

HB

247

STATE OF ALASKA  
1992 LEGISLATIVE SESSION

FISCAL NOTE

No. 2  
Bill Version: CSHB 247(RLS)  
(H) Publish Date: 1/24/92

Revision Date: 01/22/92 Department Affected: Commerce & Economic Development  
Title: An Act relating to licensure of dentists. BRU: Occupational Licensing  
Component: Administration  
Sponsor: Rep. Mackie  
Requestor: House Rules COMPONENT SERIAL NO. 

|   |   |   |   |
|---|---|---|---|
| 0 | 3 | 5 | 6 |
|---|---|---|---|

Expenditures/Revenues: (Thousands of Dollars)

| OPERATING         | FY 93 | FY 94 | FY 95 | FY 96 | FY 97 | FY 98 |
|-------------------|-------|-------|-------|-------|-------|-------|
| PERSONAL SERVICES | 0.0   | 0.0   | 0.0   | 0.0   | 0.0   | 0.0   |
| TRAVEL            | 0.0   | 0.0   | 0.0   | 0.0   | 0.0   | 0.0   |
| CONTRACTUAL       | 0.0   | 0.0   | 0.0   | 0.0   | 0.0   | 0.0   |
| SUPPLIES          | 0.0   | 0.0   | 0.0   | 0.0   | 0.0   | 0.0   |
| EQUIPMENT         | 0.0   | 0.0   | 0.0   | 0.0   | 0.0   | 0.0   |
| LAND & STRUCTURES | 0.0   | 0.0   | 0.0   | 0.0   | 0.0   | 0.0   |
| GRANTS, CLAIMS    | 0.0   | 0.0   | 0.0   | 0.0   | 0.0   | 0.0   |
| MISCELLANEOUS     | 0.0   | 0.0   | 0.0   | 0.0   | 0.0   | 0.0   |
| TOTAL OPERATING   | 0.0   | 0.0   | 0.0   | 0.0   | 0.0   | 0.0   |

|         |     |     |     |     |     |     |
|---------|-----|-----|-----|-----|-----|-----|
| CAPITAL | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
|---------|-----|-----|-----|-----|-----|-----|

|         |     |     |     |     |     |     |
|---------|-----|-----|-----|-----|-----|-----|
| REVENUE | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
|---------|-----|-----|-----|-----|-----|-----|

FUNDING: (Thousands of Dollars)

|               |     |     |     |     |     |     |
|---------------|-----|-----|-----|-----|-----|-----|
| GENERAL FUND  | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| FEDERAL FUNDS | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| OTHER         | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| TOTAL         | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |

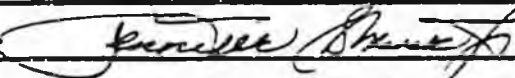
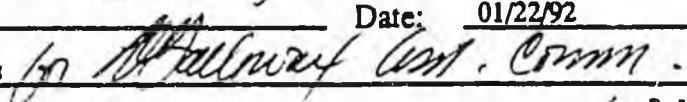
POSITIONS:

|           |     |     |     |     |     |     |
|-----------|-----|-----|-----|-----|-----|-----|
| FULL-TIME | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| PART-TIME | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| TEMPORARY | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |

Estimate of current year impact: None

ANALYSIS: (Attach a separate page if necessary)

CSHB 247(L&C) amends the dental statutes (AS 08.36) to bring the statutes into conformity with recent court decisions concerning licensure without examination; and further mandates access to clearinghouses of disciplinary information making it possible to render an informed judgement on the applicant. New funds are not required to implement provisions of the bill.

Prepared By: Jennifer Stricklet  Phone: 465-2144  
Division: Occupational Licensing Date: 01/22/92  
Approved by Commissioner: Glean A. Olds   
Agency: Commerce & Economic Development Date: 1.22.92

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

REPRESENTATIVE  
JERRY MACKIE

P O BOX 73  
CRAIG, ALASKA 99921  
(907) 826-3008 OFFICE  
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CHAIRMAN,  
COMMUNITY & REGIONAL AFFAIRS COMMITTEE

VICE CHAIRMAN,  
TRANSPORTATION COMMITTEE

# Alaska State Legislature



WHILE IN JUNEAU  
P O BOX V  
JUNEAU, ALASKA 99811  
(907) 465-4925

## House of Representatives

March 11, 1992

### MEMORANDUM

TO: Senator Arliss Sturgulewski, Chair *ARLISS*  
Senate Health, Education and Social Services  
Committee

FROM: Representative Jerry Mackie *Jerry Mackie*

RE: Scheduling of SCSCSHB 247 (L&C) - An Act relating to  
licensure of dentists, including licensure by  
credentials; relating to the Board of dental  
examiners; efd.

