* Sec. 13. AS 08.68.220 is amended to read:

Sec. 08.68.220. FEES. The following fees shall be imposed under this chapter when applicable:

(1) for (_registered nurses:_) -PROFESSIONAL OR REGISTERED NURSING-

(A) application fee. . . . . (_$30_)

-$20-

(B) license by examination fee 20

(C) license by endorsement fee 20

(D) biennial license renewal fee . . (_20 _)

-15-

(2) for practical or vocational (_nurses:_)

-NURSING-

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(A) application fee. . . . . (_$20_)

-$15-

(B) license by examination fee . . (_10_)

-15-

(C) license by endorsement fee . . (_10_)

-15-

(D) biennial license renewal fee . (_20_)

-15-

* Sec. 14. AS 08.68.230(a) is amended to read:

(a) A person licensed to practice (_registered_) -PROFESSIONAL- nursing in the state may use the title "licensed professional nurse," "registered nurse," and the

abbreviation "R.N."

* Sec. 15. AS 08.68.240 is amended to read:

Sec. 08.68.240. NURSES LICENSED OR HOLDING TEMPORARY PERMITS UNDER PREVIOUS LAW. A person holding a license to practice (_registered_) -PROFESSIONAL- or practical nursing in the state under prior law is considered licensed as a (_registered_) -PROFESSIONAL- or practical nurse.

* Sec. 16. AS 08.68.251 is amended to read:

Sec. 08.68.251. LAPSED LICENSES. (_(a)_) A lapsed license may be reinstated if it has not remained lapsed for

more than five years (_by_) (_payment of the license fees for the period during which the license_) (_has lapsed_).

(_(b)_) If (_a_) -THE- license is lapsed for more than five years(_,_)

(_(1)_) -AND THE BOARD HAS REASON TO BELIEVE THAT THE PERSON APPLYING FOR REINSTATEMENT OF HIS LICENSE NO LONGER HAS SUFFICIENT KNOWLEDGE TO CARRY OUT THE DUTIES OF A LICENSED NURSE,- the board (_shall_) -MAY- require the applicant to -TAKE AND PASS THE EXAMINATION GIVEN UNDER AS 08.68.190 OR- complete a (_course of study_)

-REFRESHER COURSE- approved by the board (_or to pass an examination prescribed by_) the board,_) (_and to pay the fees prescribed by this chapter; or_)

(_(2) if the board determines that the person applying for re-_) (_instatement was actively employed in nursing in another state during the_) (_time that the license has lapsed in this state, the license that has_) (_lapsed may be reinstated by payment of fees as required by AS 08.01.-_) (_100(b)_).

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* Sec. 17. AS 08.68 is amended by adding a new section to read:

Sec. 08.68.265. SCOPE OF PRACTICE OF PRACTICAL NURSES. A practical nurse shall work under the supervision of a licensed registered nurse, a licensed physician, or a licensed dentist.

* Sec. 18. AS 08.68.270 is amended to read:

Sec. 08.68.270. GROUNDS FOR DENIAL, SUSPENSION(_,_) OR REVOCATION. The board -, AFTER COMPLIANCE WITH THE ADMINISTRATIVE PROCEDURE ACT (AS 44.62),- may deny, suspend or revoke the license of a person who

(1) has obtained or attempted to obtain a license to practice nursing by fraud or deceit;

(2) has been convicted of a felony (_or other crime if the_) (_felony or other crime is substantially related to the qualifications,_) (_functions or duties of the licensee;_)

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-(3) HAS BEEN CONVICTED OF A CRIME INVOLVING MORAL TURPITUDE;-

(4) -IS- habitually (_abuses alcoholic beverages, or illegal-_) (_ly uses hallucinogenic or stimulant drugs as defined by AS 17.12.150(3)_) (_or narcotic drugs as defined by AS 17.10.230(13)_) -INTOXICATED OR IS ADDICTED TO THE USE OF NARCOTICS-;

(5) has impersonated a (_registered_) -PROFESSIONAL- or practical nurse;

(6) (_has intentionally or negligently engaged in conduct_) (_that has resulted in a significant risk to the health or safety of a_) (_client or in injury to a client_) -IS GUILTY, IN THE OPINION OF THE BOARD, OF NEGLIGENCE WHICH HAS RESULTED IN SERIOUS INJURY TO A

PATIENT-;

(7) (_practices or attempts to practice nursing while afflic-_) (_ted with physical or mental illness, deterioration, or disability_) (_which interferes with the individual's performance of nursing functions_) -IS MENTALLY ILL OR MENTALLY INCOMPETENT-;

(8) is guilty of unprofessional conduct (_as defined by regu-_) (_lations adopted by the board_),

(9) has wilfully or repeatedly violated any of the provisions of this chapter (_or regulations adopted

under it_);

(10) is -CONSIDERED BY THE BOARD TO BE- professionally incompetent(_;_) -.-

(11) denies care or treatment to a patient or person seeking assistance if the sole reason for the denial is the failure or refusal of the patient or person seeking assistance to (_agree to arbitrate_) -EXECUTE AN AGREEMENT TO ARBITRATE A DISPUTE, CONTROVERSY, OR ISSUE ARISING OUT OF THE CARE OR TREATMENT,- as provided in AS 09.55.535(a).

* Sec. 19. AS 08.68.275 is amended by adding a new subsection to read:

(c) The board shall seek consistency in the application of disciplinary sanctions. A significant departure from earlier disciplinary decisions of the board that involve similar situations shall be explained in findings of fact or orders made by the board.

* Sec. 20. AS 08.68 is amended by adding a new section to article 2 to read:

Sec. 08.68.276. CONTINUING COMPETENCE REQUIRED. A license to practice nursing may not be renewed unless the nurse has complied with continuing competence requirements established by the board by regulation.

* Sec. 21. AS 08.68.280 is amended to read:

Sec. 08.68.280. NURSING EDUCATION PROGRAM PROHIBITED UNLESS ACCREDITED. No person, institution or agency may conduct a nursing education program (_that prepares persons for examination, licensing,_) (_authorization for specialized practice, or a graduate degree_) -FOR PROFESSIONAL OR PRACTICAL NURSES- unless the program is accredited by the

board. (_A program may be accredited by the board only if it is estab-_) (_lished through an accredited postsecondary educational institution._)

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* Sec. 22. AS 08.68.290 is amended to read:

Sec. 08.68.290. APPLICATION FOR ACCREDITATION. An institution desiring to conduct a nursing education program to prepare (_registered_) -PROFESSIONAL- or practical nurses shall apply to the board and submit evidence that (1) it is prepared to carry out the curriculum approved by the board for (_registered_) -PROFESSIONAL- nursing or for practical nursing, -AS THE CASE MAY BE,- and that (2) it is prepared to meet other standards established by law and by the board.

* Sec. 23. AS 08.68.340 is repealed and reenacted to read:

Sec. 08.68.340. VIOLATIONS. (a) It is a class B misdemeanor for a person to

(1) practice nursing under a diploma, license, or record that is unlawfully obtained, signed, or issued;

(2) practice or offer to practice nursing without a license, unless the person gives necessary aid to the ill, injured, or infirm in an emergency;

(3) employ as a nurse a person who is not licensed to practice nursing;

(4) use in connection with the person's name a designation that implies that the person is a licensed nurse unless the person is licensed;

(5) practice nursing during the time that the person's license is suspended or revoked;

(6) practice nursing with knowledge that the person's license has lapsed;

(7) conduct a nursing education program and

represent or imply that it is accredited by the board, unless the program has been accredited by the board.

(b) It is a class A misdemeanor for a person to knowingly or intentionally do any of the acts described in (a)(1) - (5) and (7) of this section.

(c) It is a violation for a person to practice nursing during the time that the person's license has lapsed if the person does not know that the license has lapsed.

