

HB

247

STATE OF ALASKA

FISCAL NOTE

BILL NO. CSHB 247(L&C)

1992 LEGISLATIVE SESSION

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
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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
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REVENUE	0.0	0.0	0.0	0.0	0.0	0.0
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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

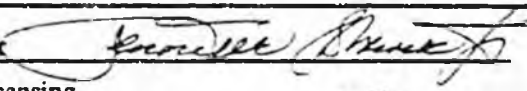
POSITIONS:

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 Strickler  Phone: 465-2144

Division: Occupational Licensing Date: 01/22/92

Approved by Commissioner: Glenn A. Olds  for Hallmark Com. Comm.

Agency: Commerce & Economic Development Date: 1.22.92

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

CSCSHB 247: "An Act relating to licensure of dentists."

The department supports CSHB 247 because it brings the statute into conformity with recent court decisions. It further mandates access to clearinghouses of disciplinary information which makes it possible to render an informed judgment on the applicant.

CSHB 247 makes several amendments to the dental statutes concerning examinations and licensure by credentials. It adds a new section which indicates the time frame for the Board of Dental Examiners to accept WREB scores.


The new subsection, 08.36.160, sets out a standard for acceptance of WREB examinations. This section applies only to candidates by exam. If a candidate took the WREB in 1987 but did not practice dentistry between 1987-92, it appears this provision would require the board to license the applicant. Ironically, this same person would be ineligible by credentials as credentialing would require active practice within the immediate past five years.

Section 4, 08.36.234(5), appears overly broad in that the applicant must provide certification to the board that he/she is not the subject of an unresolved complaint, investigation, review procedure, or disciplinary proceeding of a dental licensing jurisdiction or agency, law enforcement agency, or "other governmental agency." "Other governmental agency" should be clarified to include only those agencies and issues which pertain to matters relating to dentistry.

Section 5, 08.36.234, adds a new subsection (b) which provides that a license issued by credentials may be revoked by the board upon evidence of misinformation or substantial omission. This sets up a different standard for credential applicants versus exam applicants. Existing statute 08.36.315(1) appears to sufficiently cover both credential and exam applicants. The division feels "misinformation" and "substantial omission" would more properly be added to 08.36.315(1) and delete entirely subsection (b) of Section 3, 08.36.234.

The department recommends the following amendments be made:

- o Add a definition of "impaired practitioner" as it is referred to in Sec. 2, 08.36.234(15). The definition should read that "an impaired practitioner is one who has become unfit to practice due to addition or dependence on alcohol or other drugs that impairs the practitioner's ability to practice safely." (This is similar wording to the existing authorities to revoke or suspend a dental license under 08.36.315(7)(C).
- o Amend 08.36.234(12): "... relates to criminal or fraudulent activity, or competency issues."


Glenn A. Olds, Commissioner

Date: 5-3-91

REPRESENTATIVE
JERRY MACKIE

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CHAIRMAN,
COMMUNITY & REGIONAL AFFAIRS COMMITTEE

VICE CHAIRMAN,
TRANSPORTATION COMMITTEE

Alaska State Legislature



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House of Representatives

Senate CS for CSHB 247 (L&C)

The following changes have been made in the draft Labor and Commerce Committee Substitute:

- Section 2 (D) and (F) were combined to provide that an applicant for licensure is not the subject of an adverse or unresolved complaint, investigation or review procedure.
- Section 4 (B) page 4, lines 3 - 4 "in scope, quality and difficulty" deleted; it now provides that an applicant for licensure by credentials must be licensed in another state, territory or region of the U.S. with licensing requirements at least generally equivalent to those in Alaska at the time of application; deleted "time of licensure in the other state, territory or region".
- (C) page 4, line 7 - inserted "while practicing in those jurisdictions" after licensed.
- (D) page 4, lines 9-15 - adopted the amendment proposed by the sponsor which specifies that an applicant for credentialing must have been engaged for 5 years in active clinical practice in good standing while (1) licensed in another state, or (2) working for the federal government after having been licensed by a jurisdiction.
- (E) and (J) were combined as in section 1.
- (H) deleted language that the applicant has not failed the state clinical examination. Was (G) in House Rules CS.
- (2)(c) page 5, lines 15-16 - rewrote the subsection providing that the board shall adopt regulations to implement this section, deleting former (c)(2) which required that all paperwork had to be provided directly to the board from the institution, agency or jurisdiction.

HISTORY IN THE HOUSE

1991
 4/2 Read first time and referred to:
 HES L&C

4/29 HES RPT CS(HES) New Title
 L DP DNP NR AM
 FN OFN Previous FN

5/13 L&C RPT CS(L&C) New Title
 3 DP DNP NR AM
 FN OFN Previous FN

1992
 1/24 R15 RPT CS(R15) New Title
 7 DP DNP NR AM
 FN 1 OFN Previous FN

1/24 Read second time
 CS(R15) Adopted

Amended

1/24 Advanced

1/24 Read third time

Return to second for specific amendment

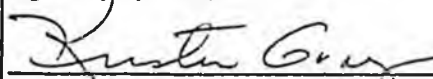
1/24 PASSED EFD Same or
 Yeas 30 Yeas
 Nays 0 Nays
 Excused 8 Excused
 Absent 2 Absent

Intent adopted

Reconsideration
 Reconsideration not taken up

PASSED ON RECON. EFD Same or
 Yeas 7 Yeas
 Nays Nays
 Excused Excused
 Absent Absent

Intent adopted

1/24 Reported correctly engrossed
 Signed by Speaker, to the Senate

 Chief Clerk of the House

HISTORY IN THE SENATE

1992
 1/27 Read first time and referred to:
 L&C HES

RPT() CS DP NR DNP AM
 New Title Same Title Previous FN
 FN OFN To

RPT() CS DP NR DNP AM
 New Title Same Title Previous FN
 FN OFN To

RPT() CS DP NR DNP AM
 New Title Same Title Previous FN
 FN OFN To

Rules Calendar() CS AM Other
 New Title Same Title Previous FN
 FN OFN

Read second time

CS Adopted () New Title
 Amended Advanced

Read third time

Letter of Intent adopted
 Return to second for specific amendment

PASSED EFD Same or
 Yeas Yeas
 Nays Nays
 Excused Excused
 Absent Absent

Reconsideration
 Reconsideration not taken up

PASSED EFD Same or
 Yeas Yeas
 Nays Nays
 Excused Excused
 Absent Absent

Reported correctly engrossed
 Signed by President, to the House
 Secretary of the Senate

REPRESENTATIVE
JERRY MACKIE

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JAN 30 1992

JAN 30 1992

House of Representatives

January 29, 1992

MEMORANDUM

TO: Senator Drue Pearce, Chair *Drue*
Senate Labor and Commerce Committee

FROM: Representative Jerry Mackie *Jerry Mackie*

RE: Scheduling of CSHB 247 (Rules) - An Act relating to
licensure of dentists.