I respectfully request that you schedule SCSCSHB 247 (L&C), which has been referred to your committee, for a hearing at the earliest possible time.

I introduced this bill in response to a summary judgement issued by the Superior Court in January of 1991, ordering the Board of Dental Examiners to begin licensing dentists by credentials. This legal action settles a ten year dispute over the credentialing issue, and allows dentists who have come to Alaska as military or Public Health Service employees to set up a private practice and remain in the state.

I am including back up materials with this request; please contact me if you need any additional information.

attach

REPRESENTATIVE  
JERRY MACKIE

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CHAIRMAN,  
COMMUNITY & REGIONAL AFFAIRS COMMITTEE

VICE CHAIRMAN,  
TRANSPORTATION COMMITTEE

# Alaska State Legislature.



WHILE IN JUNEAU  
P O BOX V  
JUNEAU, ALASKA 99811  
(907) 465-4925

## House of Representatives

### POSITION STATEMENT

#### SCSCSHB 247 (L&C) AN ACT RELATING TO LICENSURE OF DENTISTS

This bill was introduced to clarify the licensure of dentists by credentials provisions relating to the Board of Dental Examiners.

Alaska law has allowed dentists to be licensed by credentials since 1980. The Board of dental Examiners has refused to license by credentials, and passed a regulation that they would not license by credentials claiming that the statute was too vague.

In January of 1991, the Board of Dental Examiners lost a legal proceeding in Superior Court in which 23 dentists sued for the right to be licensed by credentials as allowed under Alaska law. The board was ordered to begin licensing by credentials under the existing statute.

SCSCSHB 247 (L&C) presents a series of requirements for licensure by credentials, sets out standards applicants must meet, and requires the board to license by credentials in accordance with the court decision.

The bill adds other provisions to the dental statutes such as requiring dentists to be current in CPR techniques. It provides that dentists may not be licensed if, in another state:

they have had their license revoked, suspended or surrendered;

they are the subject of an unresolved complaint;

they were involved in fraudulent or criminal activity;

they are impaired.

Many dentists affected by this bill are military or Public Health Service employees who came to Alaska through their employment and seek to set up a private practice. Alaska does not have an overabundance of health care practitioners; we need to encourage health professionals to live and practice in our state.

In the past nine months, the Board of Dental Examiners has complied with the court ruling and licensed 46 applicants for licensure by credentials; another 20 applicants have been interviewed by the board recently and are eligible for licensure.

The credentialing application process is controlled by the Division of Occupational Licensing in the Department of Commerce and Economic Development. The division has set time standards to complete the application process and forwards all complete files to the Board for review at each quarterly meeting.

SCSCSHB 247 (L&C) is a good bill with the public's best interests in mind; I urge your positive consideration.

## SECTIONAL ANALYSIS

### SCSCSHB 247 (L&C)

- Section 1 Requires the Board of Dental Examiners to require all dentists applying for license or renewal to have a current CPR certification.
- Section 2 Repeals and reenacts AS 08.36.110, adding a new subsection (E), which provides that an applicant for a license shall not have an adverse report relating to criminal or fraudulent activity or malpractice in the national clearinghouse or data bank. Also provides that the applicant is not the subject of an unresolved or adverse complaint, investigation, review procedure or other disciplinary proceeding and is not an impaired practitioner.
- Section 3 Adds a new subsection (e) to AS 08.36.160, Contents of Examination, which provides that a passing score on a clinical exam given by the Western Regional Examining Board in the 5 years preceeding application will constitute a passing school on the Alaskan clinical examination.
- Section 4 Repeals and reenacts AS 08.36.234, Licensure by Credentials, to provide that the Board of Dental Examiners will provide for licensing without examination, except for an examination on the Alaskan dental statutes. An applicant for licensure by credentials must provide certification to the board that the dentist:
- 1) is a graduate of an accredited dental school;
  - 2) has passed clinical and written examinations in another state or territory and been licensed to practice in that jurisdiction under licensing requirements generally equivalent to this state's requirements;
  - 3) is in good standing with the licensing jurisdiction or federal agency;
  - 4) has been engaged in continuous practice at least 20 hours per week in the previous five years;
  - 5) is not the subject of an adverse or unresolved complaint, investigation, review procedure or proceeding, and has not had a license revoked, suspended or surrendered;

6) has not failed a clinical examination, in the past three years, of the the WREB;

7) has completed 42 hours of continuing education in the 3 years preceeding application;

8) is personally interviewed by the board, pays all fees, authorizes release of records to the Board and certifies that they are not an impaired practitioner;

9) provides that the board can revoke a license for evidence of misinformation or substantial omission, and that the board must adopt regulations to implement this section.