* Sec. 24. AS 08.68.400 is amended to read:

Sec. 08.68.400. EXCEPTIONS TO APPLICATION OF CHAPTER.

(a) This chapter does not apply to

(1) a qualified nurse licensed in another state employed by the United States Government or a bureau, or agency, or division of the United States Government while in the discharge of his official duties;

(2) nursing service given temporarily in the event of a public (_emergency, epidemic_),_) or disaster;

(3) the practice of nursing by a student enrolled in a nursing education program accredited by the board when the practice is in connection with the student's course of study; -OR-

(4) the practice of nursing by (_an individual_) -A NURSE- enrolled in an approved (_program or course of study approved by the board_) (_to satisfy the requirements of AS 08.68.251; or_) -REFRESHER COURSE-

(_(5) the practice of nursing by a nurse licensed in another_) (_state who engages in nursing education or nursing consultation activi-_) (_ties, if these activities and contact with clients do not exceed 20_) (_working days within a licensing period_).

(b) For purposes of this section the word "nurses" includes (_registered_) -PROFESSIONAL- and practical nurses, and "nursing" means (_registered_) -PROFESSIONAL- and practical nursing.

* Sec. 25. AS 08.68.410 is repealed and reenacted to read:

Sec. 08.68.410. DEFINITIONS. In this chapter,

(1) "advanced nurse practitioner" means a registered nurse authorized to practice in the state who, because of specialized education and experience, is certified to perform acts of medical diagnosis and the prescription of medical, therapeutic, or corrective measures under regulations adopted by the board;

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(2) "board" means the Board of Nursing;

(3) "incompetent" means that a nurse does not possess the skills, knowledge, and awareness of his limitations and abilities to safely practice nursing;

(4) "licensed practical nurse" is equivalent to the title "licensed vocational nurse" and to the name suffix abbreviations L.P.N. and L.V.N.;

(5) "licensed registered nurse" is equivalent to

the common title "registered nurse" and the name suffix abbreviation R.N.;

(6) "nurse anesthetist" means a registered nurse authorized to practice in the state who, because of specialized education and experience, is certified to select and administer anesthetic and give anesthesia care under regulations adopted by the board;

(7) "practice of practical nursing" means the performance for compensation or personal profit of nursing functions that do not require the substantial

specialized skill, judgment, and knowledge of a registered nurse;

(8) "practice of registered nursing" means the performance for compensation or personal profit of acts of professional service that requires substantial specialized knowledge, judgment, and skill based on the principles of biological, physiological, behavioral, and sociological sciences in assessing and responding to the health needs of individuals, families, or communities through services that include

(A) assessment of problems, counseling, and teaching

(i) clients to maintain health or prevent illness; and

(ii) in the care of the ill, injured, or infirm;

(B) administration, supervision, delegation, and evaluation of nursing practice;

(C) teaching others the skills of nursing;

(D) execution of a medical regimen as prescribed by a person authorized by the state to practice medicine;

(E) performance of other acts that require education and training that are recognized by the nursing profession as properly performed by registered nurses;

(F) performance of acts of medical diagnosis and the prescription of medical therapeutic or corrective measures under regulations adopted by the board.

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* Sec. 26. A member of the Board of Nursing appointed before July 1, 1982 may continue until his appointment under AS 08.68.010 - 08.68.030 expires, notwithstanding AS 08.68.010 as amended in sec. 1 of this Act. Appointments to the Board of Nursing made after July 1, 1982 shall be in accordance with AS 08.68.010 as enacted in sec. 1 of this Act.

* Sec. 27. A nurse who holds an inactive license issued before July 1, 1982 shall either make the license active by the next renewal date or allow the license to lapse.

* Sec. 28. Administrative regulations adopted jointly by the Board of Nursing and the State Medical Board under AS 08.68 which are in effect on July 1, 1982 remain in effect until amended or repealed by the Board of Nursing as provided by law.

* Sec. 29. AS 08.69.111(c), 08.68.180(a), 08.68.260, 08.68.275(b), 08.68.300 - 08.68.320 and 08.68.350 are repealed.

EFFECTIVE DATE

* Sec. 30. This Act takes effect July 1, 1982.

R0601 * END OF DOCUMENTS IN LIST - ENTER RETURN OR ANOTHER COMMAND.

CHAPTER = 08.48
SECTION = 08.48.111
TITLE = 08

CITATION NOTES FOR AS 08.48.111.

ANNOTATIONS

EFFECT OF AMENDMENTS.

The 1980 amendment inserted "or" at the end of item (2), and "a" at the beginning of item (3), substituted "adopted" for "promulgated" in item (3), and deleted "or (4) a crime involving moral turpitude relevant to one of those professions," following "by the board," all in the first sentence.

COLLATERAL REFERENCES.

Revocation or suspension of license to practice architecture. 58 ALR3d 543.

Revocation or suspension of license of professional engineer. 64 ALR3d 509.

END OF DOCUMENT

CHAPTER = 08.64
SECTION = 08.64.380
TITLE = 08

CITATION NOTES FOR AS 08.64.380.

ANNOTATIONS

REVISOR'S NOTES.

In light of the changes made by ch. 218, SLA 1976, "Department of Commerce and Economic Development" has been substituted for "Department of Commerce" in paragraph (5).

CROSS REFERENCES.

For professional designation requirements for medical practitioners and osteopaths, see AS 08.02.010.

As to malpractice actions, see AS 09.55.530 - 09.55.560.

EFFECT OF AMENDMENTS.

The 1973 amendment, in paragraph (3), deleted "or regulations lawfully adopted by the State Medical Board concerning abortion procedures and practice" from the end of subparagraph (A), rewrote subparagraph (G), and deleted subparagraph (D), which specified advertising professional services to the public to be "unprofessional or dishonorable conduct," with certain exceptions. The amendment

also added subparagraph (H) of paragraph (3).

The 1982 amendment, effective January 1, 1983, in paragraph (3)(B), substituted "controlled substances as defined in AS 11.71.900(4)" for "depressant, hallucinogenic or stimulant drugs, as defined in AS 17.12.150(3), or addiction to the use of narcotics drugs as defined in AS 17.10.230(13)."

NOTES TO DECISIONS.

Unethical behavior. - A physician may be subject to loss of license, censure or reprimand for violating the state Medical Association declaration that publication of patients' names by board members in complying with AS 39.50 (Conflict of Interest law) is unethical. However, the possibility of professional discipline for unethical behavior is irrelevant because the statutory exemption applies only to legal privileges, not ethical mandates. Moreover, to equate ethical directives with legal privilege for purposes of AS 39.50, particularly where a relevant professional standard has been enacted subsequent to the passage of the Conflict of Interest law, would effectively allow an elite professional group to amend the law by declaring itself exempt. Falcon v. Alaska Pub. Offices Comm'n, Sup. Ct. Op. No. 1512 (File No. 3220), 570 P.2d 469 (1977).

Cited in Leege v. Martin, Sup. Ct. Op. No. 131 (File No. 256), 379 P.2d 447 (1963).

COLLATERAL REFERENCES.

What offenses involve moral turpitude within statute providing grounds for denying license. 109 ALR 1459.

What amounts to conviction within statute making conviction ground for refusing license. 113 ALR 1179.

END OF DOCUMENT

CHAPTER = 08.68
SECTION = 08.68.270
TITLE = 08

CITATION NOTES FOR AS 08.68.270.

ANNOTATIONS

EFFECT OF AMENDMENTS.

The 1978 amendment added paragraph (11).