I respectfully request that you schedule HB 247, 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

SECTIONAL ANALYSIS

CSHB 247 (RULES)

- 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 adverse peer review report or 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 equivalent in scope, quality and difficulty to this state;
 - 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 unresolved complaint or proceeding; has not had a license revoked, suspended or surrendered; is not the subject of an adverse peer review;

6) has not failed a clinical examination in Alaska in the past three years or the WREB exam;

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.

STATE OF ALASKA
1992 LEGISLATIVE SESSION

FISCAL NOTE

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
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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
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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 Strickler *Jennifer Strickler* Phone: 465-2144
Division: Occupational Licensing Date: 01/22/92
Approved by Commissioner: Glenn A. Olds *Glenn A. Olds*
Agency: Commerce & Economic Development Date: 1.22.92

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

CHAPTER 36.
DENTISTRY.

Article

1. Board of Dental Examiners
(§ 08.36.010—§ 08.36.091)
2. Examination and Licensing
(§ 08.36.100—§ 08.36.300)
3. Unlawful Acts (§ 08.36.310—§ 08.36.340)
4. General Provisions (§ 08.36.350—§ 08.36.370)

ARTICLE 1.
BOARD OF DENTAL EXAMINERS.

Section

10. Creation and membership of board
20. Term of office
25. Suspension of board members
30. Election of officers
40. Meetings
50. Quorum
61. Reimbursement for expenses
70. General powers
80. Applicability of Administrative Procedure Act
91. Records and reports

Sec. 08.36.010. Creation and membership of board. There is created the Board of Dental Examiners consisting of nine members. Six members shall be licensed dentists who have been engaged in the practice of dentistry in the state for five years immediately preceding appointment, two members shall be dental hygienists licensed under AS 08.32 who have been engaged in the practice of dental hygiene in the state for five years immediately preceding appointment, and one member shall be a public member.

Sec. 08.36.020. Term of office. The term of office of a member of the board begins on February 1.

Sec. 08.36.025. Suspension of board members. A member against whom an accusation has been filed under AS 44.62 for violation of AS 08.32.160 or AS 08.36.315 is suspended from the board until the decision of the board on the accusation takes effect under AS 44.62.520.

Sec. 08.36.030. Election of officers. The board shall elect a president and a secretary from among its members, each to serve for a term not to exceed two years.

Sec. 08.36.040. Meetings. The board shall meet at the call of the president at least four times annually and at other times necessary to conduct its business. In the absence of a call of the president, a majority of the board may call a meeting.

Sec. 08.36.050. Quorum. A majority of the board constitutes a quorum for the transaction of business.

Sec. 08.36.061. Reimbursement for expenses. Board members are entitled to per diem and travel expenses authorized for boards and commissions under AS 39.20.180. The department shall reimburse a member for other actual, reasonable expenses incurred in carrying out duties as a board member.

Sec. 08.36.070. General powers. (a) The board shall

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

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

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

(4) affiliate with the American Association of Dental Examiners, and pay annual dues to the association;

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

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

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

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

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

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

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

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

(b) The board may

(1) order a licensed dentist or licensed dental hygienist to submit to a reasonable physical or mental examination if the dentist's or dental hygienist's physical or mental capacity to practice safely is at issue; and

(2) authorize its representative to inspect the practice facilities or patient or professional records of a dentist at reasonable times and in a reasonable manner to monitor compliance with this chapter and with AS 08.32.

Sec. 08.36.080. Applicability of Administrative Procedure Act. The board shall comply with the Administrative Procedure Act (AS 44.62).

Sec. 08.36.091. Records and reports. The board shall maintain

(1) a record of its proceedings;

(2) a register containing the name, office and home addresses, and other information considered necessary by the board, of each person licensed as a dentist or dental hygienist, and a register of the licenses revoked by the board, and information on the status of each licensee.

ARTICLE 2. EXAMINATION AND LICENSING.

Section

- 100. License required
- 110. Qualifications for license
- 120. Signing, photograph and filing date of application
- 130. Examination
- 160. Contents of examination
- 180. Re-examination
- 190. Grading of examination
- 230. Practice outside the state
- 234. Licensure by credentials
- 238. Exemption from license requirement
- 240. Issuance and display of license
- 244. License to practice as specialist required
- 246. Qualification for a specialist license
- 247. Limitation of special practice
- 248. Suspension or revocation of specialty licenses
- 250. Renewal of registration
- 260. Branch office registration
- 271. Permits for isolated areas
- 290. Fees

Sec. 08.36.100. License required. Except as provided in AS 08.36.238 a person may not practice, or attempt to practice, dentistry without a license and a current certificate of registration.

Sec. 08.36.110. Qualifications for license. An applicant for a license to practice dentistry shall

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

(2) hold a certificate from the American Dental Association Joint Commission on National Dental Examinations that the applicant has successfully passed the written examination given by the commission;

(3) submit proof satisfactory to the board that the applicant

(A) has not had a license to practice dentistry revoked or suspended in this state or another state; and

(B) is not the subject of an unresolved complaint, review procedure, or disciplinary proceeding in another state;

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

(5) meet the other qualifications for a license established by the board by regulation.

Sec. 08.36.120. Signing, photograph and filing date of application. Each applicant shall submit a recent unmounted, autographed photograph of the applicant. Applications shall be signed by the applicant and filed at least 45 days before the date scheduled for an examination.

