

S B

164

SENATE AMENDMENT

By LABOR AND COMMERCE

To: AMEND SENATE BILL No. CSSB 164 (HESS)

To: HOUSE BILL No.

PAGE: 1 LINE: 8

AFTER "Board" and BEFORE "."
INSERT "; and providing for an effective date"

PAGE: 9 Line: 26-28

DELETE "Evidence that the defendant has failed to file a license
with the clerk of the court is prima facie evidence that
the defendant is not licensed."

PAGE: 10 After Line: 17

ADD a new section to read:
"Sec. 20. This Act takes effect immediately in accordance
with AS 01.10.070(c)."

POSITION PAPER
STATE MEDICAL BOARD

The Department of Commerce and Economic Development supports continuation of the State Medical Board.

The board has continued to function in the interest of protecting the public by licensing and regulating the practice of medicine, osteopathy, acupuncture by physicians, podiatrists, physician assistants and paramedics.

The board has continually strived to have legislation introduced and placed into law defining the practice of medicine. They have continued to work with the Board of Nursing, Board of Pharmacy and State agencies for the interest of the public and profession.

As evidenced by the Legislative Audit report, after being made aware of audit concerns and recommendations in 1978/1979, efforts were made to eliminate problems. They were successful in addressing the problem areas and taking appropriate action. The failure of having legislation passed was beyond their control, and was not because the board lacked interest.

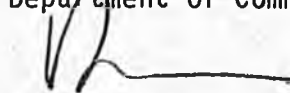
The department's position on Section 1, AS 01.01.050(c)(1) to (3) is supportive if Section 13 (page 4, line 26), AS 08.64.315 is also approved. The revenue generated by the licensing fees, although placed in the General Fund, would offset the State expenditure for the investigative position.

This position should be for all health care related investigations.

The Medical Board should be continued



Harry D. Treager, Director
Division of Occupational Licensing
Department of Commerce & Economic Development



4/13/83

Richard A. Lyon, Commissioner

STATE OF ALASKA
FISCAL NOTE

Revision Date 4/7, 1983

I. REQUEST

Bill/Resolution No.: CSSB 164
 Title: "AN Act relating to medical practice"
 Sponsor: H.E.S.S. Committee
 Requestor: Labor & Commerce Committee

II. FISCAL DETAIL

Agency Affected: Commerce & Econ. Dev.
 Program Category Affected: Public Prot.
 BRU, Program of Subprogram(s) Affected: Occupational Licensing

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES		48.8	51.4	55.0	58.8	63.0
200 TRAVEL		7.2	7.7	8.2	8.8	9.4
300 CONTRACTUAL		13.0	13.9	14.9	15.9	17.0
400 COMMODITIES		.4	.4	.5	.5	.5
500 EQUIPMENT		3.4	-0-	-0-	-0-	-0-
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING		72.9	73.0	78.6	84.0	89.9
CAPITAL						
REVENUE		549.0	17.6	17.6	17.6	549.0

FUNDING: (Thousands of Dollars)

GENERAL FUND		72.9	73.0	78.6	84.0	89.9
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME		1	1	1	1	1
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

Not identified by the sponsor

IV. ANALYSIS: Attach separate page for any Analysis

Prepared By: Darrell Miller
 Division: Occupational Licensing
 Approved by Commissioner: Richard A. Lyon
 Department: Commerce & Economic Development

Phone: 465-2535
 Date: April 7, 1983
 Date: 4/8/83

Distribution:

Original to Legislative Finance
 Copy to Office of Management and Budget (for Legislature introduced bills)
 Copy to Department (for Governor introduced bills)
 Copy to Sponsor
 Copy to Requestor (if different from Sponsor)

3/8/83

CSSB 164 FISCAL IMPACT: Medical Practice Act.

(NOTE: 7% inflation factor projected for FY '85 through FY '88 for operating costs)

100 PERSONAL SERVICES - FY '83 Salary Schedule

1 Investigator, Range 18A, General Government,
12 months, to be located in Anchorage \$48,755.00

200 TRAVEL

4 board meetings annually (2 days each @ \$80.00/day per diem = \$160.00 x 4)	\$ 640.00
Transportation - board meetings annually (\$350.00/each x 4)	1,400.00
Investigative travel - 5 days per month (@ \$80.00/day per diem x 5 x 12)	4,800.00
Transportation - 1.5 trips per month (@ \$350.00/each x 12)	4,200.00
	<u>\$ 7,240.00</u>

