ALASKA LEGISLATURE COMMITTEE FILES 1983-1984 8672

2552 SJ HCR 9 - HJR 1

2552

STATE
of ALASKA

MEMORANDUM

TO: Roy H. Helms, Executive Director
Alaska State Council on the Arts
619 Warehouse Avenue, Suite 220
Anchorage, Alaska 99501

DATE: June 16, 1978

FILE NO:

TELEPHONE NO:

FROM: Tom E. Main, Assistant Director
Division of General Services & Supply
Anchorage

SUBJECT: Ownership of Permanent Art Works

Thank you for your June 12 memo, subject as above.

We agree with Mr. Snowden and you that the Murray Sculpture should be considered a permanent appurtenance to the Juneau Court and Office Building.

Actually, the Department of Transportation and Public Facilities is responsible for State-owned buildings. You should advise them of the addition and its cost so they can take appropriate action to maintain and insure the sculpture.

cc: Arthur H. Snowden, II
R. Bradley
R. Head

RECEIVED
June 19 1978
STATE ARTS COUNCIL

Arts Alaska, Inc.

619 Warehouse Avenue • Suite 220
Anchorage, Alaska 99501 • (907)279-1558
272-3429

June 28, 1978

Mr. Donald Harris, Commissioner
Department of Transportation and Public Facilities
Pouch Z
Juneau, Alaska 99811

Dear Mr. Harris:

The Board of Directors of Arts Alaska, Inc. is pleased to notify the State of Alaska, Department of Transportation and Public Facilities, that the sculpture "Nimbus" by Robert Murray is nearing completion and installation on the plaza adjoining the Juneau Court and Office Building.

This letter is to transfer ownership of this work of art from Arts Alaska, Inc. to the State of Alaska.

For your documentation and insurance purposes, the value of the sculpture is $40,000. The artist will write to you soon with the information your department needs for long term maintenance.

We are pleased to have been of assistance in this project and congratulate the State of Alaska on developing the project that has resulted in this fine piece of art. It is significant that this exciting sculpture of international interest and importance is located in Alaska's capital.

Sincerely,

Helen Walker
President

cc: Alaska Court System
Alaska State Council on the Arts
Department of Administration

HW/mbj

OCCUPANCY STATUS REPORT
- Memo Billing -
JUNEAU COURT & OFFICE BUILDING

TO: Agencies Listed Below

ASHA - 734 - Issue VII-

	DEPARTMENT	FLOOR	SQ. FT	NET SQ. FT.	% OF TOTAL	FY 84 ASHA PAYMENT
01	Office of the Governor	4th	3,719			
		5th	6,947	10,666	19.34	$138,250.34
03	Law	3rd	3,497	3,497	6.34	45,564.34
06	Health & Social Services	3rd	2,389	2,389	4.33	31,233.34
12	Public Safety	Ground	1,168	1,168	2.12	15,476.34
31	Legislative Affairs Agency	6th	6,947	6,947	12.59	90,124.34
41	Alaska Court System	Basement	628			
		Ground	4,901			
		1st	6,947			
		2nd	6,947			
		3rd	1,061			
		4th	3,058			
		7th	6,947	30,489	55.28	394,493.34
	TOTALS			55,156	100.00%	$715,142.04

November 12, 1982

Approved by: _____
Maria Iverson
Contracting Officer

MI/RT/rmm
1/6.135/7/GSOCST
cc: Director, Division of Risk Management (MS 0218)
Director, Southeastern Region (M & O) DOT/PF (MS: 2506)

RECEIVED
NOV 29 1982
OFFICE OF MATERIEL OPERATIONS
& PURCHASING Alaska Court System

FILE WITH HCR 9

TO: Senator Ray

FROM: Paula d. Scavera

DATE: January 30, 1984

RE: SCSCS HCR 9 (State Affairs)

Every session since "Nimbus" was erected this resolution has been introduced and now this resolution is in Judiciary Committee.

Analysis

A committee shall be established to make reccomendations to the legislature on or before March 1, 1984 on a veterans memorial by an Alaskan artist to erected in Juneau. The committee shall reccomend:

1. at least three options for a type of memorial with estimated costs;

2. appropriate sites for location, which include the current location of "Nimbus"

3. time frame for construction

Also that public contributions be accepted to help pay the cost of the memorial.