Sec. 08.36.130. Examination. An examination shall be given at least once a year and at other times and at places determined by the board to be convenient and economical for the applicants and the state. At least once each year the board shall appoint an examination committee of at least three licensed dentists who have been engaged in the practice of dentistry in the state for five years immediately preceding appointment to conduct or to supervise the examination process for applicants for licenses to practice dentistry. The board shall also appoint an examination committee of at least two licensed dentists who have been engaged in the practice of dentistry in the state for five years immediately preceding appointment and one person licensed to practice dental hygiene in the state to conduct the examination for applicants for licenses to practice dental hygiene. The examination committees shall report the results to the board for official action.

Sec. 08.36.160. Contents of examination. (a) The examination conducted or approved by the board shall be designed to test the qualifications of the applicant to practice dentistry and shall consist of a written and a clinical examination.

(b) The subjects of the written examination shall include dental radiology, the state's laws on the practice of dentistry, and other subjects selected in accordance with the trend of dental education and professional and technical advances.

(c) The clinical examination shall test the applicant's skill in operative and the prosthetic dentistry or any procedures as selected by the board from procedures recommended by the American Dental Association Joint Commission on National Dental Examinations.

(d) The board may require an applicant to pass a laboratory examination as a prerequisite to admission to the clinical examination if the board has reason to believe the applicant cannot practice safely on a clinical patient.

Sec. 08.36.180. Reexamination. An applicant shall pass the examination conducted or approved by the board with a score equal to or exceeding the minimal acceptable score set by the board by regulation. If an applicant fails the examination, the applicant may be reexamined. If an applicant fails the examination on two separate occasions, the board shall refuse to examine the applicant further until the applicant produces evidence satisfactory to the board that the applicant has pursued further study in preparation for the examination.

Sec. 08.36.190. Grading of examination. Upon the conclusion of the written examination and as soon as practicable, the papers shall be rated by an examiner. The examiner shall prepare a report in duplicate on each written examination and a report in duplicate on each practical examination. The examiner shall forward one copy of each report on each candidate to the secretary of the board and one copy to the Division of Occupational Licensing. The secretary shall prepare a composite report on each applicant and file one copy of that report with the Division of Occupational Licensing. As soon as practicable the Division of Occupational Licensing shall notify each candidate of the results of the examination.

Sec. 08.36.230. Practice outside the state. A dentist licensed to practice in this state and residing and practicing dentistry outside this state, may maintain his eligibility to practice in this state by registering the dentist's name and place of residence with the Division of Occupational Licensing every four years and submitting proof of continued professional competence as required by the board. If the dentist fails to register, the board may reinstate the dentist's license without examination upon payment of applicable fees established by regulations adopted under AS 08.01.080, payment of a penalty established under AS 08.01.100(b), presentation of proof of continued professional competence, and presentation of proof of active practice certified by the dental board having jurisdiction or, if there is no board with jurisdiction, by evidence satisfactory to the board.

Sec. 08.36.234. Licensure by credentials. The board may provide for the licensing without examination of a dentist who

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

(2) has been licensed to practice dentistry in another state, territory, or region with licensing requirements at least equivalent in scope, quality and difficulty to those of this state at the time of licensure;

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

(4) is not the subject of an unresolved complaint, review procedure, or disciplinary proceeding undertaken by a dental licensing jurisdiction;

(5) has not previously had a license to practice dentistry revoked;

(6) has not failed the clinical examination of this state;

(7) is personally interviewed by the board;

(8) pays all required fees.

Sec. 08.36.238. Exemption from license requirement. (a) A person enrolled as a full-time student in an accredited school of dentistry may perform procedures as part of a course of study without a license if

(1) the procedures are performed under the direct supervision of a member of the faculty who is licensed under this chapter, or under the direct supervision of a team of licensed faculty dentists, at least one of whom is licensed under this chapter; and

(2) the clinical program has received written approval from the board.

(b) A person practicing dentistry under (a) of this section is subject to all other provisions of this chapter and to other laws and regulations which apply to the practice of dentistry.

Sec. 08.36.240. Issuance and display of license. The board shall issue a license to each successful dentist applicant who has paid the required fees. The licensee shall display the license in a conspicuous place where the licensee practices.

Sec. 08.36.244. License to practice as specialist required. A licensed dentist may not hold out to the public as being especially qualified in a branch of dentistry by announcing through the press, sign, card, letterhead or printed matter, or any means of public advertising, using such terms as "specialist," or inserting the name of the specialty, or using other phrases customarily used by qualified specialists that would imply to the public that the dentist is so qualified, without first securing a specialist's license as provided in this chapter.

Sec. 08.36.246. Qualification for a specialist license. (a) An applicant for a specialty license shall

(1) possess a license to practice dentistry in the state;

(2) have completed as many academic years of advanced education in the specialty as are required by the appropriate specialty board in a program accredited by the Commission on Accreditation of the American Dental Association or its successor agency; and

(3) be a diplomat or the equivalent of the appropriate specialty board, or be eligible to be examined for diplomat status as documented by an organization recognized by the American Dental Association.

(b) The provisions of (a)(2) and (3) of this section do not apply to dentists who limit their practice exclusively and who ethically announce limitation of practice in accordance with the Principles of Ethics and Code of Professional Conduct of the American Dental Association.

Sec. 08.36.247. Limitation of special practice. (a) A specialty license may not be issued unless the applicant presents proof satisfactory to the board that the applicant is qualified to practice that specialty. A specialist appointed by the board and licensed in that specialty shall assist the board in the licensing procedures.

(b) This section may not be construed as limiting or preventing a licensed and qualified dentist from performing, without a specialty license, dental acts or services to the public in any of the branches of dentistry, except that no dentist may administer a general anesthetic to a patient without a valid permit as required by regulations of the dental examiners board.

Sec. 08.36.248. Suspension or revocation of specialty licenses. The board may suspend or revoke a specialty license upon any grounds set out in AS 08.36.315, and the procedure shall be the same as for the revocation or suspension of a license to practice dentistry.

Sec. 08.36.250. Renewal of registration. (a) At least 60 days before expiration of a licensee's registration certificate, the division of occupational licensing shall mail a form for renewal of registration to each licensed dentist. Each licensee who wishes to renew a license shall complete the form and return it with the appropriate fee and evidence of continued professional competence as required by the board. The division of occupational licensing shall, as soon as practicable, issue a registration certificate valid for a stated number of years. Each licensee shall keep the registration certificate beside or attached to the licensee's license. Failure to receive the registration form does not exempt a licensee from renewing registration.

