

HB

146

EDUCATION AND SOCIAL SERVICES COMMITTEE

ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES



P.O. BOX V, JUNEAU 99811
(907) 465-3759

March 23, 1990

Letter of Intent to
CSHB 146 (HESS)

It is the intent of the Legislature that the Alaska State Medical Board shall increase the licensing fees for physicians to cover the costs associated with the Impaired Physician Program.

A handwritten signature in cursive script that reads "Johnny Ellis".

Rep. Johnny Ellis, Chair

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: An Act relating to occupational
licensing; . . .
Sponsor: House Rules Committee/Governor
Requestor: House Finance

Agency Affected: Commerce & Economic Dev.
BRU: Occupational Licensing
Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL	0	0	0	0	0	0
REVENUE	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	0	0	0	0	0	0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

No fiscal impact for FY 90.

SEE ATTACHED

Prepared by: Jennifer Strickler, Administrative Officer Phone: 465-2144
Division: Occupational Licensing Date: 4/17/90

Approved by Commissioner: Larry Merculieff Date: 4-17-90
Agency: Department of Commerce & Economic Development

- Distribution (by preparer):
- Legislative Finance
 - Legislative Sponsor
 - Requestor
 - Office of Management and Budget
 - Impacted Agency(ies)

FISCAL NOTE ANALYSIS

CSHB 146 (FIN)

The bill amends AS 08.02.020, Limitation of Liability, as it relates to licensing functions and adds a new section providing for Courtesy Licenses. The bill also makes several amendments to AS 08.64 regarding the State Medical Board. Section 4 adds a new provision to the medical statutes requiring the board to maintain records on licensees concerning malpractice actions and the outcome of each action. Presently, new funds are not required to implement the new provisions of the bill.

6194D-2/041790c

SENATE COMMITTEE REPORT

DATE: 4/28/90

FURTHER:

DATE TURNED INTO OFFICE:

5/5/90

H E S S

Committee considered

CSHB 146 (Finance) am

Limiting civil liability for damages relating to peer review committees, licensing boards, and impaired physician programs; authorizing temporary courtesy licenses for certain occupations; relating to powers and duties of the State Medical Board; requiring persons licensed by the State Medical Board to make reports relating to the outcome of medical malpractice claims and civil actions; efd.

and recommended:

- replace with _____ CS _____
- or adopt _____ CS _____
- attached amendment(s)
- _____ letter of intent adopted

- same title
- new title
- technical title change (HB only)

do pass

do not pass

no recommendation

individual recommendations

further referral to _____

ATTACHES NEW FISCAL NOTE(S):

Dept/Date:

fiscal note(s) _____

zero fiscal note(s) _____

appropriation-no fiscal note

SIGNING DO PASS:

APPROVES PREVIOUS:

Dept/Date:

fiscal note(s) _____

zero fiscal note(s) Dept. of. Commerce.

Governor's bill w/fiscal note

OTHER RECOMMENDATIONS:

Al Adams - No Rec
Tom Kelly - No Rec

Paul Grish - No Rec
Chair: Signature and Recommendation

#2

Original sponsor(s): Rules/Governor

Not Adopted

1 IN THE HOUSE

BY THE HESS COMMITTEE

2 SENATE CS FOR CS FOR HOUSE BILL NO. 146 (HESS)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act limiting civil liability for damages relating
7 to peer review committees, licensing boards, and
8 impaired physician programs; authorizing temporary
9 courtesy licenses for certain occupations; relating
10 to powers and duties of the State Medical Board;
11 requiring persons licensed by the State Medical Board
12 to make reports relating to the outcome of medical
13 malpractice claims and civil actions; and providing
14 for an effective date."

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

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

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

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

23 (A) a member of, or witness before, a licensing board
24 or peer review committee established to review a licensing mat-
25 ter; [,]

26 (B) a member of a committee appointed under AS 08.-
27 64.336(c);

28 (C) a contractor or agent of a contractor under
29 AS 08.64.101(6); or

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

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

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

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

- 21 (1) duration of the license's validity;
22 (2) scope of practice allowed under the license; and
23 (3) other matters considered important by the board or the

24 department.

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26 Sec. 08.64.101. DUTIES. The board shall

- 27 (1) examine and issue licenses to applicants;
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29 licensing requirements are not unreasonably burdensome and the

1 issuance of licenses is not unreasonably withheld or delayed;

2 (3) submit an annual report of its proceedings to the
3 governor, including a statement of money received and disbursed;

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

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

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

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

16 (b) The board shall maintain records for each person licensed
17 under this chapter concerning the outcome of malpractice actions and
18 claims as reported under AS 08.64.200(a) and 08.64.345. The board
19 shall periodically review these records to determine if the licensee
20 should be found to be professionally incompetent under AS 08.-
21 64.326(a)(8)(A).