The 1982 amendment deleted "after compliance with the Administrative Procedure Act (AS 44.62.)" following "The board" in the introductory language; added the language beginning "or other crime" to the end of paragraph (2); repealed former paragraph (3), which read "has been convicted of a crime involving moral turpitude"; rewrote paragraphs (4), (6), and (7), which read "is habitually intoxicated or is addicted to the use of narcotics," "is guilty, in the opinion of the board, of neglience which has resulted in serious injury to a patient," and "is mentally ill or mentally incompetent," respectively; substituted "registered" for "professional" in paragraph (5); added "as defined by regulations adopted by the board" at the end of paragraph (8); added "or regulations adopted under it" to the end of paragraph (9); deleted "considered by the board to be"

preceding "professionally" in paragraph (10); and substituted "agree to arbitrate" for "execute and agreement to arbitrate a dispute, controversy, or issue arising out of the care or treatment" in paragraph (11).

EDITOR'S NOTES.

AS 17.12.150 and 17.10.230, referred to in paragraph (4), were repealed by sec. 26, ch. 45, SLA 1982. For present provisions concerning controlled substances, see AS 11.71.010 - 11.71.900.

NOTES TO DECISIONS.

Cited in Leege v. Martin, Sup. Ct. Op. No. 131 (File No. 256), 379 P.2d 447 (1963).

COLLATERAL REFERENCES.

61 Am. Jur. 2d Physicians, Surgeons and Other Healers, secs. 44, 48, 49, 62.

70 C.J.S., Physicians and Surgeons, secs. 16-18.

Cancellation or suspension irrespective of licensee's personal fault, validity of statute or rule making specified conduct or condition the ground for. 3 ALR2d 107.

Nolo contendere or non vult, statute authorizing revocation of license upon conviction as applicable to conviction based on plea of.

82 ALR 2d 606.

Revocation of nurse's license to practice profession. 55 ALR3d 1141.

END OF DOCUMENT

CHAPTER = 08.84
SECTION = 08.84.120
TITLE = 08

CITATION NOTES FOR AS 08.84.120.

ANNOTATIONS

EFFECT OF AMENDMENTS.

The 1980 amendment substituted "license" for "register" near the beginning of the introductory paragraph, "license" for "registration" twice in the introductory paragraph, "uses drugs or intoxicating liquors in any manner which affects his practice of physical therapy" for "is habitually drunk or addicted to the use of narcotic drugs" in paragraph (1), repealed former paragraph (2), which read: "is, in the judgment of the board, guilty of immoral or unprofessional conduct," added "and has not been rehabilitated to the satisfaction of the board" in paragraph (3), substituted "felony and has not been rehabilitated to the satisfaction of the board" for "crime involving moral turpitude" at the end of paragraph (4), and "a license" for "registration" in paragraph (6), deleted "or" at the end of paragraph (7), substituted a comma for "or" following "to practice medicine" in paragraph (8), and added "dentistry or podiatry" at the end of

paragraph (8), substituted "licensed" for "registered" in paragraph (9), and added paragraph (10).

EDITOR'S NOTES.

This section was redrafted by the revisor of statutes to remove personal pronouns in conformity with AS 01.05.031(c) and Sec. 4, Chapter 58, SLA 1982.

NOTES TO DECISIONS.

Cited in Leege v. Martin, Sup. Ct. Op. No. 131 (File No. 256), 372 P.2d 447 (1963).

END OF DOCUMENT

CHAPTER = 15.05
SECTION = 15.05.030
TITLE = 15

CITATION NOTES FOR AS 15.05.030.

ANNOTATIONS

CROSS REFERENCES.

For definition of "felony involving moral turpitude," see AS 15.60.010(8). For definition of "unconditional discharge," see AS 15.60.010(32). As to effect of judgment of imprisonment in penitentiary, see AS 33.30.310. As to effect of sentence to life imprisonment, see AS 33.30.320.

EFFECT OF AMENDMENTS.

The 1980 amendment rewrote the section.

OPINIONS OF ATTORNEY GENERAL.

A person is not disqualified from voting pending an appeal of a conviction. Nov. 7, 1980, Op. Att'y Gen.

Absent an appeal, a person who receives a suspended sentence, or a suspended imposition of sentence is disqualified until his or her unconditional discharge. Nov. 7, 1980, Op. Att'y Gen.

For a list of crimes which constitute felonies involving moral

turpitude. Nov. 7, 1980, Op. Att'y Gen.

COLLATERAL REFERENCES.

Governing law as to existence or character of offense for which one has been convicted in a federal court, or court of another state, as bearing upon disqualification to vote, hold office, practice profession, sit on jury, or the like. 175 ALR 784.

What constitutes "conviction" within constitutional or statutory provision disfranchising one convicted of crime. 56 ALR2d 1239.

Effect of conviction under federal law, or law of another state or country, on right to vote or hold public office. 37 ALR3d 383.

END OF DOCUMENT

CHAPTER = 15.07
SECTION = 15.07.135
TITLE = 15

CITATION NOTES FOR AS 15.07.135.

ANNOTATIONS

REVISOR'S NOTES.

This section was enacted as AS 15.07.130(d) but was renumbered by the revisor of statutes pursuant to AS 01.05.031.

CROSS REFERENCES.

As to voter disqualification for felony conviction, see AS 15.05.030. For definition of "felony involving moral turpitude," see AS 15.60.010(8). For definition of "uncon- ditional discharge," see 15.60.010(32).

COLLATERAL REFERENCES.

Governing law as to existence or character of offense for which one has been convicted in a federal court, or court of another state, as bearing upon disqualification to vote, hold office, practice profession, sit on jury, or the like. 175 ALR 784.

What constitutes "conviction" within constitutional or statutory provision disfranchising one convicted of crime. 36 ALR2d 1230.

Effect of conviction under federal law, or law of another state or country, on right to vote or hold public office. 39 ALR3d 303.

END OF DOCUMENT

CHAPTER = 15.60
SECTION = 15.60.010
TITLE = 15

CITATION NOTES FOR AS 15.60.010.

ANNOTATIONS

REVISOR'S NOTES.

The word "as" was added following "themselves such" in paragraph (3) by the revisor of statutes under AS 01.05.031.

EFFECT OF AMENDMENTS.

The 1980 amendment rewrote the section.

OPINIONS OF ATTORNEY GENERAL.

For a list of crimes which constitute felonies involving moral turpitude. Nov. 7, 1980, Op. Att'y Gen.

NOTES TO DECISIONS.

Quoted in Turkington v. City of Kachemak, Sup. Ct. Op. No. 141 (File No. 177), 380 P.2d 593 (1963).

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the board and the sufficiency of the charges against the petitioner admitted in the petition. The petitioner's demurrer should have been overruled and the respondents' demurrer to the petition sustained.

Order reversed with costs, and petition dismissed.

ANNOTATION.

What offenses involve moral turpitude within statute providing grounds for denying or revoking license of dentist, physician, or surgeon.

[Dentists, §§ 2, 4; Physicians and Surgeons, §§ 7, 10.]

Generally, as to grounds for revocation of valid license of physician, surgeon, or dentist, see annotations in 54 A.L.R. 1504, and 82 A.L.R. 1184 [Dentists, § 4; Physicians and Surgeons, § 10].

As to validity of statute providing for revocation of license of physician, surgeon, or dentist, see annotations in 5 A.L.R. 94, and 79 A.L.R. 323 [Physicians and Surgeons, § 10; Statutes, § 27].

The subject, "Violation of liquor law as infamous crime or offense involving moral turpitude," is discussed in annotations in 40 A.L.R. 1048, and 71 A.L.R. 217 [Attorneys, § 12; Criminal Law, § 196; Intoxicating Liquors, § 55; Witnesses, § 93].

It is now well established that the statutory term "moral turpitude," in connection with the present subject, carries with it a sufficiently definite concept to render it immune from attacks for vagueness and uncertainty. Thus, in Hughes v. State Medical Examiners (1926) 162 Ga. 246, 134 S. E. 42, the court held that a statute providing for the revocation of a physician's license upon the ground of conviction of a crime involving moral turpitude was not so vague, uncertain, and indefinite as to render it void, although it contained no definition of the term "moral turpitude." And see State Medical Examiners v. Harrison (1916) 92 Wash. 577, 159 P. 769, and White v. Andrew (1921) 70 Colo. 50, 197 P. 564, both infra.