(b) When applying for license renewal, a dentist shall report to the board each instance during the prior registration period in which the quality of the licensee's professional services was the subject of legal action.

Sec. 08.36.260. Branch office registration. A licensee who practices in an established office with an address other than that address for which the licensee's registration certificate is issued shall obtain a branch office registration certificate for each office.

Sec. 08.36.271. Permits for isolated areas. (a) The Department of Health and Social Services shall designate as isolated areas those specific places and regions remote from major population centers which are not served by dentists licensed under this chapter and which have a geographical location which works financial hardship, extended loss of time, or arduous and costly travel upon residents needing dental care.

(b) The board shall, upon recommendation of the Department of Health and Social Services, issue an annual permit authorizing the treatment of residents in an area designated under (a) of this section, who are not entitled to dental care by the state or federal government, by a dentist employed by the United States Public Health Service or qualified member of the armed services who serves in that area.

Sec. 08.36.290. Fees. The department shall, by regulations adopted under AS 08.01.065, establish fees for dentists for the following:

- (1) filing an examination and licensing application;
- (2) examination fee;
- (3) credential review;
- (4) initial license;
- (5) registration fee;
- (6) filing a reexamination application;
- (7) specialty license;
- (8) branch office registration;
- (9) duplicate license;
- (10) delinquent registration.

ARTICLE 3. UNLAWFUL ACTS.

Section

315. Grounds for discipline, suspension or revocation of license
320. Disciplinary sanctions
340. Penalties

Sec. 08.36.315. Grounds for discipline, suspension or revocation of license. The board may revoke or suspend the license of a dentist, may reprimand, censure, or discipline a dentist, or both, if the board finds after a hearing that the dentist

(1) used or knowingly cooperated in deceit, fraud, or intentional misrepresentation to obtain a license;

(2) engaged in deceit, fraud, or intentional misrepresentation in the course of providing or billing for professional dental services or engaging in professional activities;

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

(4) has been convicted of a felony or other crime that affects the dentist's ability to continue to practice dentistry competently and safely;

(5) engaged in the performance of patient care, or permitted the performance of patient care by persons under the dentist's supervision, that does not conform to minimum professional standards of dentistry regardless of whether actual injury to the patient occurred;

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

(7) continued to practice after becoming unfit due to

(A) professional incompetence;

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

(C) addiction or dependence on alcohol or other drugs that impairs the dentist's ability to practice safely;

(D) physical or mental disability;

(8) engaged in lewd or immoral conduct in connection with the delivery of professional service to patients;

(9) permitted a dental hygienist or dental assistant who is employed by the dentist or working under the dentist's supervision to perform a dental procedure in violation of AS 08.32.110 or AS 08.36.070(a)(11);

(10) failed to report to the board a death that occurred on the premises used for the practice of dentistry within 48 hours.

Sec. 08.36.320. Disciplinary Sanctions. (a) *[Repealed, § 49 ch 94 SLA 1987.]*

(b) *[Repealed, § 49 ch 94 SLA 1987.]*

(c) The board may summarily suspend the license of a licensee who refuses to submit to a physical or mental examination under AS 08.36.070(b)(1). A person whose license is suspended under this section is entitled to a hearing by the board within seven days after the effective date of the order. If, after a hearing, the board upholds the suspension, the licensee may appeal the suspension to a court of competent jurisdiction.

(d) *[Repealed, § 49 ch 94 SLA 1987.]*

(e) *[Repealed, § 49 ch 94 SLA 1987.]*

Sec. 08.36.340. Penalties. A person who violates any provision of this chapter or regulations adopted under this chapter for which no specific penalty is provided is guilty of a class B misdemeanor.

**ARTICLE 4.
GENERAL PROVISIONS.**

Section

350. Application of chapter
360. Practice of dentistry defined
365. Rights of dentists
370. Definitions

Sec. 08.36.350. Application of chapter. (a) This chapter applies to a person who practices, or offers, or attempts to practice dentistry in the state except

(1) dental surgeon or dentist in the military service in the discharge of official duties;

(2) a dentist in the employ of the United States Public Health Service, United States Veterans' Administration, Alaska Native Service, or other agency of the federal government, in the discharge of official duties;

(3) a physician or surgeon;

(4) a dentist providing care in an isolated area by authority of a permit issued under AS 08.36.271;

(5) a dentist licensed in another state who is teaching or demonstrating clinical techniques at a meeting, seminar or limited course of instruction sponsored by a dental or dental auxiliary society or association or by an accredited dental or dental auxiliary educational institution;

(6) a dentist licensed in another state who provides emergency care to an injured or ill person who reasonably appears to the dentist to be in immediate need of emergency aid in order to avoid serious harm or death if the care is provided without remuneration.

(b) A person excepted from this chapter under (a) of this section shall be held to the same standard of care as a person covered by this chapter.

Sec. 08.36.360. Practice of dentistry defined. A person engages in the practice of dentistry who

(1) performs or holds out to the public as being able to perform dental operations;

(2) diagnoses, treats, operates on, corrects, attempts to correct, or prescribes for, a disease, lesion, pain, injury, deficiency, deformity, or physical condition, malocclusion or malposition of the human teeth, alveolar process, gingiva, maxilla, mandible, or adjacent tissues;

(3) performs or attempts to perform an operation incident to the replacement of teeth;

(4) furnishes, supplies, constructs, reproduces, or repairs dentures, bridges, appliances or other structures to be used and worn as substitutes for natural teeth, except on prescription of a duly licensed and registered dentist and by the use of impressions or casts made by a duly licensed and registered dentist;

(5) uses the words "dentist" or "dental surgeon" or the letters D.D.S. or D.M.D. or other letter or title that represents the dentist as engaging in the practice of dentistry;

(6) extracts or attempts to extract human teeth;

(7) exercises control over professional dental matters or the operation of dental equipment in a facility where the acts and things described in this section are performed or done.