300 CONTRACTUAL

Postage, telephone, printing, publication and operating cost	\$ 3,000.00
Computer terminal use, prorated share (@ \$350.00/mo x 12)	4,200.00
1 lease vehicle with maintenance for investigator use (\$385.00/mo x 12)	4,620.00
Fuel, \$100.00/mo x 12	1,200.00
	<u>\$13,020.00</u>

400 COMMODITIES

Stationery, typewriter ribbons, pens, pencils, and other miscellaneous desk top supplies	\$ 400.00
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500 EQUIPMENT (One time cost FY '84 only)

1 desk, double pedestal, 60" x 30"	\$ 427.00
1 chair, executive swivel w/arms	202.00
1 typewriter, IBM Selectric II	1,129.00
1 typewriter table	94.00
1 chair, side, without arms	104.00
1 desk calculator	332.00
1 recorder, Lanier	705.00
1 book case	138.00
1 file cabinet, 4 drawer, legal w/lock	306.00
	<u>\$ 3,437.00</u>

One position total:	<u>\$72,852.00</u>
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CSSB 164 ASSUMPTIONS: Medical Practices Act

This bill increases the licensing fees for the medical profession a substantial amount and would impact revenues generated in FY '84 and FY '85 as follows:

FY '84

709 active license renewals, January 1, 1985 @ \$600.00 each	\$425,400.00
535 inactive license renewals, January 1, 1985 @ \$200.00 each	107,000.00
Average 5 new applications @ \$50.00 each (annually)	250.00
Average 3 new licenses by examination @ \$200.00 each (annually)	600.00
Average 2 new licenses by reexamination @ \$150.00 each (annually)	300.00
Average 79 Locum Tenens permits @ \$50.00 each (annually)	3,950.00
Average 78 temporary permits @ \$50.00 each (annually)	3,900.00
Average 43 license by credentials (½ FY '84) @ \$200.00 each	8,600.00
Total projected FY '84 revenue from licensing	<u>\$549,000.00</u>

FY '85

Average 5 new applications @ \$50.00 each (annually)	\$ 250.00
Average 3 new licenses by examination @ \$200.00 each (annually)	600.00
Average 2 new licenses by reexamination @ \$150.00 each (annually)	300.00
Average 79 Locum Tenens permits @ \$50.00 each (annually)	3,950.00
Average 78 temporary permits @ \$50.00 each (annually)	3,900.00
Average 43 license by credentials (½ FY '85) @ \$200.00 each	8,600.00
Total projected FY '85 revenue from licensing	<u>17,600.00</u>

Projected revenue for subsequent years would be impacted as this bill establishes the license renewal from biennial to every four years.

1.	POSITION TITLE Investigator III				RANGE/STEP 18A	BARG. UNIT G	FORM 12 PAGE/LINE	GOV.	APPROV.	DISAPP.	
2.	TYPE OF POSITION IPP	STAFF MONTHS 12	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION EBA	ELECTION DISTRICT All	LEG.			
3.	CONTINUATION LEVEL				ADDITION		JUSTIFICATION				
4.	TYPE OF EXPENDITURE			AMOUNT							
	1		2		3						
	PERSONAL SERVICES										
5.	Salary		34.1								
6.	Benefits		5.3								
7.	Supplemental Benefits		2.1								
8.	Fixed Benefits		2.9								
9.	TOTAL PERSONAL SERVICES		01		44.4						
10.	Travel		02		7.2						
11.	Contractual		03		13.0						
12.	Commodities		04		0.4						
13.	Equipment		05		3.4						
14.	Other				---						
15.	TOTAL COST				68.4						
JUSTIFICATION											
This position is required under Senate Bill No. 164, "An Act relating to professional licensing and to the regulation of the practice of medicine. (Section 1, AS 08.01.050(c) to conduct investigations into alleged violations of AS 08.84, and into alleged violations of regulations and orders of the State Medical Board)											
	RECEIPT CODE	FUNDING SOURCE									
16.		Federal Receipts 1002									
17.		G.F. Match 1003									
18.		General Funds 1004		68.4							
19.		I-A Receipts 1005									
20.		Program Receipts 1028									
21.		Other									
FOR I&M USE ONLY											
4A KEY NUMBER											

13 REQUEST FOR
NEW POSITION

AGENCY Commerce and Economic Development
PROGRAM Consumer Protection
BRU Occupational Licensing
COMPONENT Investigations

FY 84

Page of
Revised Date

SB 164 TITLE & SPONSOR SUMMARY

16:14 6/04/84 PAGE 1 OF 2

AMENDED TITLE:

AN ACT RELATING TO PROFESSIONAL LICENSING AND TO THE REGULATION OF THE PRACTICE OF MEDICINE, AND EXTENDING THE TERMINATION DATE OF THE STATE MEDICAL BOARD

PRIME SPONSOR: JOSEPHSON.