With respect to revocation of licenses of dentists, physicians, or surgeons, the nature and extent of the statutory term "moral turpitude" must, of course, depend in the first instance upon the limitations, if any, and the exact wording of the statute. Thus, a statute may provide for revocation in case of conviction of a "felony" involving moral turpitude, or, in more general terms, a "crime" or "offense" involving moral turpitude. Aside from such limitations, the term has apparently acquired a definite or definable meaning, the essentials of which are inherent wrongfulness and antisocial tendency or effect. Thus, in Fort v. Brinkley (1908) 87 Ark. 400, 112 S. W. 1084, under a statute authorizing the revocation of a physician's license upon conviction of a crime involving moral turpitude, in holding that the unlawful selling of intoxicating liquor was not such a crime, the court said: "'Moral turpitude is defined to be an act of baseness, vileness, or depravity in the private and social duties which a man owes to his fellow men or to society in general.' 20 Am. & Eng. Enc. Law, 872. See also Ex parte Mason (1896) 29 Or. 18, 43 P. 651, 54 Am. St. Rep. 772; Re Kirby (1897) 10 S. D. 322, 414, 73 N. W. 92, 907, 39 L.R.A. 856. Moral turpitude implies something immoral in itself, regardless of the fact whether it is punishable by law. The doing of the act itself, and not its prohibition by statute, fixes the moral turpitude. It seems clearly deducible from the above-cited authorities that the words 'moral turpitude' had a positive and fixed meaning at common law, and that the illegal sale of intoxicating liquors, not being an offense punishable at common law, does not come within the definition of a crime involving moral turpitude. In a statute using a word the meaning of which is well known, and which has a definite sense at common law, the word will be restricted to that sense."

And under the same statute, in

State Medical Bd. v. Rodgers (1935) 190 Ark. 266, 79 S. W. (2d) 83, the court referred to the definition of "moral turpitude" in Fort v. Brinkley (1908) 87 Ark. 400, 112 S. W. 1084, supra, and continued: "Webster defines the term as follows: 'The quality of a crime involving grave infringement of the moral sentiment of the community as distinguished from statutory mala prohibita.' Under these definitions we have no hesitancy in saying that the crime of which appellee pleaded guilty is a crime involving moral turpitude. Possession of counterfeit money with intent to corrupt the currency of the country and with intent to cheat and defraud any person to whom it is uttered is a base and infamous crime."

Under a statute providing for revocation of a physician's license for unprofessional conduct, including conviction of any offense involving moral turpitude, a showing that the defendant was convicted in a Federal court of knowingly, by means of the United States mails, giving notice and information to certain persons as to when, how, by whom, and by what means an abortion could be performed and produced, was considered sufficient for a revocation of license in State Medical Examiners v. Harrison (1916) 92 Wash. 577, 159 P. 769, and the court rejected the contention that the term "moral turpitude," as used in the statute, was so vague and uncertain as to render it unreasonable and void, saying that the words were capable of accurate definition and were well understood.

And under an act of Congress permitting the revocation of the licenses of physicians who had been convicted of crimes involving moral turpitude, the court in Kemp v. Medical Supervisors (1917) 46 App. D. C. 173, held that violation of a statute by sending through the mails a letter giving information as to where, by whom, and by what means an abortion might be committed, was such a crime, justifying a revocation of license upon conviction thereof, regardless of whether its commission amounted to a felony or a misdemeanor, saying: "Analyzing the motive which prompted appellant to write the letter for the mailing of which he was convicted, but one conclusion can be reached, namely, a wilful and intentional disposition on his part, for a small pecuniary consideration, to prostitute his high profession by paving the way for the commission of a base felony. It may be that a crime could be committed by merely mailing a letter in violation of the act of Congress, without involving moral turpitude; but that would depend entirely upon the contents of the letter which forms the basis of the forbidden act. The law violated by appellant was not enacted to purge the mails of a particular class of mail matter, but for the protection of public morals and to prevent the promotion of crime. Abortion is an immoral, base crime; and he who aids and abets in its commission by an unlawful use of the mails is guilty of an act involving moral turpitude."

In BRUN v. LAZZELL (Md.) (reported herewith) ante, 1453, under a statute making conviction of a crime involving moral turpitude a basis for revocation of a dentist's license, the court held that the offense of indecent exposure was clearly in that category, especially under a showing that it had been repeated.

Failure of a physician to notify the police authorities when he has knowledge that any common prostitute is afflicted with an infectious or contagious venereal disease, as required by statute, may or may not amount to an offense involving moral turpitude, depending on the circumstances, within the meaning of a statute providing that the Board of Medical Examiners may refuse a certificate to any applicant guilty of "unprofessional conduct," and declaring that the words "unprofessional conduct," should include "wilful disobedience of the law" and "conviction of any offense involving moral turpitude." Ro Reno (1937) — Nev. —, 64 P. (2d) 1036. The court observed: "Whether the misdemeanor of which appellant was convicted . . . was an offense involving moral turpitude depends, in our opinion, upon the circumstances

under which it was committed. It is easily conceivable that a physician of the most ethical type, knowing a prostitute to be afflicted with such a disease, and being about to report the case immediately to the police authorities, might have his attention distracted, before actually doing so, by reason of some emergency, and then forget the matter for several days. Under such circumstances the fact that he unintentionally overlooked reporting the case to the police authorities would not be a defense in a prosecution under the [statute]. . . . No moral turpitude, however, would be involved in such a case. . . . The offense defined in [the statute] does not necessarily involve moral turpitude, nor is disobedience to that law necessarily wilful. The important [question, therefore, is] whether appellant's disobedience . . . was wilful." And the court reached the conclusion that under the particular circumstances the revocation of the physician's certificate should have been temporary rather than permanent.

In State ex rel. Tullidge v. Hollingsworth (1933) 108 Fla. 607, 146 So. 660, the court said, with reference to the allegedly false oath of a physician that he was never convicted of a crime involving moral turpitude (such conviction being advanced as a reason for the cancelation of his license): "Moral turpitude involves the idea of inherent baseness or depravity in the private social relations or duties owed by man to man, or by man to society. . . . It has also been defined as anything done contrary to justice, honesty, principle, or good morals, though it often involves the question of intent, as when unintentionally committed through error of judgment when wrong was not contemplated." The court granted a peremptory writ of mandamus to the State Board of Medical Examiners for the purpose of affording, among other things, a fair hearing on the sufficiency of the charge and the question as to whether the defendant had been in fact guilty of a crime involving moral turpitude.

And in affirming a judgment dismissing a writ of certiorari from a State Medical Board's action in revoking the license of a physician convicted in a Federal court of the sale of morphine for other than medicinal purposes, to an habitual user thereof, under a statutory provision making conviction of an offense involving moral turpitude one of the statutory grounds for revocation of a physician's license, the court in White v. Andrew (1921) 70 Colo. 50, 197 P. 564, said: "It is proper for the court on certiorari to say whether the crime shown in the evidence involved moral turpitude. We think there can be no question that it did. No other abuse of discretion is suggested, so the board is not guilty of such abuse, and it had jurisdiction of the subject matter and person. Upon certiorari the court could review the board's action only upon a question of jurisdiction or great abuse of discretion. Code 1908, § 331. There was nothing, therefore, upon which the District Court could reverse or modify the board's action, and the judgment of dismissal was right. It is urged that 'moral turpitude' is too indefinite a term, and that therefore the statute is void; but that expression has been used in statutes, textbooks, and opinions on the common law, for too many years to leave any question on that subject." To the same effect see Sapero v. State Medical Examiners (1932) 90 Colo. 568, 11 P. (2d) 555.