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

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

26 Sec. 08.64.190. CONTENTS OF APPLICATION. The application must
27 [SHALL] state the name, age, residence, the duration of residence, the
28 time spent in medical or osteopathy study, the place, year, and school
29 in which degrees were granted, the applicant's medical work history.

1 and other information the board considers necessary. The application
2 shall be made under oath. The board may verify information in the
3 application through direct contact with the appropriate schools,
4 medical boards, or other agencies that can substantiate the informa-
5 tion.

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

7 Sec. 08.64.200. QUALIFICATIONS OF PHYSICIAN APPLICANTS. (a)
8 Except for foreign medical graduates as specified in AS 08.64.225,
9 each physician applicant shall

10 (1) [REPEALED

11 (2)] submit a certificate of graduation from a legally
12 chartered medical school accredited by the Association of American
13 Medical Colleges and the Council on Medical Education of the American
14 Medical Association;

15 (2) [(3)] submit a certificate from a recognized hospital
16 certifying that the applicant has satisfactorily performed the duties
17 of resident physician or intern for a period of one year;

18 (3) submit a list of negotiated settlements or judgments in
19 claims or civil actions alleging medical malpractice against the
20 applicant, including an explanation of the basis for each claim or
21 action;

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

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

27 (b) The board shall determine whether each physician applicant
28 has any disciplinary or other actions recorded in the nationwide
29 disciplinary data bank of the Federation of State Medical Boards. If

1 the physician applicant was licensed or practiced in a jurisdiction
2 that does not record information with the data bank of the Federation
3 of State Medical Boards, the board shall contact the medical regula-
4 tory body of that jurisdiction to obtain comparable information about
5 the applicant.

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

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

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

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

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

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

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

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

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

29 (3) meet other qualifications of experience or education

1 which the board may require.

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

3 Sec. 08.64.225. FOREIGN MEDICAL GRADUATES. Applicants who are
4 graduates of medical colleges not accredited by the Association of
5 American Medical Colleges and the Council on Medical Education of the
6 American Medical Association must [OR ONE OF ITS AGENCIES SHALL] meet
7 the requirements of AS 08.64.200(a)(2) - (5) and 08.64.255, [AS 08.-
8 64.200(a)(3), (4) AND (5)] and must have passed examinations as spec-
9 ified by the board in regulations [AN EXAMINATION AND BE CERTIFIED BY
10 THE EDUCATION COUNCIL ON FOREIGN MEDICAL GRADUATES,] or be licensed by
11 examination in another state or territory of the United States or
12 province or territory of Canada.

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

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

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

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

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

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

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

24 (2) the applicant has surrendered a license in another
25 jurisdiction while under investigation and the license has not been
26 reinstated in that jurisdiction;

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

29 (4) [(3)] the applicant fails to comply with a requirement

1 of this chapter.

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

3 Sec. 08.64.250. LICENSE BY CREDENTIALS. The board may waive the
4 examination requirement and license by credentials if the physician or
5 podiatry applicant meets the requirements of AS 08.64.200 or 08.64.-
6 209, submits proof of continued competence as required by regulation,
7 pays the required fee and has

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

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

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

18 Sec. 08.64.270. TEMPORARY PERMITS. (a) The board may issue a
19 temporary permit to a physician applicant, osteopath applicant, or
20 podiatry applicant who meets the requirements of AS 08.64.200, 08.64.-
21 205, [OR] 08.64.209, or 08.64.225 and pays the required fee.

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

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

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

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

4 (e) Upon application by the permittee and approval of the board,
5 a permit issued under this section may be converted to a biennial
6 license upon payment of the biennial fee minus the six-month permit
7 fee paid under (d) of this section, plus the appropriate application
8 fee.

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

10 (b) For the limited purpose of residency or internship, the
11 board may issue a permit to an applicant without examination if the
12 applicant meets the requirements of AS 08.64.200(a)(1) [AS 08.64.-
13 200(a)(2)] and applicable regulations of the board, meets the require-
14 ments of AS 08.64.279, pays the required fee, and has been accepted by
15 an eligible institution in the state for the purpose of residency or
16 internship.

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

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

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

24 (b) A physician applying under (a) of this section shall pay the
25 required fee and shall meet the requirements of AS 08.64.200 and
26 08.64.279. In addition, the physician shall submit evidence of hold-
27 ing a license to practice medicine in a state or territory of the
28 United States or in a territory or province of Canada.