Section 5

Adds a new definition of "impaired practitioner" to AS 08.36.370.

Section 6

Provides for an immediate effective date.

# DIVISION OF LEGAL SERVICES

## LEGISLATIVE AFFAIRS AGENCY STATE OF ALASKA

(907) 465-3867 or 465-2450  
FAX (907) 465-2029  
Mail Stop 3101

240 Main Street, Suite 500  
Juneau, Alaska 99801-2101

### MEMORANDUM

February 3, 1992

**SUBJECT:** Dental Assistants (Work Order No. 7-LS1885)

**TO:** Senator Al Adams  
Attn: Martha

**FROM:** Jerry Luckhaupt *JEL*  
Legislative Counsel

In 1988 the Department of Law issued an opinion to the Department of Commerce and Economic Development, Division of Occupational Licensing, concerning the activities that a dental assistant may lawfully perform. (July 7, 1988, opinion from Mary E. Pinkel to Randall Burns, copy attached). In that opinion the Department of Law concludes that AS 08.32 and 08.36 constitute a comprehensive licensing scheme in regards to the permitted activities for dentists and dental hygienists, that the permitted activities of dental assistants are not defined in the statutes, and that, therefore, a dental assistant may not perform any of the activities listed under AS 08.32.110 that dental hygienists may perform under the general supervision of a dentist. You have asked this office for its opinion on what activities a dental assistant may perform and whether we agree with the Department of Law's conclusions. Given the Department of Law's conclusion that a dental assistant may not perform any of the permitted activities for dental hygienists under AS 08.32.110 and in view of AS 08.32.110(a)(5) permitting a dental hygienist to perform functions delegated by a dentist, you have asked whether a dental assistant may ever perform any operation or service delegated by a licensed dentist?

My answer to your first question is no, I do not agree with the Department of Law's opinion concerning the activities that a dental assistant may lawfully perform.

AS 08.36.070(a)(11) provides that the board of dentistry shall:

issue permits or certificates to licensed dentists, licensed dental hygienists, and dental assistants who meet standards determined by the board for specific procedures that require specific education and training.

This section clearly envisions that dental assistants only need board approval to perform certain procedures "that require specific education and training." If a procedure does not require specific education or training then this statute appears to permit a dental assistant to perform that activity. Therefore, I conclude that a dental assistant may perform any procedure, whether specific or general that does not require specific education and training. Further, a dental assistant may perform a specific procedure that requires specific education and training if a permit or certificate for the procedure has been issued by the board.

The Department of Law misreads this provision to mean that a dental assistant may not perform any dental procedure without a permit. The Department of Law also misreads the legislature's decision not to require the licensing of dental assistants, as it has done with dentists and dental hygienists, as meaning that dental assistants are without authority to perform any dental procedure, and specifically without the authority to perform the procedures in AS 08.32.110. Opinion, pp. 3 and 4-5. It is within the legislature's prerogative to require licensing of a profession, or limited licensing as in AS 08.36.070(a)(11); this does not mean that a profession may not practice in this state when full licensing is not required, especially when the legislature has acknowledged the existence of the profession and permitted it to practice as it has done for dental assistants in AS 08.36.070(a)(11). (The Department of Law also asserts in the opinion that the legislature has not adopted any statutes or regulations defining the duties of a dental assistant: Clearly, the legislature has adopted a statute setting out the permitted activities of a dental assistant in AS 08.36.070(a)(11). Furthermore, the legislature does not adopt regulations, the executive branch does).<sup>1/</sup>

In answer to your second question, I agree with you that the Department of Law's conclusion that a dental assistant may not perform any of the activities permitted for dental hygienists under AS 08.32.110, necessarily includes "any operation or service delegated by a licensed dentist" under AS 08.32.110(a). Under this reasoning a dental assistant may not perform any dental procedure because all dental procedures may be delegated by a licensed dentist. That conclusion is in direct conflict with the legislature's discussion of the permitted activities of a dental assistant under AS 08.36.070(a)(11). The Department of Law's conclusion that the activities permitted in AS 08.32.110 apply only to dental hygienists seems justified only if one reads AS 08.32.110(a) in this manner: "Only a person licensed to practice in the profession of dental hygiene in the state may" perform any of the listed activities. The legislature, though, did not say this. Such a reading is inconsistent with the

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<sup>1/</sup> The dental board has failed to the best of my knowledge, to adopt regulations to implement AS 08.36.070(a)(11) or to permit or certificate dental assistants for specific procedures under that section. This clearly seems in violation of the legislature's direction to the board that it "shall" issue permits or certificates to . . . dental assistants. . . ."