Sec. 08.36.365. Rights of Dentists. A dentist licensed in this state may

(1) practice in an association, partnership, corporation or other lawful entity with other dentists including specialists;

(2) practice under the name of "dental center" or other descriptive term that does not deceive the public about the nature of the services provided;

(3) supervise research that would otherwise violate this chapter or regulations adopted under this chapter when the research does not involve treatment of dental patients if the research is performed by a nonprofit dental research institution chartered by this state or by a dental or dental auxiliary school accredited by the Commission on Accreditation of the American Dental Association, or its successor agency;

(4) supervise research that would otherwise violate this chapter or regulations adopted under this chapter when the research involves the treatment of dental patients if the research is performed by a nonprofit dental research institution chartered by this state or by a dental or dental auxiliary school accredited by the commission on accreditation of the American Dental Association, or its successor agency, and if the dentist notifies the board in writing, at least 60 days before beginning the treatment, of the intended practices or procedures and the board does not disapprove the research.

Sec. 08.36.370. Definitions. In this chapter, unless the context requires otherwise,

(1) "board" means the Board of Dental Examiners;

(2) "department" means the Department of Commerce and Economic Development.



Official Business

Alaska State Legislature

House of Representatives

Committee on Rules

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HB 247 LICENSURE OF DENTISTS

"An act relating to licensure of dentists."

Sponsor: REPRESENTATIVE MACKIE

H. B. 247 Bill History

04/02/91	648	(H)	READ THE FIRST TIME - REFERRAL(S)
04/02/91	648	(H)	HES, L&C
04/10/91	765	(H)	COSPONSOR REMOVED: BAKER
04/29/91	1002	(H)	HES RPT CS(HES) NEW TITLE 6DP 1NR Recommending do pass (6): Carney, Lincoln, Gonzales, B.Davis, Hanley, M.A.Miller No recommendation (1): C. Davis
04/29/91	1002	(H)	-ZERO FISCAL NOTE (DCED) 4/29/91
05/13/91	1304	(H)	L&C RPT CS(L&C) NEW TITLE 3DP 1DNP Recommending do pass (3): Parnell, Ivan, Finkelstein Recommending do not pass (1): Bruckman
05/13/91	1304	(H)	-PREV ZERO FN (DCED) 4/29/91
05/13/91	1304	(H)	REFERRED TO RULES
01/23/92		(H)	RLS AT 8:00 AM SPEAKER'S CHAMBERS

H. B. 247 - House HESS Committee Minutes

April 25, 1991

Chair Lincoln mentioned that HB 247 and HB 248, which were also on the calendar, would be heard over till Friday, April 26, 1991.

The meeting was adjourned at 10:12 a.m.

H. B. 247 - House HESS Committee Minutes

April 26, 1991

Chair Carney stated that HB 247 was next on the agenda and asked Rep. Jerry Mackie to address the Committee. The Chair announced that the meeting was on teleconference to

Anchorage, but the individual who had wished to testify was not present. The Chair declared that if that person arrived, he would be heard.

REP. JERRY MACKIE, Prime Sponsor of HB 247, reported that he had introduced the legislation to clear up confusion in the licensing of dentists by credentials. He indicated that a January 30, 1991, decision by Judge Weeks of the Superior Court, First Judicial District, invalidated the regulations of 12 AAC 28.950 which the Board of Dental Examiners ("Board") adopted. Rep. Mackie stated that the court decision required the Board to license dentists who had applied for licensure by credential and to use AS 08.36.234 as a basis.

Rep. Mackie noted that dentists most affected were in federal practice on military bases or with the Public Health Service. He added that HB 247 presented requirements for licensure by credential with standards to be met, and mandated that the Board shall license by credential.

Rep. Mackie presented a proposed CS. He acknowledged that the proposed legislation had been controversial and the CS was an effort to bring together all parties, including attorneys who had litigated on both sides, and the American Dental Association and the Alaska Dental Society. To his knowledge all had accepted the CS, which made the following changes:

1. Page 2, line 31 through page 3, line 1, pertained to license renewal requirement of cardiopulmonary resuscitation abilities in response to concerns that all dentists be qualified.
2. Section 2 was originally Section 1, and changed the date from January 1, 1987, to January 1, 1986, to allow the Board to accept a passing score on the Western Regional Examining Board within the last five years.
3. Page 2, line 27, had required 50 hours of continuing education every three years; current requirement was 42 hours in three years.
4. Page 4, line 7, deleted language which was contrary to the intent of the legislation, to allow licensure by credential, and had potential to become arbitrary.
5. Page 4, line 31, added an effective date.

Rep. Mackie expressed his intent to allow for oral interview only to verify credentials and education and not based on politics or other factors.

Number 140

Rep. M.A. Miller announced that a constituent was a party to the Superior Court case and had personally expressed his

approval of the CS.

Mr. Mackie acknowledged that this doctor was on the prevailing side of the lawsuit. Mr. Mackie added that the Assistant Attorney General who litigated for the state had agreed that CSHB 247 was appropriate.

Number 155

Rep. C. Davis asked if any dentists in Southeast Alaska had been consulted.

Rep. Mackie responded that some did not like the original version. He reported that he sponsored the legislation at the request of the Lt. Governor, who had received a request from the Attorney General's Office to "fix it." Rep. Mackie believed that dentists who had objected were now in agreement.

LINDA BOWTHORPE, Aide to Rep. Mackie, advised members that Dr. Moritz had expressed interest in the legislation and agreed that he would support it if a test was reinstated for dentists who were licensed by credential. Dr. Moritz agreed to support it so that it would be moved to the Labor & Commerce Committee.

Rep. Mackie indicated there had been a decline in licensing of dentists in Alaska and he believed that if more were licensed through credentialing, dentistry would be more competitive.

Number 195

Rep. Hanley commented for the record and for future committee that if anyone had an objection and wanted change, it should be done in each committee. Rep. Hanley pointed out that it was to be licensing by credentials, as required by the Superior Court decision, and not by oral testing. Rep. Hanley felt it was not the intent of the Committee to have an examination procedure; that was not credentialing.

Rep. Hanley expressed concern over the title which did not indicate "credential"

Chair Carney suggested amendment of the title.

Rep. Mackie had no objection, but wanted to discuss it with Legislative Council who had attempted to draft in response to the court decision.

Rep. Hanley indicated it was not a serious concern to him and noted that the Labor & Commerce Committee could change the title if they desired; it was broad enough to allow insertion of "testing" and would probably be addressed on the floor.