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

1 (c) An osteopath applying under (a) of this section shall pay
2 the required fee and shall meet the requirements of AS 08.64.205 and
3 08.64.279. In addition, the osteopath shall submit evidence of hold-
4 ing a license to practice in a state or territory of the United States
5 or in a territory or province of Canada.

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

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

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

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

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

27 Sec. 08.64.279. INTERVIEW REQUIRED FOR PERMITS. An applicant
28 for an intern permit, a resident permit, or a temporary permit for
29 locum tenens practice must be interviewed in person by at least one

1 member of the board, the executive secretary of the board, or a person
2 designated for that purpose by the board.

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

4 (a) The board may impose a sanction if the board finds after a
5 hearing that a licensee

6 (1) secured a license through deceit, fraud, or intentional
7 misrepresentation;

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

11 (3) advertised professional services in a false or mislead-
12 ing manner;

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

15 (A) a felony or other crime if the felony or other
16 crime is substantially related to the qualifications, functions,
17 or duties of the licensee; or

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

20 (5) has procured, sold, prescribed, or dispensed drugs in
21 violation of a law, regardless of whether there has been a criminal
22 action;

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

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

29 (8) has demonstrated

1 (A) professional incompetence, gross negligence, or
2 repeated negligent conduct; the board may not base a finding of
3 professional incompetence solely on the basis that a licensee's
4 practice is unconventional;

5 (B) addiction to, severe dependency on, or habitual
6 overuse of alcohol or other drugs that [WHICH] impairs the li-
7 censee's ability to practice safely;

8 (C) unfitness because of physical or mental disabil-
9 ity;

10 (9) engaged in unprofessional conduct or in lewd or immoral
11 conduct in connection with the delivery of professional services to
12 patients;

13 (10) has violated AS 18.16.010;

14 (11) has violated any code of ethics adopted by regulation
15 by the board;

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

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

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

26 Sec. 08.64.335. REPORTS OF DISCIPLINARY ACTION OR LICENSE SUS-
27 PENSION OR SURRENDER. The board shall promptly report to the Fed-
28 eration of State Medical Boards for inclusion in the nationwide disci-
29 plinary data bank license and permit refusals under AS 08.64.240,

1 actions taken by the board under AS 08.64.331, and license and permit
2 suspensions or surrenders under AS 08.64.332 or 08.64.334.

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

4 (e) A physician, hospital, [OR] hospital committee, or private
5 professional organization contracted with under AS 08.64.101(6) to
6 identify, confront, evaluate, and treat individuals licensed under
7 this chapter who abuse addictive substances that in good faith submits
8 a report under this section or participates in an investigation or
9 judicial proceeding related to a report submitted under this section
10 is immune from civil liability for the submission or participation.

11 * Sec. 25. AS 08.64 is amended by adding a new section to article 2 to
12 read:

13 Sec. 08.64.345. REPORTS RELATING TO MALPRACTICE ACTIONS AND
14 CLAIMS. A person licensed under this chapter shall report in writing
15 to the board concerning the outcome of each medical malpractice claim
16 or civil action in which damages have been or are to be paid by or on
17 behalf of the licensee to the claimant or plaintiff, whether by judg-
18 ment or under a settlement. This report shall be made within 30 days
19 after resolution of the claim or termination of the civil action.

20 * Sec. 26. AS 08.64.380(7) is amended to read:

21 (7) "practice of medicine" or "practice of osteopathy"
22 means:

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

29 (B) to use or publicly display a title in connection

1 with a person's name including "doctor of medicine," "physician,"
2 "M.D.," or "doctor of osteopathic medicine" or "D.O." or a spe-
3 cialist designation including "surgeon," "dermatologist," or a
4 similar title in such a manner as [, OR ANY TITLE WHICH TENDS] to
5 show that the person is willing or qualified to diagnose or treat
6 the sick or injured;

7 * Sec. 27. This Act takes effect immediately under AS 01.10.070(c).
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Not Adopted

go0779hI ✓
Lauterbach
5/4/90

Original sponsor(s): Rules/Governor

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21 64.326(a)(8)(A).

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

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

26 Sec. 08.64.190. CONTENTS OF APPLICATION. The application must
27 [SHALL] state the name, age, residence, the duration of residence, the
28 time spent in medical or osteopathy study, the place, year, and school
29 in which degrees were granted, the applicant's medical work history,

1 and other information the board considers necessary. The application
2 shall be made under oath. The board may verify information in the
3 application through direct contact with the appropriate schools,
4 medical boards, or other agencies that can substantiate the informa-
5 tion.