Senator Al Adams  
February 3, 1992  
Page 3

legislature's recognition of dental assistants and with the legislature's direction to the dental board to permit and certificate dental assistants. Such a reading also would render AS 08.36.070(a)(11)'s grant of authority to the board to issue permits to dental assistants a virtual nullity. Under the rules of statutory construction, laws are to be construed to avoid conflicts and implied repeals and to give meaning to all its parts. In this situation, a conflict exists if one reads the word "only" into AS 08.32.110. Otherwise, AS 08.32.110 and 08.36.070 can be read together so as to yield a reasonable result that does not render AS 08.36.070(a)(11) as it applies to dental assistants a nullity.

One final question arises from this discussion: What are the procedures that require specific education and training? The legislature has left that up to the dental board to decide. The activities that a dental hygienist may perform under AS 08.32.110, certainly require specific education and training, as the legislature has provided education and training requirements by statute. It seems reasonable to assume that the board could issue an individual permit or certificate to a dental assistant to perform any one of those activities if the board found that the dental assistant met the education and training requirements set by the board. Some of the activities listed there and others not listed may require differing levels of education and experience. The dental board should confront this question under the grant of authority provided by AS 08.36.070(a)(11).

If you have further questions, please contact me at your convenience.

GPL:pl  
92-020.lmb

# MEMORANDUM

# State of Alaska

DEPARTMENT OF LAW

TO: **Randall E. Burns, Director**  
**Division of Occupational**  
**Licensing**  
Dept. of Commerce & Economic  
Development  
DEPARTMENT OF COMMERCE  
& ECONOMIC DEVELOPMENT

DATE: July 7, 1988  
FILE NO: 661-88-0298  
TELEPHONE NO: 276-3550

THRU:

JUL 11 1988  
DIVISION OF  
OCCUPATIONAL LICENSING

SUBJECT: The difference  
between a Dental  
Assistant and Dental  
Hygienist under  
AS 08.32.110(a)

FROM:

Mary B. Pinkel *MBP*  
Assistant Attorney General  
Commercial Section-Anchorage

## I. INTRODUCTION

This memorandum is in response to your December 9, 1987, request for advice from the Attorney General's Office concerning the legality of a dental assistant's application of pit and fissure sealants under the supervision of a dentist. In your memorandum you ask two questions:

1. Are the authorized procedures listed in AS 08.32.110(a) exclusive to licensed dental hygienists, or do they simply identify the boundaries of what a dental hygienist is authorized to do?
2. Is the use of a dental assistant to use pit and fissure sealants allowed under Alaska Statutes?

Since the questions you ask are interrelated, I will answer both within the body of this memorandum.

The Alaska Statutes which regulate dentistry and dental hygiene, AS 08.36 et seq. and AS 08.32 et seq., do not specifically address your questions. However, AS 08.36.070(a)(11), when read together with AS 08.32.110, AS 08.32.190, and AS 08.32.095, imply that the legislature did not grant dental assistants the authority to perform such a task.

## II. DISCUSSION

### A. Statutory Scheme

AS 08.32.190 defines "dental hygienist" in the following manner:

(2) "dental hygienist" means a person who is licensed by the Board to perform those educational, preventive, and therapeutic services and procedures that licensed dental hygienists are educated to perform.

AS 08.32.010 states that a person may not practice dental hygiene without a license:

Except as provided in AS 08.32.095, a person may not practice, offer or attempt to practice, or advertise or announce as being prepared or qualified to practice dental hygiene without a license and a current certificate of registration.

AS 08.32.095 exempts from license requirements a person enrolled as a full-time student in an accredited school of dental hygiene. (See AS 08.32.095(a)). AS 08.32.110 discusses the role and scope of work of a dental hygienist. AS 08.32.110 provides in part:

(a) The role of the dental hygienist is to assist members of the dental profession in providing oral health care to the public. A person licensed to practice the profession of dental hygiene may:

....

(3) apply pit and fissure sealants;

....

(5) perform other dental operations and services delegated by a licensed dentist if the dental operations and services are not prohibited by (c) of this section; and

(6) if certified by the board and under the direct or indirect supervision of a licensed dentist, administer local anesthetic agents.

The use of the word "may" implies permission or privilege. "May" is defined by Black's Law Dictionary in the following manner:

ALASKA  
DEPARTMENT OF COMMERCE  
& ECONOMIC DEVELOPMENT

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Division of Occupational Licensing  
661-88-0298

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an auxiliary verb qualifying the meaning of another verb by expressing ability, competency, liberty, permission, possibility, probability or contingency.

Black's Law Dictionary 1131 (4th ed. 1968).