But under a statute providing for the revocation of a physician's license after conviction of any offense involving moral turpitude, the court, in State Medical Examiners v. Friedman (1924) 150 Tenn. 152, 263 S. W. 75 (on demurrer), said that there could be no revocation merely because of conviction under the Harrison Anti-narcotic Act of selling morphine contrary to the terms thereof, on the ground that such conviction was evidence of "moral turpitude" within the statutory definition, although violation of the Harrison Act was a felony, especially when taken in connection with a subsequent statute greatly increasing the amount of morphine which physicians might give to pa-

tients, and that it could not be said that "prescribing morphine in considerable quantities is an act involving moral turpitude, or even an illegal act in this State." The court concluded, however, that it was "conceivable" that there might be a conviction under the Harrison Act which would show that the convicted physician had been guilty of acts involving moral turpitude, but considered that the matter should not be decided upon demurrer, and accordingly remanded the cause for answer and proof on the question of moral turpitude; the reason assigned being the possibility that the board stood on its demurrer in the belief that the record of the proceedings before it constituted part of the bill, to which it was not made an exhibit.

It has been held, in cases within the scope of the present subject, that where a statute undertakes to cover the subject of revocation of licenses, specifying causes therefor, it should be strictly construed as regards definitions. Thus, where a statute specifically designated, as a ground for the revocation of a dentist's license, conviction of a felony involving moral turpitude, the court in Kentucky State Dental Examiners v. Crowell (1927) 220 Ky. 1, 294 S. W. 818, in holding that the exercise of the power to revoke such license (originating under and by virtue of the statute) should be confined to the causes and grounds specified therein, ruled that a misdemeanor (possessing intoxicating liquor), although possibly involving moral turpitude, was not a ground for revocation.

And in Forman v. State Bd. of Health (1914) 157 Ky. 123, 162 S. W. 796, under a statute authorizing the revocation of a physician's license upon conviction of a felony involving moral turpitude, it was held that aiding another in conducting a medical institute and practicing medicine for a corporation for hire, in its name, although illegal, was not in itself or under the statutory definition an offense involving moral turpitude, warranting revocation of license, the court saying: "While it is unlawful for a physician to practice medicine in any other name than his own, and he may be punished for this, his license may not be for this revoked, as every unlawful act is not ground for the revocation of a license. There is nothing in our statute regulating the advertising which a physician may properly do, and, though he may in this violate the physicians' code, it will constitute no ground for revoking his license unless his conduct is dishonorable, fraudulent, and involves moral turpitude. . . . The physician who advertises that he can cure a certain disease by a new method may be perfectly sincere in believing that he can do so. On the other hand, the quack and the charlatan who frequently advertise that they can effect cures, when they know the advertisement to be false, and thus deceive and defraud the public, are guilty of fraudulent, dishonorable, and unprofessional conduct involving moral turpitude. Whether the physician's acts were sincere or fraudulent and done for the purpose of defrauding the public is a question to be decided by the board on all the facts. The latter part of the charge against Dr. Forman, in which it was stated that to defraud the public he had made certain false and fraudulent statements which he knew to be untrue, and had thus enabled the institute to practice a fraud on various persons, sufficiently shows conduct on his part that was dishonorable, unprofessional, fraudulent, and involving moral turpitude, and for the purposes of this case must be taken as true. We do not, of course, determine that Dr. Forman is guilty. He has not been heard on the merits of the case. What the facts are will be a question for the board to determine. . . . The intent with which the acts were done is the gist of the matter. If the doctor was sincere in what he did and said, or there was no moral turpitude, his license may not be revoked; but if he had not such reason for his conduct as a man of ordinary prudence would usually act upon under like circumstances, it may be inferred from this that he was not sincere and that his conduct involved moral turpitude. This is a

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Although not directly within the scope of the present subject, it may be observed that some statutes employ the term "gross immorality," in specifying causes for revocation of licenses, and the courts have taken various views of the scope of its definition, some of them linking it with the term "moral turpitude" in the sense of being coextensive. Thus, in Brown v. Hassig (1932) 136 Kan. 384, 15 P. (2d) 401, it was held that a physician who falsely represents to a patient that he has syphilis, for the purpose of obtaining a fee for the treatment of such disease, is guilty of gross immorality under a statute providing for the revocation of a physician's license upon proof of guilt of felony or "gross immorality," the court observing that the latter term had no hard and fast definition, but was descriptive of a course of conduct akin to "moral turpitude."

"Gross immorality," used named in a statute to designate a cause for the revocation of a physician's license, was held in Rose v. Baxter (1908) 7 Ohio N. P. N. S. 132, 18 Ohio Dec. N. P. 658 (affirmed by Circuit Court, which is affirmed without opinion in (1909) 81 Ohio St. 522, 91 N. E. 1138), not so vague, uncertain, broad, and comprehensive as to give the medical board the sole power to determine whether the license should be revoked without providing any standard as to qualification. The court said: "'Gross immorality' is a term which has been used and has received adjudication at the hands of a great many courts. The word 'gross' does not mean great or big or excessive, necessarily, but rather such a wilful, flagrant, and shameful quality with respect to the office involved as renders the officer unfit to hold his license and authority to act. Sometimes the expression is found, under the law, 'gross misbehavior.' The expression 'moral turpitude' is closely akin to the expression at bar, and has received a great many interpretations, but has always been sustained by the courts, so far as I have been able to ascertain, and I find no cases in which it has been held so indefinite as to preclude action against a person guilty thereof." And this statute was held violated, where a physician maintained two offices under different names, intending thereby to perpetrate a fraud upon the public.

Under a statute authorizing a State Medical Board to revoke the license of a physician who has been found "at any time guilty of felony or gross immorality," in approving the revocation of a license upon a showing of twenty-five violations of the Harrison Narcotic Act, the court in Seitz v. Ohio State Medical Bd. (1926) 24 Ohio App. 154, 157 N. E. 304, said that the physician in question had "thereby shown such a contempt of the opinion of the respectable members of the community, and such an indifference to the obligations that rest upon him in the exercise of the responsible duties of his exalted calling, that the minds of men can hardly differ upon the proposition that he has dishonored himself, degraded his profession, and been grossly immoral. If, therefore, the conviction in the Federal court were not of itself such a felony as would warrant the revocation of the certificate in this case, the facts upon which that conviction was based would have been such gross immorality as to have required the revocation of the certificate."

And in Meffert v. State Bd. of Medical Registration (Meffert v. Packer) (1903) 66 Kan. 710, 72 P. 247, 1 L.R.A.(N.S.) 811 (affirmed in (1904) 195 U. S. 625, 49 L. ed. 350, 25 S. Ct. 790), in construing a statute lodging in a State Medical Board discretion to refuse to grant a certificate to practice medicine to any person guilty of felony or "gross immorality," the court said: "It is contended that the immoral conduct with which plaintiff in error was charged was not practiced by him in the line of his profession, and therefore was not cognizable by the board. The law is not that the board must find that such person has been grossly immoral with his patients, but that he is grossly immoral in his general habits. We only men-

tion this contention to condemn it. The object sought is the protection of the home of the sick and distressed from the intrusion therein, in a professional character, of vicious and unprincipled men—men wholly destitute of all moral sensibilities. It is not the purpose of the lawmakers to clothe a man with a certificate of moral character, and send him out to prey upon the weak and unsuspecting,—upon those who would be entirely at his mercy,—and quietly await the accomplishment of that which observation and experience have taught us is certain to follow, before depriving such person of the indorsement which gave the opportunity to commit such wrong. The law disqualifies one guilty of a felony. It would hardly be contended that the felony for which a license may be revoked must have been committed upon a patient, or against the property of a patient, or while such physician was attending a patient."