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

7 Sec. 08.64.200. QUALIFICATIONS OF PHYSICIAN APPLICANTS. (a)
8 Except for foreign medical graduates as specified in AS 08.64.225,
9 each physician applicant shall

10 (1) [REPEALED

11 (2)] submit a certificate of graduation from a legally
12 chartered medical school accredited by the Association of American
13 Medical Colleges and the Council on Medical Education of the American
14 Medical Association;

15 (2) [(3)] submit a certificate from a recognized hospital
16 certifying that the applicant has satisfactorily performed the duties
17 of resident physician or intern for a period of one year;

18 (3) submit a list of negotiated settlements or judgments in
19 claims or civil actions alleging medical malpractice against the
20 applicant, including an explanation of the basis for each claim or
21 action;

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

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

27 (b) The board shall determine whether each physician applicant
28 has any disciplinary or other actions recorded in the nationwide
29 disciplinary data bank of the Federation of State Medical Boards. If

1 the physician applicant was licensed or practiced in a jurisdiction
 2 that does not record information with the data bank of the Federation
 3 of State Medical Boards, the board shall contact the medical regula-
 4 tory body of that jurisdiction to obtain comparable information about
 5 the applicant.

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

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

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

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

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

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

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

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

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

29 (3) meet other qualifications of experience or education

1 which the board may require.

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

3 Sec. 08.64.225. FOREIGN MEDICAL GRADUATES. Applicants who are
4 graduates of medical colleges not accredited by the Association of
5 American Medical Colleges and the Council on Medical Education of the
6 American Medical Association must [OR ONE OF ITS AGENCIES SHALL] meet
7 the requirements of AS 08.64.200(a)(2) - (5) and 08.64.255, [AS 08.-
8 64.200(a)(3), (4) AND (5)] and must have passed examinations as spec-
9 ified by the board in regulations [AN EXAMINATION AND BE CERTIFIED BY
10 THE EDUCATION COUNCIL ON FOREIGN MEDICAL GRADUATES,] or be licensed by
11 examination in another state or territory of the United States or
12 province or territory of Canada.

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

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

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

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

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

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

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

24 (2) the applicant has surrendered a license in another
25 jurisdiction while under investigation and the license has not been
26 reinstated in that jurisdiction;

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

29 (4) [(3)] the applicant fails to comply with a requirement

1 of this chapter.

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

3 Sec. 08.64.250. LICENSE BY CREDENTIALS. The board may waive the
4 examination requirement and license by credentials if the physician or
5 podiatry applicant meets the requirements of AS 08.64.200 or 08.64.-
6 209, submits proof of continued competence as required by regulation,
7 pays the required fee and has

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

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

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

18 Sec. 08.64.270. TEMPORARY PERMITS. (a) The board may issue a
19 temporary permit to a physician applicant, osteopath applicant, or
20 podiatry applicant who meets the requirements of AS 08.64.200, 08.64.-
21 205, [OR] 08.64.209, or 08.64.225 and pays the required fee.

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

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

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

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

4 (e) Upon application by the permittee and approval of the board,
5 a permit issued under this section may be converted to a biennial
6 license upon payment of the biennial fee minus the six-month permit
7 fee paid under (d) of this section, plus the appropriate application
8 fee.

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

10 (b) For the limited purpose of residency or internship, the
11 board may issue a permit to an applicant without examination if the
12 applicant meets the requirements of AS 08.64.200(a)(1) [AS 08.64.-
13 200(a)(2)] and applicable regulations of the board, meets the require-
14 ments of AS 08.64.279, pays the required fee, and has been accepted by
15 an eligible institution in the state for the purpose of residency or
16 internship.

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

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

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

24 (b) A physician applying under (a) of this section shall pay the
25 required fee and shall meet the requirements of AS 08.64.200 and
26 08.64.279. In addition, the physician shall submit evidence of hold-
27 ing a license to practice medicine in a state or territory of the
28 United States or in a territory or province of Canada.

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

1 (c) An osteopath applying under (a) of this section shall pay
 2 the required fee and shall meet the requirements of AS 08.64.205 and
 3 08.64.279. In addition, the osteopath shall submit evidence of hold-
 4 ing a license to practice in a state or territory of the United States
 5 or in a territory or province of Canada.

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

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

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

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

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

27 Sec. 08.64.279. INTERVIEW REQUIRED FOR PERMITS. An applicant
 28 for an intern permit, a resident permit, or a temporary permit for
 29 locum tenens practice must be interviewed in person by at least one

1 member of the board, the executive secretary of the board, or a person
2 designated for that purpose by the board.