When read in conjunction with AS 08.32.010 (person may not practice dental hygiene without a license) and AS 08.32.095 (exemption from license requirement for dental hygiene students), AS 08.32.110 suggests that by not specifically authorizing dental assistants to perform these same tasks, the legislature did not intend for dental assistants to have the same authority outlined in AS 08.32.110 as dental hygienists.

Therefore, the fact that the legislature specifically gave dental hygienists permission to perform those activities listed under AS 08.32.110 implies that the legislature would need to give specific permission to dental assistants to perform those same acts. Dental assistants are not given similar permission elsewhere in the statutes, and the statutory scheme is indeed silent as to what a dental assistant can and cannot do. Additionally, the legislature has given the dental board the authority to issue permits to dental assistants for specific procedures that require specific education (AS 08.36.070(a)(11).) However, no statutes or regulations exist which provide for the issuance of permits to dental assistants. Such a provision does exist with respect to dental hygienists. The fact that the legislature has chosen not to adopt statutes or regulations which would enable dental assistants to perform specific procedures implies that dental assistants do not have the authority to perform specific dental procedures in the absence of statutes or regulations.

B. Legislative History

The primary guide to the interpretation of statutory schemes is the language used, construed in light of the purpose of the enactment. CFEC v. Apokedak, 680 P.2d 486, 489-90 (Alaska 1984). The Alaska Supreme Court has consistently held that it will not construe a statutory provision in a manner which is inconsistent with the express objective of that very legislation. J & L Diversified v. MOA, 736 P.2d 349, 351 (Alaska 1987); Wien v. Arant, 592 P.2d 352 (Alaska 1979). The legislative history of the Alaska dental and dental hygiene statutes indicates that dental assistants do not have the authority to perform those

*Maybe they can't just have you try to eliminate or delete duties as the minutes say - pg. 3*

Randall P. Burns, Director  
Division of Occupational Licensing  
661-88-0298

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DIVISION OF  
OCCUPATIONAL LICENSING

functions which dental hygienists are allowed to perform under AS 08.32.110.

In 1953, the legislature of the Territory of Alaska enacted its first Dental Practices Act, sec. 3, ch. 78, SLA 1953. Section one of chapter 78 required that dental hygienists have a diploma or a certificate of graduation from an accredited two-year American training school for dental hygienists. Section one further required that dental hygienists take an examination or have two years of practical experience. Additionally, the Act stated:

No person shall practice dental hygiene, either gratuitously or for pay, nor shall he offer or attempt so to practice nor shall he advertise or announce himself publicly or privately as prepared or qualified so to practice, without having such a license as in this section provided, nor shall any licensed dental hygienist practice except under the supervision of a licensed dentist as in this Act provided.

Sec. 3, ch. 78, SLA 1953.

Section 3, chapter 78, sets forth those dental services which a dental hygienist could perform: cleaning teeth, performing cleansing operations, using mouth wash. Section 3 further stated that dental hygienists could not perform any repair work or the preparation thereof, or any other operation on the teeth or tissues of the mouth. Section 4 stated that the Board of Dental Examiners could revoke the license of any dentist who permitted dental hygienists to perform any dental operation other than that permitted under the provisions of the act. Therefore, the original Dental Practices Act set forth those procedures which dental hygienists could perform in the year 1953. In 1978 AS 08.32.010 was amended. Those amendments included the statutory provisions currently contained in AS 08.32.010 and AS 08.32.100. (See II. A. above.)

### III. CONCLUSION

Accordingly, the legislative history of AS 08.32, as well as the plain language of AS 08.32 et seq. and AS 08.36 et seq., indicates that the purpose of AS 08.32.110 is not only to define the scope of the practice of a dental hygienist, but to limit to dentists and dental hygienists those activities which dental hygienists may perform under AS 08.32.110. Since the legislature has chosen not to define the scope of a dental assistant's activities and not to specifically delegate to a dental assistant any particular activities, it is my conclusion that dental assistants cannot perform those activities listed

STATE OF ALASKA  
DEPARTMENT OF COMMERCE  
& ECONOMIC DEVELOPMENT

Randall P. Burns, Director  
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OCCUPATIONAL LICENSING

under AS 08.32.110. The legislature's initial purpose in passing the original Dental Hygiene Act in 1953 (sec. 3, ch. 78, SLA 1953) was to specifically define the practice of dental hygiene and to limit the practice of dental hygiene as defined to those persons who are licensed as dental hygienists under the laws of the State of Alaska.