CO-SPONSORS:

CURRENT STATUS: 6/09/83 IN (S) RULES

SB 164 SENATE ACTION

16:14 6/04/84 PAGE 2 OF 2

DATE	SEQ	PAGE	LEGISLATIVE ACTION
03/08/83	01	0339	FIRST READING -- COMMITTEE REPORTS
04/05/83	02	0579	HESS -- CS03, NR01
04/13/83	03	0681	L&C -- CS02, NR01
04/13/83	04	0681	L&C F/NOTE SEN SUPPL #17
06/09/83	05	1254	MOVED FROM FIN TO RLS BY UNAN CONSENT RULES
****	**	**	*** ** *

COMMITTEE REPORT

SENATE

FURTHER:

4/5/83

Date: 4/12/83

Mr. President:

The Committee on Labor & Commerce has had SB 164

Relating to professional licensing and to the regulation of the practice of medicine, and extending the jurisdiction of the State Medical Board

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

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

MEMBERS SIGNING DO PASS

[Handwritten signatures]

MEMBERS HAVING OTHER RECOMMENDATIONS:

[Blank lines for other recommendations]

[Handwritten signature] CHAIRMAN

SB 164 - RELATING TO THE PRACTICE OF MEDICINE; EXTENDS THE STATE MEDICAL BOARD

- SECTION 1 Permits the employment of an investigator by the Board, and lists the duties of the investigator. (This is in response to audit findings that there is a significant lag in investigations of physicians reported to the board).
- SECTION 2 Extends the life of the Board until 1987
- SECTION 3 Amends current law to specify that the physicians appointed to the Board must be licensed in the state, and represent different geographical areas.
- SECTION 4 Amends current law to limit successive terms to two, and clarifies the language on staggered terms.
- SECTION 5 Allows the Board the authority to remove a member for not attending Board meetings.
- SECTION 6 Amends current law to require a minimum of four meetings a year. Current law has no requirements for meetings.
- SECTION 7 Amends current law to list duties of the Board, there are no duties listed at this time.
- SECTION 8 Amends current law by adding a new subsection (a) (4) to exempt those licensed under another chapter of state law from the requirements of this chapter.
- SECTION 9 In response to audit findings, specifies the reasons to refuse licensure to an applicant. The particular wording that was found offensive was the reference to "morally..unfit".
- SECTION 10 Amends current law by changing references to "endorsement" to "credentials" and includes podiatrists in the chapter.
- SECTION 11 Amends the temporary permit section, which includes physician assistants and osteopaths, to also cover podiatrists.
- SECTION 12 Changes license renewal from 2 years to 4 years.
- SECTION 13 Changes fee amounts listed in statute.
- SECTION 14 Amends current law to specify the grounds for disciplinary action.
- SECTION 15 List the disciplinary sanctions available to the Board.
- SECTION 16 Amends current law, which requires physicians to report another physician they feel imposes a danger to the patient, to include required reporting by a hospital of any physician whose hospital privileges have been restricted or refused.

- SECTION 17 Amends current law concerning practicing without a license by exempting persons licensed under another chapter of state law, and finds this punishable as a class B misdemeanor.
- SECTION 18 More clearly defines the practice of medicine and osteopathy in current law.
- SECTION 19 Repeals the following:
- AS 08.64.030 - SUBSTITUTION OF MEMBERS AT MEETINGS OF THE BOARD

 - AS 08.64.140 - ANNUAL REPORT TO THE GOVERNOR

 - AS 08.64.200(1) - eliminates "good moral character" from the qualifications of a physician assistant.

 - AS 08.64.325 - LIMITS OR CONDITIONS ON LICENSE;DISCIPLINE

 - AS 08.64.330 - GROUNDS FOR REVOCATION OF LICENSE

 - AS 08.64.380(3) - Eliminates "unprofessional or dishonorable conduct" from the definition section.

SSHB 173

"An Act making a special appropriation to the Department of Transportation for turn lanes and signs at the access to the Weller Elementary School in Fairbanks; and providing for an effective date."

was read the first time and referred to the Transportation and Finance Committees.