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

4 (a) The board may impose a sanction if the board finds after a
5 hearing that a licensee

6 (1) secured a license through deceit, fraud, or intentional
7 misrepresentation;

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

11 (3) advertised professional services in a false or mislead-
12 ing manner;

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

15 (A) a felony or other crime if the felony or other
16 crime is substantially related to the qualifications, functions,
17 or duties of the licensee; or

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

20 (5) has procured, sold, prescribed, or dispensed drugs in
21 violation of a law, regardless of whether there has been a criminal
22 action;

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

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

29 (8) has demonstrated

1 (A) professional incompetence, gross negligence, or
2 repeated negligent conduct;

3 (B) addiction to, severe dependency on, or habitual
4 overuse of alcohol or other drugs that [WHICH] impairs the li-
5 censee's ability to practice safely;

6 (C) unfitness because of physical or mental disabil-
7 ity;

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

11 (10) has violated AS 18.16.010;

12 (11) has violated any code of ethics adopted by regulation
13 by the board;

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

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

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

24 Sec. 08.64.335. REPORTS OF DISCIPLINARY ACTION OR LICENSE SUS-
25 PENSION OR SURRENDER. The board shall promptly report to the Fed-
26 eration of State Medical Boards for inclusion in the nationwide
27 disciplinary data bank license and permit refusals under AS 08.64.240,
28 actions taken by the board under AS 08.64.331, and license and permit
29 suspensions or surrenders under AS 08.64.332 or 08.64.334.

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

2 (e) A physician, hospital, [OR] hospital committee, or private
3 professional organization contracted with under AS 08.64.101(6) to
4 identify, confront, evaluate, and treat individuals licensed under
5 this chapter who abuse addictive substances that in good faith submits
6 a report under this section or participates in an investigation or
7 judicial proceeding related to a report submitted under this section
8 is immune from civil liability for the submission or participation.

9 * Sec. 25. AS 08.64 is amended by adding a new section to article 2 to
10 read:

11 Sec. 08.64.345. REPORTS RELATING TO MALPRACTICE ACTIONS AND
12 CLAIMS. A person licensed under this chapter shall report in writing
13 to the board concerning the outcome of each medical malpractice claim
14 or civil action in which damages have been or are to be paid by or on
15 behalf of the licensee to the claimant or plaintiff, whether by judg-
16 ment or under a settlement. This report shall be made within 30 days
17 after resolution of the claim or termination of the civil action.

18 * Sec. 26. AS 08.64.380(7) is amended to read:

19 (7) "practice of medicine" or "practice of osteopathy"
20 means:

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

27 (B) to use or publicly display a title in connection
28 with a person's name including "doctor of medicine," "physician,"
29 "M.D." or "doctor of osteopathic medicine" or "D.O." or a spe-

1 cialist designation including "surgeon," "dermatologist," or a
2 similar title in such a manner as [, OR ANY TITLE WHICH TENDS] to
3 show that the person is willing or qualified to diagnose or treat
4 the sick or injured;

5 * Sec. 27. This Act takes effect immediately under AS 01.10.070(c).
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cc
HB 146

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

February 3, 1989

The Honorable Sam Cotten
Speaker of the House
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

Dear Mr. Speaker:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill that deals with the interview requirements for applicants for medical licenses and permits.

Present law requires that an applicant for a physician or osteopath license be interviewed by a member of the State Medical Board. These interviews allow the board to inquire into issues that cannot be effectively examined in written tests. They also help the board positively identify license applicants. The current law also contains some procedural safeguards that relate to license denials.

The bill also establishes a new interview requirement for medical permits that are issued by the board. This requirement does not provide the same procedural safeguards as for license applicants. This is because the minimal protection the safeguards would provide to permit applicants do not outweigh the administrative burden of giving written notice and explanation to them.

Section 5 of the bill creates the new requirement and says that either a member of the State Medical Board or its executive secretary may conduct the interview. Sections 3 and 4 say that an interview is a prerequisite for an intern or resident permit, or for a permit for temporary substitution, that is, for "locum tenens" practice.

Because this bill will help to ensure the competency of persons who receive medical licenses and permits, I urge your passage of it.

Sincerely,

Steve Cowper
Governor

CSHB 146(Fin) am "An Act limiting civil liability for damages relating to peer review committees, licensing boards, and impaired physician programs; authorizing temporary courtesy licenses for certain occupations; relating to powers and duties of the State Medical Board; requiring persons licensed by the State Medical Board to make reports relating to the outcome of malpractice claims and civil actions; and providing for an effective date."

This bill contains a number of provisions which would increase the effectiveness of the State Medical Board in the performance of its duties relating to 1) licensing and permitting medical professionals; 2) reviewing the malpractice claims histories of physicians licensed in Alaska; and 3) creating a retired status license for physicians retired from active practice. In addition, the bill somewhat increases the immunity provisions for persons -- including witnesses -- assisting occupational licensing boards in general in carrying out their enforcement duties and functions, and creates a "courtesy" status permit for various professionals visiting Alaska.