H. D. W.

W. D. NEVELS et al., Plffs. in Err.,

v.

H. H. HARRIS.

Texas Supreme Court — February 24, 1937.

(— Tex. —, 102 S. W. (2d) 1046.)

Usury, § 40½ — possibility, in case of acceleration, as cured by disclaimer.

1. Usury in respect of a loan which by its terms was to mature five years after date, so far as it is predicated upon the possibility that an acceleration clause might be exercised at the end of the first year, in which event the amount deducted by the lender from the face of the principal note, plus the interest note for the first year's interest then earned (interest notes representing unearned interest being automatically canceled in that event by virtue of an express provision in that regard), would exceed legal interest is negatived where the contract expressly states that it is the intention of the parties to conform strictly to the usury laws "now" in force, and that "any of said contracts for interest shall be held to be subject to reduction to the amount allowed under said usury laws."

[*See annotation on this question beginning on page* 1471.]

Usury, § 40½ — disclaimer — effect.

2. Lender may not exact from borrower a contract that is usurious under its terms and then relieve himself of the pains and penalties visited by law upon such an act by merely writing into the contract a disclaimer of any intention to do that which under his contract he has plainly done.

[*See annotation on this question beginning on page* 1471.]

Usury, § 1 — construing instruments together.

3. Principal note, interest notes, and deed of trust, all executed at the same time, are to be treated, together with the application for the loan, as constituting one contract as regards the question of usury.

Usury, § 18 — fees to lender's agents.

4. Payments from the proceeds of a loan of bona fide fees to the lender's special agent for services in inspecting the land securing the loan and passing on the solvency of the borrower's sureties, and for the attorney's services in examining the abstract, drawing the papers pertaining to the loan, and in such other matters as were proper under the circumstances, are not to be considered as interest under the usury laws, where such agents have only limited or special authority and the lender does not participate in the fund so paid.

[See R. C. L. title "Usury," § 39.]

Usury, § 1 — real amount of loan.

5. For the purpose of determining question as to usury, the real amount

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THE PUBLISHER'S EDITORIAL STAFF

Contributing Authors

JOSEPH R. NOLAN
Associate Justice, Massachusetts Superior Court
and
M. J. CONNOLLY
Associate Professor of Linguistics
and Eastern Languages, Boston College

ST. PAUL MINN.
WEST PUBLISHING CO.
1979

Printed in the United States of America

Library of Congress Cataloging in Publication Data

Black, Henry Campbell, 1860-1927
Black's Law dictionary

First ed., 1891, has title: A dictionary of law.
1. Law—Dictionaries. I. Nolan, Joseph R.
II. Connolly, Michael J. III. West Publishing Company,
St. Paul. IV. Title. V. Title: Law dictionary.
KF156.B53 1979 340'.03 79-12547
ISBN 0-8299-2041-2
ISBN 0-8299-2045-5 deluxe

oral obligation. See Obligation.

oral turpitude. The act of baseness, vileness, or the depravity in private and social duties which man owes to his fellow man, or to society in general, contrary to accepted and customary rule of right and duty between man and man. State v. Adkins, 40 Ohio App.2d 473, 320 N.E.2d 308, 311, 69 O.O.2d 416. Act or behavior that gravely violates moral sentiment or accepted moral standards of community and is a morally culpable quality held to be present in some criminal offenses as distinguished from others. Lee v. Wisconsin State Bd. of Dental Examiners, 29 Wis.2d 330, 139 N.W.2d 61, 65. The quality of a crime involving grave infringement of the moral sentiment of the community as distinguished from statutory mala prohibita. People v. Ferguson, 55 Misc.2d 711, 286 N.Y.S.2d 976, 981. See also Turpitude.

orande solutionis causa /mərəndiy sol(y)úwshiyównəs kózə/. Lat. For the purpose of delaying or postponing payment or performance.

ora reprobatur in lege /mórə réprəbéydər in liyjiy/. Delay is reprobated in law.

oratorium /mòhratór(i)yəm/. A term designating suspension of all or of certain legal remedies against debtors, sometimes authorized by law during financial distress. A period of permissive or obligatory delay; specifically, a period during which an obligor has a legal right to delay meeting an obligation. State ex rel. Jensen Livestock Co. v. Hyslop, 111 Mont. 122, 107 P.2d 1088, 1092. Delay or postponement of an action or proceeding. See Injunction; Restraining order.

ore favorable terms clause. A provision in a labor-management contract by which the union agrees not to make more favorable agreements with other and competing employers.

ore or less. About; substantially; or approximately; implying that both parties assume the risk of any ordinary discrepancy. The words are intended to cover slight or unimportant inaccuracies in quantity. Carter v. Finch, 186 Ark. 954, 57 S.W.2d 408; and are ordinarily to be interpreted as taking care of unsubstantial differences or differences of small importance compared to the whole number of items transferred.

oreover. In addition thereto, also, furthermore, likewise, beyond this, besides this.

organatic-marriage. See Marriage.

organgina, or morgangiva /morgənjanə/ˈjavə/. A gift in the morning after the wedding; dowry; the husband's gift to his wife on the day after the wedding.

rgue /mórg/. A place where the bodies of persons found dead are kept for a limited time and exposed to view, to the end that their relatives or friends may identify them.

rmon. A member of the Church of Jesus Christ of Latter-day Saints. The Church was organized in 1830 at Seneca, New York, by Joseph Smith, and today its headquarters are in Salt Lake City, Utah.

rning loan. An unsecured loan to permit the borrower, generally a stockbroker, to carry on his business for the day.

Moron. A term indicating a mentally defective person usually having a mental age of eight to twelve years and an I.Q. of 50 to 70.

Morphinomania, or morphinism /mórfənəméyn(i)yə /mórfənizəm/. The opium habit. An excessive desire for morphia.

Morris Plan Company. An industrial bank which accepts money from the public for investment in investment certificates which draw interest periodically payable to the investor, and which bank lends money principally to steadily employed salaried people who are required to secure repayment with the endorsement of two other employed salaried people, the contract calling for installment payments over a one year period. Other secured loans are also made. Board of Com'rs of Tulsa County v. Remedial Finance Corporation, 186 Okl. 648, 100 P.2d 240, 242.

Mors /mórz/. Lat. Death. State v. Logan, 344 Mo. 351, 126 S.W.2d 256, 259.

Mors dicitur ultimum supplicium /mórz dísədər áltəməm səplísh(iy)əm/. Death is called the "last punishment," the "extremity of punishment."

Morsellum, or morsellus, terræ /morséləm téhriy /ˈləs/. In old English law, a small parcel or bit of land.

Mors omnia solvit /mórz ómniyə sólvət/. Death dissolves all things. Applied to the case of the death of a party to an action.

Mortal. Destructive to life; causing or occasioning death; exposing to or deserving death, especially spiritual death; deadly; fatal, as, a mortal wound, or mortal sin; of or pertaining to time of death.

Mortality. The relative incidence of death.

Mortality tables. A means of ascertaining the probable number of years any man or woman of a given age and of ordinary health will live. A mortality table expresses, on the basis of the group studied, the probability that, of a number of persons of equal expectations of life who are living at the beginning of any year, a certain number of deaths will occur within that year. National Life & Acc. Ins. Co. v. U. S., D.C.Tenn., 381 F.Supp. 1034, 1037.

Such tables are used by insurance companies to determine the premium to be charged for those in the respective age groups.

Mort civile /mór(t) saviyl/. In French law, civil death as upon conviction for felony. It was nominally abolished in 1854, but something very similar to it, in effect at least, still remains. Thus, the property of the condemned, possessed by him at the date of his conviction, goes and belongs to his successors (*heirs tiers*), as in case of an intestacy; and his future acquired property goes to the state by right of its prerogative (*par droit de déshérence*), but the state may, as a matter of grace, make it over in whole or in part to the widow and children.