HB 230

HOUSE BILL NO. 230 by the Rules Committee by Request of the Governor, entitled:

"An Act relating to licensing and regulation of the practice of medicine."

was read the first time and referred to the Health, Education & Social Services and Labor & Commerce Committees.

A zero fiscal note accompanied the bill.

The Governor's message, dated February 28, 1983, follows:

"Dear Mr. Speaker:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to licensing for and regulation of the practice of medicine. The bill would revise and clarify the statutes relating to licensing for the practice of medicine, and the powers and duties of the State Medical Board. The bill also would clarify the grounds for disciplinary action by the board and the types of disciplinary action which it may take.

Further, the bill would revise the definition of the practice of medicine to include more modern views of what constitutes medical practice. The new language also expands the definition of the practice of medicine to encompass types of activity not clearly regulated under existing law, including the treatment of a person who does not clearly fall within the definition of a person who is 'sick or injured.'

Sincerely,

s/ Bill Sheffield
Bill Sheffield
Governor"

Re: Funds for Investigator

Revenue currently generated every two years.

$$\begin{array}{r} 85.0 \\ 28.6 \\ \hline 113.6 \end{array}$$

(in thousands)

$$\begin{array}{r} 113.6 \\ 113.6 \\ \hline 227.2 \end{array}$$

revenue
~~staying~~
every
4 yrs

Revenue proposed - every four years

$$\begin{array}{r} 549.0 \\ 17.6 \\ 17.6 \\ 17.6 \\ \hline 601.8 \end{array}$$

~~Revenue~~ Revenue difference between proposals

$$\begin{array}{r} 601.8 \\ 227.2 \\ \hline 374.6 \end{array} \text{ for every four years}$$

$$4 \overline{)374.6} = 93.65 \text{ for each year}$$

(in thousands)

COMMENTS ABOUT SB164

Jeffrey A. Partnow, MD
Alaska State Medical Board

I. Improvements in the Medical Practice Act

A. Four (4) meetings annually mandated by law {08.64.085}-- this should make the Medical Board immune to the occasional budgetary williwaws of the Division of Occupational Licensing.

B. Grounds for license denial are made more specific (and less ambiguous) {08.64.240} and initial licensure can be denied on the basis of actions which would result in discipline to a license holder. This should result in substantial savings to the State by avoidance of extensive pro forma hearings. Further, it is simpler (and much less expensive) to deny initial licensure to an unfit candidate than it is to revoke a license which has already been granted.

C. Language is altered to specifically include Podiatrists, whose regulation is statutorily under the Medical Board. {AS 08.64.250, etc.}.

D. Grounds for imposition of disciplinary sanctions are clarified and are much more specific than in the current version of the Law. The replacement of {08.64.330} by {08.64.326} is crucially important to effective investigative and disciplinary efforts. Currently, the only specific grounds for discipline ("unprofessional conduct" and "professional incompetence") are sufficiently vague that they pose potential legal problems in the Court proceedings which seem to follow disciplinary decisions as surely as summer follows spring.

E. The Physician's license can be conditioned on the basis of substandard care rendered by some one working under his supervision {08.64.326(6)}. The Medical Board feels that this is necessary, given the proliferation of non-MD health providers who work in collaboration with, or under the supervision of physicians.

F. The Medical Board is given statutory authority to discipline a license holder on the basis suspension or revocation in another state {08.64.326(a)(13) and (b)}, {08.64.331(e)}. Further, the proceedings in the other state are elevated to evidentiary status (the lawyers tell me). Once again, this should result in significant savings, since this type of hearing could be streamlined.

G. Disciplinary sanctions are spelled out more clearly than in the current Law {08.64.331}.

H. Emergency summary suspension powers are provided {08.64.331(c)} for public protection in the case of licensees who "pose a clear and immediate danger to the public health and safety." The rights of the licensee are specifically protected by (1) expedited hearing and

(2) judicial recourse.

I. Hospitals are required to report significant restrictions of hospital privileges to the Medical Board {08.64.336(b)} and the Medical Board may act on such reports. Currently, there is no such requirement, and a seriously impaired licensee could conceivably not come to the attention of the Medical Board until after a good deal of preventable pain and suffering had taken place.