MBP:cmh

IN THE SUPERIOR COURT OF THE STATE OF ALASKA  
FIRST JUDICIAL DISTRICT AT JUNEAU

DR. STEVE ANDREWS, DR. JAMES R. )  
ARNESON, DR. DAVID BACKUS, DR. )  
STEPHEN BOESCH, DR. THOMAS )  
BORNSTEIN, DR. RICHARD CRITTENDEN, )  
DR. DONALD DENUCCI, DR. ROBERT )  
FELKER, DR. ED GRAVES, DR. WILLIAM )  
HALL, DR. RICHARD HOPKINS, DR. )  
GREG KALAL, DR. TOM KOVALESKI, DR. )  
MIKE KULIKOWSKI, DR. CHRIS MAEDER, )  
DR. ROBERT S. MATTHEWS, DR. )  
FREDERICK NOLAN, JR., DR. JASON )  
RAMPTON, DR. OLIVIA S. ROMINGER, )  
DR. CYNTHIA THIEL, DR. ED TRIPP, )  
DR. ROMMIE G. WHEELER, and )  
DR. BARRY WYMAN, )

Plaintiffs,

v.

BOARD OF DENTAL EXAMINERS,  
STATE OF ALASKA,

Defendant.

Case No. 1JU-90-974 Civil

FILED IN THE TRIAL COURT,  
STATE OF ALASKA, FIRST DISTRICT  
AT JUNEAU

JAN 30 1991

Clerk of Court

By alm Deputy

RECEIVED

Department of Law

FEB 13 1991

7 8 9 10 11 12 13 14 15 16

A

FINAL JUDGMENT

This case having come on before the court for hearing on  
January 28, 1991, the court having considered both plaintiffs'  
Motion for Summary Judgment and defendant's Cross-Motion for  
Summary Judgment, the briefs and arguments of the parties, and  
having concluded that there are no issues of material fact, now  
ORDERS, ADJUDGES AND DECREES that:

- 1) 12 AAC 28.950 is invalid and contrary to law;

FINAL JUDGMENT  
ORDER FOR COSTS

A PROFESSIONAL CORPORATION  
424 NORTH FRANKLIN STREET  
JUNEAU ALASKA 99801  
(907) 866 2777

1-29-91 DM

1 the terms of AS 08.36.234 and AS 08.36.240 require the  
2 State Board of Dental Examiners to accept and consider  
3 applications for licensing by credentials and to grant licenses  
4 to practice dentistry in this State to all applicants who meet  
5 the requirements of AS 08.36.234;

6 3) the Board is ordered to receive and consider all  
7 applications submitted by plaintiffs for admission by  
8 credentials on or before 60 days from January 28, 1991;

9 4) Plaintiffs' Motion for Summary Judgment is granted in  
10 its entirety;

11 5) Defendant's Cross-Motion for Summary Judgment is  
12 denied in its entirety;

13 6) Final judgment is entered in favor of plaintiffs.

14 DATED at Juneau, Alaska, this 30<sup>th</sup> day of January, 1991.

15 Long Woods  
16 Superior Court Judge

17 Copy of proposed judgment received;  
18 no objections as to form.

CERTIFICATION

The undersigned certifies that on the 31<sup>st</sup> day of  
January, 1991, a true copy of this  
document was served on the following attorneys

19 Sarah J. Felix  
20 Sarah J. Felix  
Assistant Attorney General

Arthur Gross  
Sarah J. Felix  
By Sharon Lenko

ORDER AWARDING COSTS

22 Defendant is ordered to pay costs to the Plaintiff in the  
23 amount of \$152.00.

24 Sharon Lenko 2-12-91  
25 Clerk of Courts  
26 CERTIFICATION

The undersigned certifies that on the 13<sup>th</sup> day of  
February, 1991, a true copy of this  
document was served on the following attorneys:

Arthur M. Gross  
Sarah J. Felix  
By Sharon Lenko

FINAL JUDGMENT  
ORDER FOR COSTS

GROSS & BIRNE  
A PROFESSIONAL CORPORATION  
428 NORTH FRANKLIN STREET  
JUNEAU, ALASKA 99801  
(907) 586 2777

*Adopted  
Ordinance*

A M E N D M E N T

OFFERED IN THE SENATE

TO: SCS CSHB 247 (L&C)

Page 3, lines 5 - 7:

Delete all material and insert:

"(D) is not the subject of an adverse complaint, investigation, review procedure, or other disciplinary proceeding within the five years immediately preceding application, or of an unresolved complaint, investigation, review procedure, or other disciplinary proceeding, undertaken by a state, territorial, local, or federal dental licensing jurisdiction or law enforcement agency that relates to criminal or fraudulent activity, dental malpractice, or negligent dental care that adversely reflects on the applicant's ability or competence to practice dentistry;"

Page 4, lines 16 - 18:

Delete all material and insert:

"(E) is not the subject of an adverse complaint, investigation, review procedure, or other disciplinary proceeding within the five years immediately preceding application, or of an unresolved complaint, investigation, review procedure, or other disciplinary proceeding, undertaken by a state, territorial, local, or federal dental licensing jurisdiction or law enforcement agency that relates to criminal or fraudulent activity, dental malpractice, or negligent dental care that adversely reflects on the applicant's ability or competence to practice dentistry;"

SENATE CS FOR CS FOR HOUSE BILL NO. 247 (L&C)  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
SEVENTEENTH LEGISLATURE - SECOND SESSION

BY THE SENATE LABOR AND COMMERCE COMMITTEE

Offered: 3/13/92  
Referred: Health, Education and Social Services

Sponsor(s): REPRESENTATIVE MACKIE

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to licensure of dentists, including licensure by credentials; relating to the  
2 Board of Dental Examiners; and providing for an effective date."

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

4 \* Section 1. AS 08.36.070(a) is amended to read:

5 (a) The board shall

6 (1) provide for the examination of applicants and issue licenses to those applicants  
7 it finds qualified;

8 (2) register licensed dentists and licensed dental hygienists who are in good  
9 standing;

10 (3) report annually to the governor and the department on the board's proceedings  
11 during the year, findings concerning the standards and availability of dental services in the state  
12 including the number of licensees, examination, and licensing activities, other matters related to  
13 dental practice, and board receipts and expenditures;

14 (4) affiliate with the American Association of Dental Examiners, and pay annual

1 dues to the association;

2 (5) hold hearings, and order the disciplinary sanction of a person who violates this  
3 chapter, AS 08.32, or a regulation of the board;

4 (6) supply forms for applications, licenses, permits, certificates, and other papers  
5 and records;

6 (7) enforce the provisions of this chapter and AS 08.32 and adopt or amend the  
7 regulations necessary to make the provisions of this chapter and AS 08.32 effective;

8 (8) adopt regulations ensuring that renewal of registration is contingent upon proof  
9 of continued professional competence by a licensed dentist or licensed dental hygienist;

10 (9) provide the department with the requirements for proof of continued  
11 professional competence and request the department to make these requirements available to each  
12 licensed dentist and licensed dental hygienist at least one year before the date on which the  
13 dentist or dental hygienist must renew registration;

14 (10) at least annually cause to be published in a newspaper of general circulation  
15 in each major city in the state [,] a summary of disciplinary actions the board has taken during  
16 the preceding calendar year;

17 (11) issue permits or certificates to licensed dentists, licensed dental hygienists,  
18 and dental assistants who meet standards determined by the board for specific procedures that  
19 require specific education and training;

20 (12) regulate the reentry into practice of inactive dentists and dental hygienists;

21 (13) require, as a condition of a license or license renewal issued by the  
22 board, that an applicant or licensee has at the time of licensing or renewal and maintains  
23 throughout the period of a license current certification in cardiopulmonary resuscitation  
24 techniques.

25 \* Sec. 2. AS 08.36.110 is repealed and reenacted to read:

26 Sec. 08.36.110. QUALIFICATIONS FOR LICENSE. An applicant for a license to  
27 practice dentistry shall

28 (1) provide certification to the board that the applicant

29 (A) is a graduate of a dental school that at the time of graduation is  
30 accredited by the Commission on Accreditation of the American Dental Association;

31 (B) holds a certificate from the American Dental Association Joint

1 Commission on National Dental Examinations that the applicant has successfully passed  
2 the written examinations given by the commission;

3 (C) has not had a license to practice dentistry revoked, suspended, or  
4 voluntarily surrendered in this state or another state;

5 (D) is not the subject of an adverse or unresolved complaint, investigation,  
6 review procedure, or other disciplinary proceeding undertaken by a dental licensing  
7 jurisdiction or law enforcement agency;

8 (E) is not the subject of an adverse report from the National Practitioner  
9 Data Bank or the American Association of Dental Examiners Clearinghouse for  
10 Disciplinary Information that relates to criminal or fraudulent activity, or dental  
11 malpractice;

12 (F) is not an impaired practitioner;

13 (2) pass, to the satisfaction of the board, written, clinical, and other examinations  
14 administered or approved by the board; and

15 (3) meet the other qualifications for a license established by the board by  
16 regulation.

17 \* Sec. 3. AS 08.36.160 is amended by adding a new subsection to read:

18 (e) A passing score on a clinical examination given by the Western Regional Examining  
19 Board within the five years preceding licensure application under this chapter constitutes a  
20 passing score on a clinical examination required under this chapter, provided the examination was  
21 taken on or after January 1, 1987.