Number 228

Rep. M.A. Miller moved to adopt CSHB 247. There was no objection and it was so ordered.

Rep. M.A. Miller moved to pass CSHB 247 with individual recommendations. There was no objection, it was so ordered.

Number 240

Discussion followed concerning adoption of fiscal notes. The Committee staff was directed to ascertain the correct procedure with regard to adoption of fiscal notes.

H. B. 247 - House Labor and Commerce Committee Minutes
May 1, 1991

REPRESENTATIVE JERRY MACKIE, prime sponsor of HB 247, testified. He explained that the bill was introduced after the Superior Court determined that regulations set by the Board of Dental Examiners were invalid. The bill would provide for licensure of dentists by credentials. Representative Mackie then explained the bill and a proposed CS. [A copy of the sectional provided by Representative Mackie can be found in the House Labor and Commerce Committee room, Room #17, Capital Building, until the end of the second session of the 17th Alaska Legislature; after that, it may be found in the Legislative Reference Library.]

Number 380

Rep. Zawacki moved that the committee adopt the CS for HB 247.

Rep. Donley objected, then withdrew his objection.

Chair Finkelstein asked if there was any objection to the motion. There being none, the CS for HB 247 was adopted.

Number 410

ROBERT ROBINSON, with the Alaska Dental Society, testified in support of HB 247.

Number 415

Rep. Parnell asked Mr. Robinson about the exam requirements for dentists.

Mr. Robinson stated that a clinical exam could be substituted with five years of experience, and that the written exam requirements would stay the same as in current statute.

Representative Mackie stated that HB 247 would bring the state into compliance with requirements from the Superior Court, noting that an oral exam would no longer be required: if a dentist met the requirements for credentials, they would be allowed to be licensed to practice dentistry in Alaska.

Number 440

Rep. Bruckman stated that on page 5, line 2, after "previous three years," "not" should appear before "failed".

Number 473

MIKE MCKRILL, with the Alaska Dental Society, testified in support of HB 247.

Number 476

CONNIE STEWART, a dental hygienist, testified in opposition to HB 247. She stated that she objected to the removal of stains and prophylactic agents being eliminated from the list of responsibilities afforded dental hygienists.

Number 521

SONDRA SHRYOCK, a member of the Board of Dental Examiners, testified in opposition to HB 247. She stated that she objected to the removal of stains and application of prophylactic agents from the list of responsibilities for dental hygienists.

Number 526

Representative Mackie stated that he had spoken with the dental hygienists, and their concerns were addressed in a letter of intent.

Number 550

BILL SELLE testified in support of HB 247.

Number 557

GAIL BEMIS, a dental hygienist, testified in opposition to HB 247. She stated that she, too, objected to the removal of stains and the application of prophylactic agents. She stated that the Alaska State Dental Hygienists Association was in favor of allowing certified dental assistants perform those duties, but that hygienists should be allowed to, as well. She also recommended that HB 164 be amended so that the Board of Dental Examiners would sunset on June 30, 1998, saving money and legislators' time.

Number 581

PAT GROVER testified in opposition to HB 247. She supported the comments Gail Bemis made concerning stains and prophylactic agents.

Number 601

Mr. Robinson stated that the dental hygienists had agreed that dental assistants should be able to be certified to perform pit and fissure sealants; in recommending the proposed changes in HB 247, he was trying to comply with a ruling from the Attorney General's office mandating a change in statute.

Number 623

Rep. Zawacki moved that the CS for HB 247 pass from committee with individual recommendations.

Chair Finkelstein stated that he was unsure as to why the duties were being taken away from the hygienists, and wondered why the responsibilities had to be removed in order to give dental assistants the authority to do them.

Representative Mackie stated that that was the case, and he would be happy to speak with those concerned about the issue.

TAPE 049, SIDE B
Number 011

Chair Finkelstein stated the committee should hold HB 247 until 10:00 a.m. the following day.

Rep. Taylor called the question on the motion to pass CSHB 247 from committee.

Rep. Bruckman stated that she wouldn't vote on a bill to pass from committee unless she understood it, which she didn't in the case of HB 247.

Representative Mackie assured the committee that any valid concerns would be addressed by the time HB 247 reached the floor.

Discussion ensued on the appropriateness and logistics of continuing debate on HB 247.

Number 200

Rep. Parnell proposed a substitute motion to hold HB 247 until 10:00 a.m. the following day, with the understanding that the intent at that time would be to move the bill from committee.

Rep. Zawacki objected.

Chair Finkelstein asked who was in favor the motion. Reps. Donley, Bruckman, Parnell, and Chair Finkelstein voted in favor of the motion; Rep. Taylor, Zawacki, and Ivan voted against the motion.

H. B. 247 - House Labor and Commerce Committee Minutes
May 10, 1991

Chair Finkelstein called the meeting to order at 10:25 a.m. He informed the committee they would be considering changes to HB 247.

Number 015

ANN BOUDREAU, Director, Division of Occupational Licensing, Department of Commerce and Economic Development, testified. She stated that on page 5, line 13, there was concern that a reference to "the" exam would be construed as limiting the exam to only the Western Regional exam, which would preclude a dentist from being licensed in Alaska who had passed another nationally recognized exam.

Number 044

KEN MESSING, with the Division of Occupational Licensing, Department of Commerce and Economic Development, testified. He stated that statute requires that the exam given be approved by the Board of Dental Examiners; the new wording, referring to "the" exam might require them to require dentists take the Western Regional exam.

Number 067

Rep. Parnell suggested that the exam be defined in the bill as a nationally or regionally recognized exam.

Number 076

REPRESENTATIVE JERRY MACKIE, prime sponsor of HB 247, testified. He stated that current statute requires that the Western Regional exam be given, and that would have to be changed in a separate bill.

Number 092

Rep. Parnell stated that the Western Regional exam wasn't in statute.

Ms. Boudreaux stated that statute references the exam given by the Board, and that that exam has always been the Western Regional exam.

Number 103

Rep. Bruckman noted that the Western Regional exam was referenced in HB 247 in other places.

Ms. Boudreaux stated that the one reference to the Western Regional exam was in reference to the clinical exam, rather than the written exam.