J. The definition of "practice of medicine" is made much more specific {08.64.380(2)}.

II. Need for an Investigator

Under AS 08.64, the Alaska State Medical Board is required to license Physicians, Osteopaths, Podiatrists, and Mobile Intensive Care Paramedics. The Medical Board also authorizes the practice of Physician Assistants, and is jointly responsible (with the Alaska Board of Nursing) for the "delegated medical" acts of Advanced Nurse Practitioners. In addition to license-granting activities, the Medical Board must also insure the continuing competence of those professionals which it regulates and licenses. Finally, the Medical Board must also carry out investigations dealing with continuing competence, license violations, regulatory compliance, and with the qualifications of applicants.

The Medical Board is comprised of five licensed physicians and two "lay members", persons with no particular connection to the field of medicine. The Board has neither the expertise nor the time to carry out its own investigations. For this function, it relies on the investigative staff of the Division of Occupational Licensing. Due to the often highly technical nature of these investigations, as well as the importance of strict confidentiality to protect the rights of licensees, the Medical Board feels that special expertise in the area of medical investigation is needed. We feel that there is a significant difference in the skills required to investigate a physician who may be impaired in certain areas of his practice as opposed to, say, a hairdresser who is over-charging, or a concert promoter who advertizes in a misleading fashion.

The Division of Occupational Licensing does not currently have an investigator with specific training in medical investigations. Further, the investigative branch has been unable to conduct investigations of medical cases in a coordinated fashion and has been unwilling to avail itself of the special expertise of the Medical Board physician members in this highly technical field where professional expertise is essential. No new cases of substance have been pursued in over two years. Abysmally, at least one extremely serious case has lain fallow to the point where investigation at this point would be a pointless exercise in ancient historical reconstruction. The Medical Board has no idea of how many potential cases may have been ignored or closed due to investigative lack of knowledge, motivation, or, perhaps fear of one "getting in over one's head" in a strange and technical area.

The Medical Board feels strongly that a Medical license in the State of Alaska should stand for something in the eye of the Public. We feel that our investigative efforts have been suboptimal due to lack of predictably good investigative support. We feel that the establishment of an Investigator responsible to the Medical Board would be a major step in the direction of rectifying our investigative shortcomings. Thus, the Medical Board strongly supports the establishment of the Investigator position outlined in SB164.

III. Need for an Executive Officer

I mentioned earlier that the Medical Board consists of five licensed physicians and two public members. All are employed in full time occupations and they are scattered throughout the State, getting together three or four times annually for Medical Board meetings. There is usually a moderate amount of work to be done between meetings and periodically questions arise that require Board opinions or actions. Frequently, the Legislature or another group desires input from the Medical Board concerning proposed legislation or other issues. Often license applicants or licensees have questions which the clerk at the Division of Occupational Licensing (called the "license examiner") is either incapable of answering or unqualified to answer. Board correspondence must be carried out; frequently this is of a non-routine nature, requiring a distillation of Medical Board opinion or a synopsis of the Medical's Board position on a certain matter.

The Division of Occupational Licensing within the Department of Commerce and Economic Development is by Statute (ASOB.01.050) required to provide administrative support to the Medical Board. This function is generally well performed. However, the Division of Occupational Licensing does not have the manpower nor the type of individual necessary to do the job which the Medical Board needs to have done. Moreover, even if this type of support could be provided, periodic changes within the Division of Occupational Licensing would result in a re-interpretation of the support with each change in leadership. Although the current Division of Occupational Licensing (under Mr. Treager) has been most supportive, one of his forerunners as Director once had a meeting in which she felt compelled to remind all of the Division's license examiners that they worked for the Division of Occupational Licensing, not "those Boards". It is difficult to imagine much of the Medical Board's more sensitive work getting handled in such an atmosphere. Who knows what the next Director will be like?

The position of executive officer has already been well-established in non-medical areas (Real Estate Commission) and the Board of Nursing has been much more effective, active, and directed since obtaining a competent executive officer.

The Medical Board strongly believes that the time has come to create a position of executive officer. In addition to the problems

outlined above, the new responsibilities of monitoring continuing medical education, the responsibility entailed in new regulations dealing with non-MD health care providers, and (hopefully) a larger investigative effort will insure that such a position will be a full one. I believe that the absence of such support will ultimately result in a Medical Board which is unable or unwilling to tackle big or complex problems. Worse, the time may soon come when even routine tasks become overwhelming.

The Legislature requires the Alaska State Medical Board to oversee and regulate the practice of medicine in AS08.64. I believe that the Medical Board cannot do what the Legislature has empowered it to do for much longer without more high-level staff support. If the Public is to have meaningful medical licensure, the executive position is crucial. Can you imagine a Legislative Committee attempting to transact its business with only clerical staff? Medical licensing in Alaska has become too large and complicated to rely solely on the part-time efforts of dedicated Board Members and over-worked (and under-qualified) clerks.