22 \* Sec. 4. AS 08.36.234 is repealed and reenacted to read:

23 Sec. 08.36.234. LICENSURE BY CREDENTIALS. (a) The board shall provide for the  
24 licensing without examination, except as provided in (2) of this subsection, of a dentist who

25 (1) provides certification to the board that the dentist

26 (A) is a graduate of a dental school accredited by the Commission on  
27 Accreditation of the American Dental Association, or its successor agency, and holds a  
28 certificate from the American Dental Association Joint Commission on National Dental  
29 Examinations that the dentist has passed the written examination given by the  
30 commission;

31 (B) has passed clinical and written examinations required for licensure in

1 another state, territory, or region of the United States and has been licensed to practice  
2 dentistry in that state, territory, or region of the United States; the state, territory, or  
3 region must have licensing requirements at least generally equivalent to those of this state  
4 at the time of application;

5 (C) is in good standing with the licensing entity in the jurisdiction where  
6 the dentist is currently licensed and in all jurisdictions in which the dentist was previously  
7 licensed while practicing in those jurisdictions; if the dentist is employed by the federal  
8 government, the dentist must be in good standing with the employing federal agency;

9 (D) has been engaged in continuous active clinical practice averaging at  
10 least 20 hours per week for each of the five years immediately preceding the application

11 (i) in a jurisdiction in which the dentist was licensed and in good  
12 standing; or

13 (ii) working for the federal government while in good standing  
14 with the employing federal agency and after having been licensed by a  
15 jurisdiction;

16 (E) is not the subject of an adverse or unresolved complaint, investigation,  
17 review procedure, or other disciplinary proceeding undertaken by a dental licensing  
18 jurisdiction or law enforcement agency; *within the previous five years;*

19 (F) has not previously had a license to practice dentistry suspended for  
20 grounds similar to those specified under AS 08.36.315, revoked, or voluntarily  
21 surrendered;

22 (G) has completed at least 42 hours of continuing education related to  
23 clinical dentistry in the three years preceding application for a license in this state; the  
24 continuing education must have been approved by the American Dental Association, the  
25 Academy of General Dentistry, or the appropriate specialty board;

26 (H) has not within the previous three years failed the clinical exam given  
27 by the Western Regional Examining Board;

28 (I) is not the subject of an adverse report from the National Practitioner  
29 Data Bank or the American Association of Dental Examiners Clearinghouse for  
30 Disciplinary Information that relates to criminal or fraudulent activity, negligent dental  
31 care, or malpractice;

1 (2) has passed, to the satisfaction of the board, a written examination that consists  
2 of the portion of the written examination given under AS 08.36.160(b) that pertains to the state's  
3 laws on the practice of dentistry; the board may not require a higher passing score for applicants  
4 under this section than the board requires for applicants under AS 08.36.110;

5 (3) is personally interviewed by the board for purposes of verifying credentials;

6 (4) pays all required fees;

7 (5) provides the board with an affidavit that the dentist is not an impaired  
8 practitioner;

9 (6) provides to the board an authorization for release of records in a form  
10 prescribed by the board.

11 (b) A dentist applying for licensure without clinical examination is responsible for  
12 providing to the board all materials required by this section or by the board to implement this  
13 section to establish eligibility for a license without clinical examination. In addition to the  
14 grounds for revocation of a license under AS 08.36.315, the board may revoke a license issued  
15 without a clinical examination upon evidence of misinformation or substantial omission.

16 (c) The board shall adopt regulations necessary to implement this section including the  
17 form and manner of certification of qualifications under this section.

18 \* Sec. 5. AS 08.36.370 is amended by adding a new paragraph to read:

19 (3) "impaired practitioner" means a person who is unfit to practice dentistry due  
20 to addiction or dependence on alcohol or other drugs that impair the practitioner's ability to  
21 practice safely.

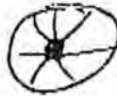
22 \* Sec. 6. This Act takes effect immediately under AS 01.10.070(c).

VALLEY DENTAL CLINIC, Inc.  
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DATE: 3/17/92

1 of 2

Jan



I'm enclosing old wording

See

pg 3 line 12 (F)

New now needs to read:

pg 3 line 5 (O)

and pg 4 line 16 (E)

Both O  
~~0~~ Places

is not the subject of an Adverse or unresolved complaint,  
investigation, Review procedure, or other disciplinary proceeding  
undertaken by a dental licensing jurisdiction, law enforcement  
agency of state, territory, or local dental society in any  
state or territory;



# STATE OF ALASKA THE LEGISLATURE

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## LEGISLATIVE AFFAIRS AGENCY

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Mary Van Nimwegen

|             |         |
|-------------|---------|
| House HESS  | 4-25-91 |
| House HESS  | 4-26-91 |
| House L+C   | 5-9-91  |
| House L+C   | 5-10-91 |
| House Rules | 1-23-92 |