Mort d'ancestor /mórt dènsəstər/. An ancient and now almost obsolete remedy in the English law. An assize of *mort d'ancestor* was a writ which lay for a person whose ancestor died seised of lands in fee

simple, and after h
this writ directed t
assize, who should
recognize whether
on the day of his d
were the next heir.

Mortgage /mórgəj/.
created by a written
the performance of

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absolute in its form
formance of some a
and the like, by the
to become void if
the terms prescrib
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The above defin
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estate. Zeigler v.
894, 896. It is a
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form of a conveya
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mortgage.

See also Assum
gage; Bulk mortg
mortgage; Corpor
trust); In rem m
lease (*Release of*
Submortgage; Ta
Union mortgage
see Bona fide.

Amortized mortg
pays the current
of principal in his

Blanket mortgage
creates a lien on
stantial portion
asset.

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contents thereof had been approved by three justices, or the majority of the grand jury at assizes or quarter sessions. No petition could be delivered by more than ten persons.

Tun. A measure of wine or oil, containing four hogsheads.

Tungreve /tə́ngriyv/. A town-reeve or bailiff.

Tunnage. A duty in England anciently due upon all wines imported, over and above the prisage and butlerage.

Turba /tə́rbə/. Lat. In the civil law, a multitude; a crowd or mob; a tumultuous assembly of persons. Said to consist of ten or fifteen, at the least.

Turbary /tə́rbəriy/. Turbary, or common of turbary, is the right or liberty of digging turf upon another man's ground.

Turf and twig. A piece of turf, or a twig or a bough, were delivered by the feoffer to the feoffee in making livery of seisin. 2 Bl.Comm. 315.

Turn, or tourn /tə́rn/. In English law, the great court leet of the county, as the old county court was the court-baron. Of this the sheriff was judge, and the court was incident to his office; wherefore it was called the "sheriff's tourn;" and it had its name originally from the sheriff making a turn of circuit about his shire, and holding this court in each respective hundred.

Turncoat witness. A witness whose testimony was expected to be favorable but who turns around and becomes an adverse witness.

Turned to a right. In English law, this phrase means that a person whose estate is divested by usurpation cannot expel the possessor by mere entry, but must have recourse to an action, either possessory or droitural.

Turning State's evidence. See **State's evidence.**

Turnkey. A person, under the superintendence of a jailer, who has the charge of the keys of the prison, for the purpose of opening and fastening the doors.

Turn-key contract. Term used in building trade to designate those contracts in which builder agrees to complete work of building and installation to point of readiness for occupancy. It ordinarily means that builder will complete work to certain specified point, such as building a complete house ready for occupancy as a dwelling, and that builder agrees to assume all risk. Gantt v. Van der Hoek, 251 S.C. 307, 162 S.E.2d 267, 270.

In oil drilling industry a job wherein driller of oil well undertakes to furnish everything and does all work required to complete well, place it on production, and turn it over ready to turn the key and start oil running into tanks. Retsal Drilling Co. v. Commissioner of Internal Revenue, C.C.A.Tex., 127 F.2d 355, 357. A turn-key contract to drill a well involves the testing of the formation contemplated by the parties and completion of a producing well or its abandonment as a dry hole, all done for an agreed-upon total consideration, putting the risk of rising costs, well trouble, weather, and the like upon the driller, but it does not, in the absence of a clear expression, require the driller to guarantee a producing well. Totah Drilling Co. v. Abraham, 64 N.M. 380, 328 P.2d 1083, 1091.

Turntable doctrine. Also termed "attractive nuisance" doctrine. This doctrine requires the owner of premises not to attract or lure children into unsuspected danger or great bodily harm, by keeping thereon attractive machinery or dangerous instrumentalities in an exposed and unguarded condition, and where injuries have been received by a child so enticed the entry is not regarded as unlawful, and does not necessarily preclude a recovery of damages; the attractiveness of the machine or structure amounting to an implied invitation to enter. It imposes a liability on a property owner for injuries to a child of tender years, resulting from something on his premises that can be operated by such a child and made dangerous by him, and which is attractive to him and calculated to induce him to use it, where he fails to protect the thing so that a child of tender years cannot be hurt by it.

Doctrine is that who maintains or creates upon his premises or upon the premises of another in any public place an instrumentality or condition which may reasonably be expected to attract children of tender years and to constitute a danger to them is under duty to take the precautions that a reasonably prudent person would take under similar circumstance, to prevent injury to such children. Schock v. Ringling Bros. and Barnum & Bailey Combined Shows, 5 Wash.2d 599, 105 P.2d 838, 843.

The dangerous and alluring qualities of a railroad turntable gave the "attractive nuisance rule" the name of "Turntable Doctrine." Louisville & N. R. Co. v. Vaughn, 292 Ky. 120, 166 S.W.2d 43, 46.

See also **Attractive nuisance doctrine.**

Turpis /tə́rpəs/. Lat. In the civil law, base; mean; vile; disgraceful; infamous; unlawful. Applied both to things and persons.

Turpis causa /tə́rpəs kɔ́zə/. A base cause; a vile or immoral consideration; a consideration which, on account of its immorality, is not allowed by law to be sufficient either to support a contract or found an action; *e.g.*, future illicit intercourse.

Turpis contractus /tə́rpəs kəntrǽktəs/. An immoral or iniquitous contract.

Turpis est pars quæ non convenit cum suo toto /tə́rpəs ɛ̀st pɑ́rz kwíy nɔ́n kənvíynət kə́m s(y)úwow tówdow/. The part which does not agree with its whole is of mean account [entitled to small or no consideration].

Turpitude /tə́rpət(y)ùwd/. In its ordinary sense, inherent baseness or vileness of principle or action; shameful wickedness; depravity. In its legal sense, everything done contrary to justice, honesty, modesty, or good morals. An action showing gross depravity. Traders & General Ins. Co. v. Russell, Tex.Civ. App., 99 S.W.2d 1079, 1084.

Moral turpitude. A term of frequent occurrence in statutes, especially those providing that a witness' conviction of a crime involving moral turpitude may be shown as tending to impeach his credibility. In general, it means neither more nor less than "turpi-

tude," *i.e.*, anything done contrary to justice, honesty, modesty, or good morals. It is also commonly defined as an act of baseness, vileness, or depravity in the private and social duties which a man owes to his fellow man or to society in general, contrary to the accepted and customary rule of right and duty between man and man.

Although a vague term, it implies something immoral in itself, regardless of its being punishable by law. Thus excluding unintentional wrong, or an improper act done without unlawful or improper intent. It is also said to be restricted to the gravest offenses, consisting of felonies, infamous crimes, and those that are *malum in se* and disclose a depraved mind. Bartos v. United States District Court for District of Nebraska, C.C.A.Neb., 19 F.2d 722, 724.

Turpitudo /tərpət(y)ûwdow/. Lat. Baseness; infamy; immorality; turpitude.

Tuta est custodia quæ sibimet creditur /t(y)ûwdə ěst kəstówd(i)yə kwiy sibaymet krědədər/ That guardianship is secure which is intrusted to itself alone.

Tutela /t(y)uwtiylə/. Lat. In the civil law, tutelage; that species of guardianship which continued to the age of puberty; the guardian being called "*tutor*," and the ward, "*pupillus*." A power given by the civil law over a free person to defend him when by reason of his age he is unable to defend himself. A child under the power of his father was not subject to tutelage, because not a free person, *caput liberum*.

Tutelæ actio /t(y)uwtiyliy æksh(iy)ow/. Lat. In the civil law, an action of tutelage; an action which lay for a ward or pupil, on the termination of tutelage, against the *tutor* or guardian, to compel an account.

Tutelage /t(y)ûwdəlaj/. Guardianship; state of being under a guardian. See Tutela.