IV. Other considerations

A. Cost. The Medical Board generates certain revenues that devolve to the General Fund. These are produced through license fees for permanent, temporary, and locum tenens permits. While the Medical Board budget is not contingent upon these fees, it is comforting to note in these relatively restrained financial times that the revenues produced exceed those required to fund the executive officer and investigator positions. Mr Treager, Director of the Division of Occupational Licensing, can provide reasonable approximations of both revenues and proposed expenses.

B. Fees. The fees proposed in SB164 were originally suggested by the House Labor And Commerce Committee 3 or 4 years ago. While the Medical Board has no particular vested interest in the numbers proposed, we feel that it is reasonable for the regulated professions to bear the cost of their own regulation through license fees.

It should be noted that the fee increase which is proposed is less drastic than it would first appear, since the Bill changes the license renewal interval from that in the current law: instead of renewal every two years, the Bill proposes renewal every four years. Thus, the cost of a valid medical license rises from \$100 per year to \$150 annually. Considering that the fees have not risen since 1969, the current proposed increase probably doesn't even keep pace with the general increase in the cost of living over the past 14 years. Furthermore, the change to renewal every four years should result in significant savings to the Division of Occupational Licensing.

C. Philosophy. The Medical Board has sponsored legislation similar to SB164 for the past several years. We feel that the provisions of this Bill, with the addition of the executive officer position, will enable us to pursue more realistically our Legislative mandate to

regulate Medical Licensure in Alaska. The bill provides the Medical Board with a more workable statute than currently exists. It should save the State a good deal of money in investigation and hearing fees, as well as decreasing the cost to the State of license renewals. It provides for adequate staffing (if amended to include the executive position) for the Medical Board to carry out its business fairly, comprehensively, and cohesively. In years past, the contents of the Bill have met with no particular criticism; rather, it has simply languished and died for lack of interest. In the words of one of last year's Senate Aides, "It was a good Bill, it just wasn't sexy enough to pass."

I agree that there is nothing particularly exciting about the subject of adequate support of Medical Licensure-- until we, our families, or our constituents need medical services. Then, suddenly, the level of competence which a medical license is supposed to assure becomes a matter of crucial, perhaps vital, importance. The Medical Board believes in the necessity of an adequate licensing function for the protection of the Public safety and well-being. We urge that you favorably report out SB164, that you amend it to include the executive officer position, and that you lend it your active support in the full Senate.

1919 Lathrop st.
Drawer 2
Fairbanks, Alaska 99701
March 10, 1983

Rep. Mike Davis
State Capitol
Pouch V
Juneau, Alaska 99811

Dear Mike:

I am writing you regarding HB230, "An Act relating to licensing and regulation of the practice of medicine." I suspect that you remember much of the Bill from your time working with former Rep. Brian Rogers.

The Bill was essentially written by the Alaska State Medical Board 4 years ago as a remedy for statutory inadequacies in AS 08.64, the Medical Practice Act. As I have related to you in the past, the Bill provides for an improved definition of the practice of medicine, allows for emergency "summary suspension" powers (while maintaining due process), gives statutory authority for denial of licensure on the basis of disciplinary proceedings held in other states, and performs several "house cleaning" functions.

The Board feels that the passage of this Bill is essential for continued meaningful Board operation, and, hence, for consumer protection. We solicit your support for the Bill as a member of the House HESS Committee, and hope that you could be able to support it before the full House as well.

The Bill has, I believe, suffered in the past from what Sandra Stringer referred to as a "lack of sexiness"--rather than passing because it was good and non-controversial, it has languished for precisely those reasons. Hopefully, the current Session will prove more responsive (glad I didn't say "responsible") than the last two.

I would like to correct a mis-representation in the Governor's letter of support accompanying the Bill. It is true that the highly controversial language dealing with midwives has been removed from the current version of the Bill. This modification was made last Session by the Senate HESS Committee on the Bill's fore-runner (it was called SB 237 then). The Board felt that the remainder of the proposed legislation was so important that the controversy surrounding midwifery was best left for some other time and, therefore, agreed with the deletion. However, it is not true that the bill is otherwise "substantially unchanged" from the old SB237. A check of SB 237 will reveal that provisions were made for an Executive Officer for the Board as well as an Investigator responsible to the Board. All reference to these positions was omitted in the current HB 230. Inasmuch as the Board feels that such administrative support is crucial to a meaningful effort at medical licensing and discipline, we would contend that the omission of such support from HB 230 represents a significant departure from the language and intent of the old SB 237.