Section 1 of the bill, amends AS 08.02.020 by extending and clarifying the "limitation of liability" provisions already in law to encompass witnesses, medical board convened physician review panels, and impaired practitioner program volunteers who assist the Medical Board through the provision of consultation and expert testimony services relative to Division of Occupational Licensing (hereinafter "division") disciplinary cases.

At the present time, various licensing boards and the division have experienced difficulty in identifying in-state licensed professionals willing to serve in advisory capacities to the boards on individual discipline cases or involve themselves in physician impaired practitioner programs. This reluctance flows from the professionals' legitimate personal liability fears that licensees ("respondents" in discipline cases) who are being investigated will decide to personally sue the professional or witness who is providing their services to a board or the division.

The department supports the protections this will provide to persons assisting the division and its regulatory boards in licensing actions. Without this language, the state's ability to turn to licensees or other witnesses to assist in disciplinary matters will continue to be severely impeded.

Section 2 of the bill would give the state's twenty-one (21) licensing boards and commissions the ability to issue a "courtesy" license to visiting professionals. This idea was originally conceived in order to accommodate Olympic team physicians when it was anticipated that the Olympics would be coming to Alaska.

In working up this proposal, it was discovered that there are many other occasions when a courtesy license would be helpful: visiting Iditarod veterinarians; international sporting teams playing in Anchorage accompanied by their team physician; visiting foreign delegations accompanied by a variety of professionals. This new provision would allow for the courtesy licensing of visiting professionals and would allow the boards to authorize limited practice restricted to the treatment of or professional assistance to members of their sports team or delegation while visiting in the state.

Section 3 amends AS 08.64.101 to clarify the Medical Board's (hereinafter "board's") authority to contract with a private professional organization to establish an impaired physician program. The word "contract" is a more accurate term for the relationship between the board, the division, and the private organization establishing such a program, and creates a legal bond between the state and the program in order that the program can be designated an agent of the board for purposes of liability limitations under AS 08.02.020. This section also adds language which more clearly states the range or scope of the impaired physician program, and requires that the board adopt regulations concerning the impaired medical professionals program.

Thus, this section extends immunity protections to physicians serving in a voluntary capacity on the impaired physician program committee. Currently, the physicians and intervenors serving on the impaired physician committee have done so with considerable personal risk, given their vulnerability to suit by an angry colleague.

Section 4 of HB 146 pertains to board records and adds two new subsections to AS 08.64.130. The first new subsection [subsection (b)] directs the board to maintain records on each licensed physician concerning civil malpractice actions and their outcomes. The second new subsection [subsection (c)] simply requires that the malpractice records received under new subsection (b) be available to the public, just as board records regarding the admission of licensed physicians are already available to the public.

Section 5 amends AS 08.64.190 to add to the list of application procedures the requirement that the applicant provide his or her medical work history. The board has, by policy decision, already begun independent verification of each applicant's medical school and internship program records. Section 5 amends AS 08.64.190 to place into statute the specific authority of the board to scrutinize the applicant's medical work history.

Section 6 of the bill amends board provisions concerning the qualifications of physician applicants. The bill adds language to AS 08.64.200 to require the physician applicant to provide an explanation of all negotiated settlements or judgments in claims or civil actions alleging medical malpractice against the applicant.

New language in this section also provides for the board, or the division on its behalf, to contact other licensing jurisdictions directly if an applicant for licensure in Alaska was licensed in a jurisdiction that does not report its disciplinary actions affecting physicians to the Federation of State Medical Boards. The Federation maintains the disciplinary data bank which is accessed by most jurisdictions for information on physician applicants.

Section 7 amends AS 08.64.205 which deals with qualifications for licensure of osteopathic physician applicants and merely makes these sections equivalent to the allopathic physician applicant requirements in AS 08.64.200, as amended in Section 6 of this bill.

Similarly, Section 8 makes parallel amendments for podiatry applicants.

Section 9 amends the statutory provisions affecting foreign medical graduates by clarifying the language for verification of foreign medical credentials. The proposed language more accurately identifies the national agency responsible for accrediting medical schools and moves the examination specifications into regulation. This action will accommodate substantial changes expected over the next two years as the Educational Commission for Foreign Medical Graduates (ECFMG) exam is phased out and all medical school graduates (U.S. and foreign alike) are required to follow the same examination pathway.

Sections 10 and 11 of the bill clarify the interview requirement for licensure.