Tutela legitima /t(y)uwtiylə lajidəmə/. Legal tutelage; tutelage created by act of law, as where none had been created by testament.

Tutelam reddere /t(y)uwtiyləm rědəriy/. Lat. In the civil law, to render an account of tutelage. *Tutelam reposcere*, to demand an account of tutelage.

Tutela testamentaria /t(y)utiylə tèstəmentěr(i)yə/. Testamentary tutelage or guardianship; that kind of tutelage which was created by will.

Tuteur. In French law, a kind of guardian.

Tuteur officieux. A person over fifty years of age may be appointed a tutor of this sort to a child over fifteen years of age, with the consent of the parents of such child, or, in their default, the *conseil de famille*. The duties which such a tutor becomes subject to are analogous to those in English law of a person who puts himself *in loco parentis* to any one.

Tuteur subrogé. The title of a second guardian appointed for an infant under guardianship. His functions are exercised in case the interests of the infant and his principal guardian conflict.

Tutius erratur ex parte mitiore /t(y)ûwsh(iy)əs ehrěvdər ěks pərdiy mishiyóriy/ It is safer to err on the gentler side [or on the side of mercy].

Tutius semper est errare acquietando, quam in punlendo, ex parte misericordiæ quam ex parte justitiæ /t(y)ûwsh(iy)əs sěmpər ěst ehrěriy əkwáyətěndow, kwæm in pyuwniyěndow, ěks pərdiy mizərəkórdiyiy kwæm ěks pərdiy jəstishiyiy/. It is always safer to err in acquitting than punishing, on the side of mercy than on the side of justice.

Tutor /t(y)ûwdər/. One who teaches, usually a private instructor. State ex rel. Veeder v. State Board of Education, 97 Mont. 121, 33 P.2d 516, 522.

In the civil law, this term corresponds nearly to "guardian" (*i.e.*, a person appointed to have the care of the person of a minor and the administration of his estate), except that the guardian of a minor who has passed a certain age is called "curator," and has powers and duties differing somewhat from those of a tutor.

Tutor alienus /t(y)ûwdər ěyliyiynəs/. In English law, the name given to a stranger who enters upon the lands of an infant within the age of fourteen, and takes the profits. He may be called to an account by the infant and be charged as guardian in socage.

Tutor proprius /tyûwdər prówpriyəs/. The name given in old English law to one who is rightly a guardian in socage, in contradistinction to a *tutor alienus*.

Tutorship. The office and power of a tutor. The power which an individual, *sui juris*, has to take care of the person of one who is unable to take care of himself. There are four sorts of tutorships: Tutorship by nature; tutorship by will; tutorship by the effect of the law; tutorship by the appointment of the judge. Civ. Code La. art. 247.

Tutorship by nature. Upon the death of either parent, the tutorship of minor children belongs of right to the other. Upon divorce or judicial separation from bed and board of parents, the tutorship of each minor child belongs of right to the parent under whose care he or she has been placed or to whose care he or she has been entrusted. All those cases are called tutorship by nature. Civ.Code La. art. 250.

Tutorship by will. The right of appointing a tutor, whether a relation or a stranger, belongs exclusively to the father or mother dying last. This is called "tutorship by will," because generally it is given by testament; but it may likewise be given by any declaration by the surviving father or mother, or the parent who is the curator of the other spouse, executed before a notary and two witnesses. Civ.Code La. art. 257.

Tutrix /t(y)ûwtriks/. A female tutor.

T.V.A. Tennessee Valley Authority.

Twa night gest /twûwnayt gěst/. In Saxon law, a guest on the second night. By the laws of Edward the Confessor it was provided that a man who lodged at an inn, or at the house of another, should be considered, on the first night of his being there, a stranger (*uncuth*); on the second night, a guest; on the third night, a member of the family. This had reference to the responsibility of the host or entertainer for offenses committed by the guest.

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RULES OF APPELLATE PROCEDURE OF THE STATE OF ALASKA

Rule 216. Expedited Appeals.

(a) Scope. This rule applies to the following classes of appeals, and supersedes the other appellate rules to the extent that they may be inconsistent with this rule:

(1) Extradition appeals;

(2) Juvenile waiver appeals;

(3) Peremptory challenge appeals.

(b) Definitions.

(1) An appeal from an order of the superior court granting or denying an application for a writ of habeas corpus filed under AS 12.70.090 by a person arrested on a governor's warrant under the Uniform Criminal Extradition Act, is an "extradition appeal." An appeal from any other final judgment of the superior court relating to the extradition of a person charged in this state or elsewhere with a crime is also an "extradition appeal," except that any appeal from a final judgment convicting a person of a crime is not an "extradition appeal."

(2) A "juvenile waiver appeal" is an appeal from an order under AS 47.10.060(a) finding that a minor is not amenable to treatment under AS 47.10.

(3) A "peremptory challenge appeal" is an appeal by a criminal defendant from an order denying the defendant's motion for change of judge under Criminal Rule 25(d).

(c) Jurisdictional Limitation. This rule does not permit an appeal to be taken in any circumstances in which an appeal would not be permitted by Rule 202.

(d) Notice of Appeal. The notice of appeal in an appeal under this rule shall be filed with the clerk of the court which entered the order or judgment being appealed, within ten days after entry of the order or judgment.

The notice shall identify the appeal as an appeal under this rule, but the court of appeals will apply this rule to cases within its scope whether they are so identified or not.

(e) Forwarding Notice of Appeal. Immediately upon the filing of a notice of appeal in an appeal under this rule, the clerk of the trial courts shall notify the parties and the clerk of the appellate courts in the manner provided in Rule 204(b).

(f) Record on Appeal. The appellant shall not designate a record on appeal. The entire superior court file shall serve as

the record on appeal, together with a cassette tape recording of any hearing held in superior court if deemed necessary by the court of appeals. Promptly upon the filing of the appellee's memorandum, the clerk of the trial courts shall transmit the original and copies of the record on appeal to the clerk of the appellate courts in the same manner as for other appeals.

(g) Memoranda on Appeal.

(1) Within 10 days after filing a notice of appeal in an appeal under this rule, the appellant shall file with the court of appeals the original of a typewritten memorandum in support of the appeal together with proof of service on all other parties.

(2) Within 10 days after service of the appellant's memorandum, the appellee may file with the court of appeals the original of a typewritten memorandum in opposition to the appeal.

(3) No reply memorandum may be filed unless ordered by the court.

(4) The memoranda need not comply with the requirements of Rule 212 unless ordered by the court of appeals.

(5) The clerk of the appellate courts shall forthwith duplicate copies of the memoranda for use of the court.

(h) Disposition of Appeals. Appeals under this rule will be disposed of expeditiously by the court of appeals on the record and memoranda. Oral argument may be granted in the court's discretion. (Supreme Court Order 439 effective Nobember 15, 1980)

THE SUPREME COURT OF THE STATE OF ALASKA

ORDER NO. 439

Revising the Rules of Appellate Procedure to reflect the organization of the Court of Appeals

IT IS ORDERED:

1. The Rules of Appellate Procedure of the State of Alaska, and all amendments thereto, are rescinded.

2. Supreme Court Order No. 14, and all amendments and revisions to that order are rescinded.

3. The attached rules, numbered 101 through 611, are adopted as the Rules of Appellate Procedure.

4. The Rules of Appellate Procedure adopted by this order apply to cases and proceedings filed in the Supreme Court or the Court of Appeals on or after the effective date of this order. They also apply on and after that date to cases and proceedings filed before that date, except to the extent that their application would not be feasible, or would work injustice, in which case the rules rescinded by this order apply, notwithstanding their rescission.

DATED: October 21, 1980

EFFECTIVE DATE: November 15, 1980

Jay A. Rabinowitz
Chief Justice

Roger H. Connor
Justice

Edmond W. Burke
Justice

Justice

Justice

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