The Board strongly urges that these positions be re-instated in HB 230. We have been severely handicapped in terms of investigative abilities, in at least one instance being unable to pursue a case with near-fatal consequences, by lack of investigative manpower, commitment and talent. Further, lack of executive support has resulted in our inability to follow through on various projects in the regulatory, administrative, and fact-finding arenas. As Board Chairman for 3 1/2 years, I have been constantly amazed by the dedication and perseverance of the public and professional members of the Board, and I feel proud of what has been accomplished. But I feel that the area of medical licensing is too important to be a part-time avocation which depends solely on the dedication of a group of people who, after all, still have to work 12 hours or more daily, and who are not necessarily selected on the basis of administrative, political or clerical expertise. The Board of Real Estate Examiners (to name one) already has such support, and even the Board of Nursing has an executive officer. The image of Alaska as a state which cares more for the policing of Realtors than for the medical care its citizens might receive is incredulous, if not downright laughable. If the State wishes to maintain high quality medical care for its people, give us the resources with which to accomplish the goal.

I certainly appreciate any consideration which you are able to give to these matters. I am, as always, more than willing to provide any information that you might desire, and I'd be pleased to testify, answer questions, give opinions, or do anything else that would further the cause.

Sincerely yours,

Jeffrey A. Partnow, MD
Alaska State Medical Board

1919 Lathrop St.
Drawer 2
Fairbanks, Alaska 99701
March 28, 1983

Sen. Joe P. Josephson
Alaska State Senate
Pouch V
Juneau, Alaska 99811

Dear Sen. Josephson:

I would like to thank you and the members of the Senate HESS Committee personally and on behalf of the State Medical Board for the chance to testify before the Committee today concerning SB164.

To restate our position, the Board is very much in favor of the Bill. We feel that the proposed changes in the definition of the practice of medicine, as well as the streamlining of investigative and disciplinary activities are essential to the Board's ability to function in the Public Interest. We feel that we need more control over our investigative functions in order to handle cases in a more timely fashion and to insure that important cases are not neglected; SB164 guarantees this through its provision of an investigator who is responsible to the Board.

As I indicated in my testimony, the Board is also strongly in favor of the establishment of an Executive Officer for the Board, and would very much like to see provision for this added to the current Bill. We feel that the absence of such a position has hampered Board function up till now. We feel that the Board will have increased administrative activities resulting from legislatively-mandated Regulation of Continuing Medical Education (CME), Physician Assistants, Mobile Intensive Care Paramedics, Advanced Nurse Practitioners, and (hopefully) a heavier investigative load. The end result of these increases will, I believe, tax the limited administrative abilities of the Board Members beyond the coping point. The work of "keeping the ball rolling" between meetings is already substantial and is made even more difficult by periodic changes in Board membership and Board officers as well as by periodic changes in Licensing Examiners and others within the Division of Occupational Licensing and the Department of Commerce. The efforts required to track proposed legislation and to testify concerning the Board's position on numerous bills related to the medical field are already beyond those which can be reasonably expected of volunteer Board Members in their spare time. Yet, I believe, the Public has a right to expect such services from the Board, and the Board would dearly like to have the ability to provide them. We feel that the presence of an Executive Officer would go far toward relieving these frustrations. In some of its administrative and quasi-judicial functions, the Board is like a legislative committee, and it is difficult to envision such a committee functioning smoothly without dedicated staff support.

I am encouraged by Sen. Halford's calculations indicating that Board Revenues would cover the expenses of establishing the two positions. If that were not the case, I would favor increasing License fees further: I believe that it is in the Public Interest to insure that a Medical

License indicates that adequate and on-going quality assurance is performed and I feel that it is consistent with both Public Interest and the interests of the Profession that license fees pay the costs of providing such assurance. By the way, Board revenues are actually substantially greater than was indicated at the Hearing. In addition to funds obtained from MD licensing, there are also significant revenues gathered from issuance of various temporary and locum tenens permits to MDs. Further income is provided by fees collected in connection with issuing permits for Physician Assistants and Paramedics. Mr. Treager, the Director of the Division of Occupational Licensing, can, I am sure, provide you with exact figures.