Rep. Parnell stated that they would be by reference adopting the national exam or the regional exam as the exams they would be able to use.

Number 128

Representative Mackie pointed out other requirements for dentists.

Chair Finkelstein stated that the request from the Department of Commerce and Economic Development was reasonable.

Number 166

Representative Mackie stated that board approves "the" exam, which is adequate, and would include any exam the board chose; stating that "a" exam would be too broad.

Chair Finkelstein stated that because "the" doesn't reference a specific exam, it would be unnecessary to change it to say "a" exam.

Ms. Boudreaux stated that that would be fine, as long as everyone understood the intent.

Number 211

Rep. Parnell presented a proposed amendment to page 3, line 24, after "negligent dental care", adding "(malpractice)", to the list of items that were reported to the national computer reference clearing house for dentists.

Representative Mackie stated that he had no problem with the amendment.

Ms. Boudreaux stated that the Department had no problems with the amendment, either.

Number 225

Rep. Parnell moved the amendment. There being no objection, the amendment was adopted.

Number 235

Chair Finkelstein, noting that the amendment hadn't been adopted during the previous meeting, moved that on page 5, line 2, the word "not" be added after "three years,".

Chair Finkelstein asked if there was any objection. There being none, it was adopted.

Number 258

Rep. Bruckman stated that she had had a long discussion with dental hygienists, whom she considered to be professionals, and they were concerned about the word "stains" being deleted from the list of allowable duties. She suggested that the bill be amended to make it clear that they were still allowed that duty.

Chair Finkelstein suggested that a letter of intent could be adopted.

Rep. Bruckman stated that a letter of intent would not be sufficient because statute was being changed, unless the letter of intent became statute.

Number 295

Chair Finkelstein read the letter of intent:

"The Board of Dental Examiners in the Division shall develop educational training standards for dental assistants who may apply pit and fissure sealants. Also, the Board shall develop procedures to issue permits or certificates to dental assistants who have met those standards."

Rep. Bruckman stated that the letter of intent would help, but she stated that the dental assistant should have to be certified by the Board before they could apply pit and fissure sealants.

Chair Finkelstein stated that that was in the letter of intent. He stated that it could be passed as a conceptual amendment.

Rep. Bruckman then stated she was concerned that on page 1, line 8, of the Committee Substitute (CS), the words "and stains" were removed. She moved that the words "and stains" be reinserted in the bill following the word "accretion".

Number 318

Rep. Donley stated that the bill was standardizing Board policy and regulations with regards to other areas of the dental assistant profession.

Number 325

Representative Mackie stated that the legal opinion in the committee members' packets addressed Rep. Bruckman's concerns; with the letter of intent, all of the problems should have been addressed. The bill wasn't intended to take away anyone's responsibilities.

Number 340

Rep. Donley stated that the bill did appear to be taking away responsibilities from the dental examiners, but that they would still be available through another means, not explicit in statute.

Number 354

Rep. Bruckman stated that she was concerned that the bill had been changed to include dental hygienists; now dentists had to approve procedures that were once performed at the discretion of hygienists.

Number 370

Ms. Boudreaux stated that the bill would broaden the bounds of dental hygienists responsibilities, but would only now require that those duties be delegated.

Number 384

Representative Mackie noted that dental assistants would still have to be certified to perform the duties of dental hygienists.

Number 392

Rep. Bruckman stated that the last sentence of the legal opinion states that responsibility would be taken away from dental hygienists.

Chair Finkelstein stated that he was convinced the issue was whether or not to allow dental assistants to perform the duties of dental hygienists, and that the letter of intent would address many of the concerns around that topic.

Number 418

Rep. Bruckman moved that language in the letter of intent be inserted in the bill.

Representative Mackie stated that he had no objection to the amendment.

Chair Finkelstein asked if there was any objection to the motion. There being none, the amendment was adopted.

Chair Finkelstein stated that the committee had three options on the "stains" issue: leave the CS as it was, without the stain language in it; put the stain language back in; or take out the section on the hygienists.

Number 453

Representative Mackie stated that he would prefer the proposed CS stay as it was.

Number 462

MIKE MCKRILL, with the Alaska Dental Society, testified. He stated that the purpose of section 1 was to allow dental assistants to do pit and fissure sealants, and part of that procedure is cleaning the teeth. The reason HB 247 was written that way was to allow the dental assistants to clean the teeth so they could apply the sealant.

Chair Finkelstein asked the Mr. McKrill if dental hygienists would still be allowed to perform the procedures as well.

Mr. McKrill stated that they would.

Number 469

Rep. Bruckman stated that she had no problem allowing unlicensed dental assistants apply pit and fissure sealants, but did object to unlicensed dental assistants cleaning teeth.

Number 493

Rep. Parnell asked Mr. McKrill if there was a problem with the words "and stains" in HB 247.

Mr. McKrill stated that the teeth had to be cleaned in order to do the sealant; the procedure wasn't a full cleaning.

Chair Finkelstein suggested that the words "and stains" be left in, as long as the intent was noted that in order for pit and fissure sealants with attendant cleaning. By stating this on the record, he said, there wouldn't necessarily be a contradiction.

Chair Finkelstein then stated that it might make sense to pass HB 247 as it was, and if the intent as everyone understood it, that dental assistants could apply pit and fissure sealants after the tooth had been cleaned, was not, in actuality, how

the bill was legally interpreted, a letter of intent to the could be adopted on the floor that would reflect the intention of the committee.

Rep. Bruckman stated that she didn't feel comfortable with that, and that she felt that dental hygienists should be the ones that clean teeth.

Mr. McKrill stated that it wouldn't make sense to have dental hygienists do the teeth cleaning before a pit and fissure sealant application, because it was an easy procedure that could be performed by dental assistants, thereby saving the dental hygienists time.

Chair Finkelstein asked Rep. Bruckman what her preference was.

Rep. Bruckman stated that she would like the words "and stains" reinserted into the bill.

Chair Finkelstein asked if there was any objection to the motion. He objected. Chair Finkelstein then put the issue to a voice vote. Rep. Bruckman voted in favor of the motion. The motion failed.

Number 568

Rep. Donley moved HB 247 pass from committee with individual recommendations. Rep. Bruckman objected, and HB 247 passed from committee with individual recommendations.