Section 12 amends the grounds on which the board may refuse to grant a license. This amendment closes an existing loophole in the statute. Currently, persons who have surrendered a license in another jurisdiction while under disciplinary investigation by that jurisdiction are free to apply for licensure in Alaska. It then falls to the board to spend considerable time and money investigating the causes of the disciplinary problem in that other jurisdiction (in a sense, duplicating the actions of that jurisdiction) in order to determine whether it is appropriate to license the physician, deny the license, or place some conditions on the license.

It seems sensible from a public protection standpoint to require that the physician under disciplinary review in one jurisdiction resolve his or her discipline problem in that jurisdiction before being eligible to apply for licensure in Alaska.

Section 13 contains primarily housekeeping changes to recognize applicants from both the provinces and territories of Canada and to allow for flexibility concerning upcoming changes in the medical examination pathways by putting exam specifications into regulation.

Sections 14 and 15 of HB 146 amends physician "temporary" permit provisions by changing the present nature of a temporary permit. Currently, a temporary permit is available to a physician who is applying for a permanent license in the state, has completed all of the documentation for application, and is merely awaiting the next medical board meeting to have his or her application reviewed by the board. The new provisions in this section would allow physicians to serve temporary "tours of duty" in Alaska or to come to Alaska for a brief period of time to determine whether or not they wish to relocate their practice to Alaska.

This section provides that physicians seeking temporary licensure must complete a full, permanent license application and would be issued a temporary permit for up to six months at a reduced fee. If, at the end of that period of time, the physician with the temporary license wishes to seek permanent licensure, he or she would merely pay the remainder of the licensing fees for the biennial licensing period. If the physician has decided not to stay, the temporary permit expires. A temporary license could not be renewed under the proposed amendment.

Section 16 contains primarily housekeeping changes to bring the requirements for intern and resident-in-training permits in line with requirements for other physician applicants, and providing for interviews by the medical board executive secretary or other board designated person.

Section 17 limits a locum tenens permit to sixty (60) consecutive days from its current 120 days, and allows the executive secretary of the board to conduct interviews and issue permits to locum tenens physicians.

The board also wishes to restrict the use of the locum tenens permit to its intended statutory purpose, which is to allow a physician licensed in another state to substitute for an Alaska-licensed physician for a limited period of time. These amendments in Section 17-20 are companion to the changes made to the temporary permit in Sections 14 and 15 of the bill and would further clarify the distinction between those physicians coming to Alaska specifically to substitute for an Alaska licensed physician (locum tenens permit) and those coming to take a "look-see" to determine if they wish to pursue practice in Alaska (temporary permit).

Also in these sections are some housekeeping changes which would bring this section into line with the rest of the medical practice act relative to interviews and references to both the provinces and territories of Canada.

Sections 18 and 19 contain housekeeping changes similar to those in Section 16.

Section 20 limits the length of time a physician could work under a locum tenens permit. If a physician found it necessary to work more than 240 days during any consecutive 24 months, the physician would be required to meet the requirements for full licensure.

Section 21 of HB 146 creates a new section, AS 08.64.276, establishing a retired status license. There are a number of physicians who retain licensure far beyond the time it is reasonable for them to practice, mostly out of a sense of pride that licensure brings them and because of an oddity in statute that prohibits them from using the "M.D." after their name if not licensed. (That statute, 08.02.010, is designed to prevent the unlicensed from deluding the public as to their qualifications.)

It is felt that a permanent retired license status will both serve elderly physicians wishing to retain their M.D. title and protect the public. Retired status should also appeal to those physicians who are effectively retired and presently faced with CME requirements they cannot meet due to age and infirmity. The proposed language also empowers the board to make very certain the physician is competent, should a retired physician wish to return to active status.

Section 21 also creates a new section (AS 08.64.279) that authorizes the executive secretary or other designee of the board to conduct certain physician candidate interviews. This greatly enhances the efficiency and effectiveness of the board without compromising the standards for license and permit requirements. The executive secretary or board designee would conduct interviews for the variety of short-term licenses and permits that are issued by the Medical Board; however, this amendment does not remove the requirement that a physician getting permanently licensed in Alaska must be interviewed by a member of the board itself.

In recent years, individual board members have encountered severe difficulty in accommodating the requirement imposed on board members to interview locum tenens physicians. As a result, the board has, by policy, delegated to the executive secretary the authority to conduct these interviews where feasible. This language would put that authority into statute.

Section 22 amends the grounds for imposition of disciplinary sanctions in AS 08.64.326. The amendments are primarily very minor housekeeping changes, but do include a fairly controversial revision to the "professional incompetence" standard (page 11, lines 3 - 5). This section adds a qualifier stating that the board may not impose disciplinary sanctions "solely on the basis that a licensee's practice is unconventional or experimental in the absence of demonstrable physical harm to a patient."