Finally, I would like to let you know that a bill similar to SB164 is currently wending its way through the House. It is called HB230, and it has been discussed extensively by Board representatives (myself and Richard Monkman, the Assistant A.G. from the Anchorage Office who deals with Occupational Licensing cases) before the House Labor and Commerce Committee chaired by Rep. Furnace. Hopefully, the awareness of the Bill in each Chamber by members of the other Chamber will facilitate the ultimate passage of relevant Medical Board legislation.

Again, sincere thanks for the chance to testify on SB164, and special thanks to Nancy in your office for making the teleconference arrangements. I am most appreciative.

Please feel free to contact me or any member of the Board for any further information that you feel would be helpful to you.

Yours truly,

Jeffrey A. Partnow, MD
Alaska State Medical Board

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April 8, 1983

Senator Richard Eliason, Chairman
Labor and Commerce Committee
Alaska State Senate
Pouch V
Juneau, Alaska 99811

Dear Senator Eliason:

I am writing in regard to Senate Bill Number 164, relating to professional licensing and the regulation of the practice of medicine. I am presently a member of the Alaska State Medical Board.

First of all, I would like to thank the committee for introducing the legislation in question. It is a vast improvement over present statutes and gives us some of the tools that we need to get on with the job of regulating the practice of medicine and insuring that the medical care offered to residents of the state is at a level of acceptable competence. The decision to give the Medical Board authority to impose summary suspensions in certain severe cases is something that we have needed for some period of time. We certainly intend to use this very sparingly, but in certain egregious situations it certainly is reassuring to know that we have the wherewithal to protect the public in emergency situations. As things now stand, we have to go through an enormously long and complicated process. In a case with which we are dealing at the present time, we have been involved in the process for some two years, while the individual involved has managed to continue practicing very questionable and dangerous medicine.

I do have specific comments on two areas in the proposed legislation that I would like to see changed. It has been the feeling of the Medical Board that, in addition to an investigator, we very much need an executive director for the Medical Board, as the amount of business that is being carried out by the Medical Board has increased substantially over the last couple of years. We are dealing with many more applications than we did in the past. Unfortunately an increasing proportion of the applications that we are getting are very questionable and seem to be coming from people who have had licensing troubles in the past in other states. I am afraid that a lot of people down south have gotten the idea that this is the wide open frontier as far as competence is concerned, and we are starting to get the feeling that people may regard this as the final resting place for the worst people in the world as far as medical care is

concerned. We certainly do not wish to see anything like this occur, and we wish to scrutinize license applications most closely. To do this, we need some help, and it was felt strongly that an executive director would give us the ability to do these things. In considering whether we would more prefer an executive director or a licensing investigator answerable to the Medical Board, it was the general feeling of the Board that the executive director was the more important position, particularly as the executive director would be able to carry out a lot of the investigatory functions simply on the administrative level of communicating with other state boards, etcetera. Generally speaking it is much easier to deal with licensing problems at the point of application than it is to try to deal with them after the individual has been licensed.

My other comment on the legislation as it is now envisioned concerns Section 08.64.360 in lines 25 through 28. It appears that the requirement to file a license with the superior court arose out of a 1949 Territorial Statute that has been carried over in subsequent legislation. It is the feeling of the Medical Board that this legislation was enacted at a time when administrative services in Juneau were less than adequate to keep track of licenses, and the only way to make sure that a physician had been licensed was to have a Superior court in the specific judicial district keep a file of licenses of actively practicing physicians. With administrative improvements, this is no longer really necessary. The history of this statute is rather funny in the sense that we just noticed its existence about a year and a half ago and discovered that essentially no one was complying with it because no one knew of its existence. In point of fact, not a single member of the Alaska State Medical Board had his license filed with the Superior Court, and in a flurry of activity, we all went out and had the licenses filed in our own judicial districts. Interestingly, when I brought my license down to the First Judicial District Clerk of Courts, she had absolutely no idea what I was talking about. Basically, I think this may be a law that could possibly be sunsetted as basically no longer particularly useful. It is not a big issue; it is more a nuisance than it is serious, except for the fact that the fine for failing to comply with it is quite awe inspiring. As I understand it, the fine is \$1,000 a day with each day being considered a separate offense.

I am also impressed by the decision of the legislature to consider requiring physicians in hospitals to report adverse actions under Section 08.64.336. This certainly should help the Medical Board in fulfilling its statutory function.

Thank you for giving consideration to these concerns.

Sincerely,


Thomas L. Conley, M.D.

TLC:dg

Support of
amendment