Rep. Donley moved HB 164 pass from committee with individual recommendations. There being no objections, HB 164 passed from committee with individual recommendations.

Rep. Donley moved the letter of intent for HB 164 pass from committee with individual recommendations. There being no objections, the letter of intent for HB 164 passed from committee with individual recommendations.

Number 571

Chair Finkelstein adjourned the meeting at 11:05 a.m.

H. B. 247 - House Rules Committee Minutes January 23, 1992

Chairperson Ellis stated that the next item before the Committee was HB 247, Licensure of Dentists, and invited Rep. Mackie, the bill sponsor, to join the Committee. Chairperson Ellis pointed out that there is a draft Rules CS as well, and the Committee staff would go through those changes after the sponsor statement.

REPRESENTATIVE MACKIE joined the Committee and explained that the basic change was to strip out Section 1 and Section 2, which dealt with dental hygienists. He commented that the Labor and Commerce Committee had entertained a substantial amount of debate last year and had decided that it was prudent to eliminate the areas of contention that existed between the dentists and the hygienists to create what is essentially a credentialing bill. Rep. Mackie clarified that there was a court decision that the State lost, that they had to license by credentials and not get into a situation where they are only licensing people that fit their litmus test, so this bill was designed to correct that, comply with the court decision and allow for the statutory change.

Number 634

Rep. Grussendorf requested a brief summary of the disagreement between the hygienists and dentists. Rep. Mackie stated that the original version of the bill allowed for dental assistants to apply a topical fluoride or pit and fissure sealants without a dental hygienist assisting, which is something the dentists wanted their assistants to be allowed to do. He further explained that it would also permit dental hygienists to administer nitrous oxide under supervision. These changes in regulations basically made the working conditions a little better for the hygienists and a little better for the dentists. He further explained that both sides wanted more here and there and couldn't come to agreement. Therefore, it was decided to remove the areas of contention and deal with the original intent of the bill, which was to address the court case and change the statutes to deal with the dentists, which everybody seemed to be happy with.

Chairperson Ellis congratulated Rep. Mackie on the attempt and interjected that as the turf war progressed, they kept getting further away from the consumer interest, which was to attract more health providers in underserved areas. He stated that licensing by credentials is a great thing, battled for years in the HESS Committee. With the court finally backing them up, it would be made very clear in the statutes. He further noted that while some of the dentists weren't pleased in the past, they do like the idea now because of the court action and they are actually receiving more specificity than they had from the court decision.

Rep. Mackie shared that he anticipates the dental hygienists organization may approach the Legislature with their own legislation. Rep. Mackie explained that this was not a major issue in his district, that the Lieutenant Governor had requested the legislation be introduced to address the court case. He further stated that the current intent was to basically be a housekeeping bill.

Rep. Gruenberg shared that this had been an issue since he was on the HESS Committee in 1985 and 1986, and that the Board had refused to license by credentials. He felt that they still wouldn't comply because there was no date by which they must provide for licensing by examination and that we should allow them six months to do so. He further stated that he felt they should be given as little leeway as possible or they wouldn't comply.

Chairperson Ellis invited Jim Nordlund, Committee Staff to join the Committee and go briefly through the Rules CS. Chairperson Ellis explained that Mr. Nordlund was aide to the HESS Committee when several of the issues were before that Committee.

Number 1038

JIM NORDLUND joined the Committee and concurred with Rep. Mackie that Section 1 and Section 2, which were removed from the bill, dealt with the conflict that existed between the hygienists and the dentists. Section 1 of the bill simply required that the dentists be certified in CPR. Section 2 of the bill required the dentists that were going to be licensed by examination go through the same criteria as the dentists to be licensed by credentials. He explained that after the court case, the Dental Society came to the Legislature and requested that the process be adequate. He further stated that there were two factions involved, one in favor of licensing by credentials and the other opposed to credentialing. He clarified that both of these factions have reviewed the bill, are happy with it and feel that the public is adequately protected also.

Chairperson Ellis inquired whether there was anything contained in the court case as to time frame for adoption of credentials. Mr. Nordlund responded that the court stated "you shall license by credentials", and that this bill would add a few more criteria that no one has objections to. Chairperson Ellis concluded that there was a court order and this process is clarifying the requirements in the statute.

Rep. Gruenberg and Rep. Martin expressed concern as to compliance without a time limit. However, Chairperson Ellis stated that he would hesitate to impose such a restriction without a public hearing, which would be difficult to do in Rules Committee meetings.

Number 1423

Rep. Grussendorf commented that people would have ample opportunity to study the bill and that an uncomplicated floor amendment might be in order. Chairperson Ellis concurred and inquired as to Rep. Mackie's feelings on that issue.

Rep. Mackie stated that he would like to be able to talk to Legislative Counsel and review what the time frame would be as to when the Board meets and how it would be handled. Chairperson Ellis requested that Rep. Mackie take responsibility in exploring an amendment, if appropriate.

Rep. Martin suggested that some things may be automatic if a person were well qualified and it was simply a matter of paperwork. Chairperson Ellis shared that he had discerned a new attitude on the part of the dentists. Rep. Mackie agreed with Chairperson Ellis that the court order put the previous arguments to rest.

Number 1713

Rep. Taylor moved to adopt the Committee substitute for HB 247 (Rules). With no objection, it was so moved. Rep. Taylor then made a motion to move the bill out of Committee. With no objection, it was so moved.

With no further business to discuss, Chairperson Ellis adjourned the meeting at 8:23 p.m.

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 Deputy

RECEIVED

Department of Law

FEB 13 1991
7:18 AM
1 2 3 4 5 6

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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

PROFESSIONAL CORPORATION
434 NORTH FRANKLIN STREET
JUNEAU, ALASKA 99801
(907) 990 3777

1-29-91 DM

1 2) 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 30th day of January, 1991.

15
16 Long Woods
Superior Court Judge

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

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

CERTIFICATION
The undersigned certifies that on the 31st day of
January, 1991, a true copy of this
document was served on the following attorneys:

Armen Hovh
Sarah J. Felix
By Sharon Lenker

21 ORDER AWARDING COSTS

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

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

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

Armen M. Gross
-2- Sarah J. Felix
By Sharon Lenker

FINAL JUDGMENT
ORDER FOR COSTS