The medical board considers this inclusion unnecessary and, while we would no doubt prefer no amendment to this section, in the spirit of acceptable compromise the division and the board do not object to this language.

Section 23 of the bill amends board statutes which address reports of disciplinary action to the Federation of State Medical Boards and the National Practitioner Data Bank. Present language specifies that disciplinary action taken against licensees is to be reported. The changes in this section broaden the reporting to include temporary, residency, locum tenens and physician assistant permit holders, as well. The board reports disciplinary actions against permit holders, considering that such reporting falls under the legislative intent of the statute, but we believe it would be best to have specific language in the statute authorizing such reporting.

Section 24 amends the "duty to report" provisions of the Medical Board's statute by strengthening the subsection having to do with peer review and physician assistance in investigatory cases, making clear that the limited liability provisions of amended AS 08.02.020 (Sec. 1 of this bill) apply to those persons assisting the board in determining the competency of a physician and his or her potential danger to the public. This section also specifically includes the impaired physician program volunteers in the immunity protections provided for in this section of the statute.

Section 25 amends the board statutes by creating a new section that requires licensed physicians to report to the board the outcome of each medical malpractice claim or civil action in which damages have been or are to be paid by or on behalf of the licensee to the claimant.

Although this section has been controversial, neither the board nor the division opposes this section of the bill at this time, mainly because this section requires reporting similar to that of present Federal Public Law 99-660.

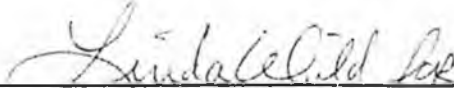
Section 26 amends the definitions section to clarify the issue of who may use the designation "physician," "M.D.," "D.O.," etc. There is presently a great deal of concern over this statute because it effectively prohibits a person who is trained as a physician and received an M.D. degree but who is not licensed or practicing medicine from using the designation M.D. in teaching, authoring books, or other types of activities. It is hoped that the proposed language will clarify this issue and allow persons to use the academic designations they earned without misleading the public that they are licensed to diagnose and treat patients.

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Page Seven

Section 27 is the effective date clause.

The State Medical Board and the division have spent considerable time following this bill through the legislative process and feel that HB 146 would greatly enhance not only the effectiveness of all occupational licensing boards vis-a-vis their discipline cases, but that the provisions directly impacting the Medical Board would solve a great many existing licensing complications and substantially benefit Alaska's consumers of medical services.

For the reasons stated above, this department supports passage of CSHB 146 (Fin) am.



Larry Mercurieff, Commissioner

Date: 4-30-90

LM/RPB/dgl6652D
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Alaska State Medical Association
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907/562-2662

May 1, 1990

Honorable Paul A. Fischer, Chairman
Health, Education and Social Services Committee
Alaska State Senate
P.O. Box V (MS 3100)
Juneau, Alaska 99841

RE: CSHB 146(Fin)

Dear Senator Fisher:

Your committee is scheduled to hold hearings on CSHB 146(Fin) on Wednesday, May 2. In your deliberations regarding this bill, the Alaska State Medical Association respectfully requests your consideration of an amendment by deletion to this otherwise excellent bill.

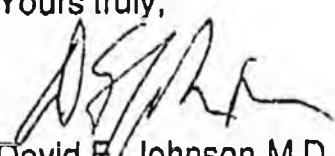
The basic bill is the product of nearly two years of cooperative effort among the medical association, the medical board and the division of occupational licensing. Our effort has been aimed at making peer review both strong and secure, in order that the public be protected from incompetent and impaired physicians to the greatest extent possible.

Skillful manipulation of the media by a small group, using half truths and untruths on talk shows to generate public opinion messages, has caused enough uncertainty in the other body that an ill-advised amendment was injected on the floor just prior to passage of the bill. It is that amendment that we believe must be removed if the public is to be protected. The language is on page 10, line 25 after the semicolon and reads: "the board may not base a finding of professional incompetence solely on the basis that a licensee's practice is unconventional or experimental in the absence of demonstrable physical harm to a patient."

If left in the bill, this language will leave the medical board helpless to evaluate any physician's practice until someone is injured or killed. Due process after the fact would jeopardize additional patients until such a practitioner could be stopped. There would be no protection from physicians perpetrating outright fraud, since that would inflict only financial and emotional harm. The language effectively guts the medical board.

I expect that you will be getting emotional messages in favor of "medical freedom," or some such phrasing. The medical association does not want Alaskans to be forced to be an experimental group, awaiting "demonstrable physical harm" before standards for medical quality of care are enforced. We urge removal of this language and then passage of a clear, strong bill supporting quality medical care in Alaska.

Yours truly,


David E. Johnson M.D., Chairman