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

POUCH Y STATE CAPITOL
JUNEAU ALASKA 99811
907-465-3800

MEMORANDUM May 13, 1983

SUBJECT: Copyright implications for the removal of "Nimbus"

TO: Senator Vic Fischer
Chairman, Senate State Affairs Committee

FROM: LHA Linn H. Asper
Legislative Counsel

You have asked for an opinion on copyright law provisions that would affect the HCR 9 proposal to remove the sculpture "Nimbus" from its present location in from of the State Court and Office Building in Juneau. In the material I was given as background information to this request is a 1978 memorandum from Robert Wade, general counsel of the National Endowment for the Humanities, to Jack Chenoweth, formerly of this office. (Copy attached.) In that memorandum, Mr. Wade indicates that there are no conditions in the N.E.H. grant for "Nimbus" that would prevent the state from removing or relocating the sculpture. Mr. Wade did, however, indicate that the creator of the work might be able to object to the removal of "Nimbus" under the federal copyright laws (17 U.S.C. 106(5)). The referenced section gives the owner of the copyright on a sculptural work the exclusive right to authorize the public display of the copyrighted work. Although the federal law stating this right is of recent origin and the extent of the exclusive display right has not yet been determined in the courts, it might well be interpreted to give an artist the right to prevent the destruction, removal, or relocation of a copyrighted work of art.

Despite what has been stated above, it is my opinion, based on the information available to me at this time, that the state need not be concerned about any objection to the removal of "Nimbus" that might be raised by the artist. This is so because the contract between the artist and Arts Alaska, Inc. clearly states that the copyright to "Nimbus" belongs to Arts Alaska, Inc. (Contract, Appendix B,

section J., copy attached.) Since the copyright was purchased along with the sculpture by Arts Alaska, Inc., the artist has no cause to object under federal law, which states that the exclusive rights referred to above belong to the "owner of copyright". On the other hand, as owner of the copyright, Arts Alaska, Inc., a nonprofit corporation affiliated with the Alaska State Council on the Arts, can object to the proposal to remove "Nimbus" and might be able to prevent the move under the copyright law previously referred to. I assume that Arts Alaska as a quasi-state agency is less likely to object than the artist, but you should be aware of the possibility. In view of the N.E.H. interest in the sculpture and the Arts Alaska, Inc. copyright rights, it would be advisable to relocate, rather than store or destroy "Nimbus" and the committee that is to investigate this matter if HCR 9 is passed should consult with Arts Alaska, Inc., the Alaska State Council on the Arts, and the National Endowment for the Humanities before making its recommendations to the legislature.

LHA:ljb
20/001

J. All drawings, models or maquettes shall remain the Artist's property. The copyright in the Work of Art, ~~however, belongs to~~ the Corporation, and no more copies than are required in the Project may be made ~~or caused to be made by anyone without prior written approval from the Corporation~~.

K. All aspects of the Project shall be guaranteed by the Artist against faulty execution or defective or inferior materials, equipment or workmanship for one (1) calendar year after completion and acceptance of the Project by the Corporation, during which period the Work of Art shall be repaired, restored or replaced at the Artist's expense, with the exception of the permitted surfaces.

L. It is understood that under the terms of the Contract, the Artist is an "Independent Contractor" who shall indemnify and save harmless the Corporation and the State of Alaska from and against any and all manner of actions, liabilities, and claims of any person arising out of or in connection with the performance of the services to be performed by the Artist under this Contract. Any work under this Agreement shall not be construed as employment with the State of Alaska or Arts Alaska, Inc. The Artist will be required to obtain and pay for his gross income license and be responsible for payment of income, social security, and other taxes.

M. The artist shall not assign or transfer any interest in this Agreement without the prior written consent of the Corporation; provided, however, that claims for money due or to become due from The Corporation under this agreement may be assigned to a bank, trust company, or other financial institution without such approval. Notice of any such assignment or transfer shall be furnished promptly to the Corporation.

N. In the event tht the Artist dies before the date fixed for completion or becomes permanently incapacitated and/or unable to complete the work on the Project, ~~the Corporation may within thirty (30) days after notice thereof, elect~~ in writing to pay a ~~proportionate share of the agreed price for work completed to the satisfaction of the Corporation, and acquire the unfinished work. This Agreement shall then be cancelled and the Corporation be entitled to the return of such part of the price above the proportionate share, as the Artist has already been paid.~~ the heirs or executors will make every effort to complete the project per the original design.

O. A program of regular maintenance will be planned by the Corporation for the State of Alaska that is acceptable to the artist.

COMMITTEE REPORT

SENATE

3/29/83

FURTHER: Judiciary

Date: 5-31-83

Mr. President:

The Committee on State Affairs has had CSHCR 9(Fin) on Calling for erection of a suitable memorial to honor veterans of all wars involving the United States on the site presently occupied by "Nimbus".

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

[✓] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

[✓] replace with CS for _____ [ ] same title [✓] new title

and recommends _____

[ ] AND attaches a "Letter of Intent" [✓] New Fiscal Note

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING DO PASS

MEMBERS HAVING OTHER RECOMMENDATIONS:

NO REC

CHAIRMAN

ALASKA STATE LEGISLATURE
SENATE STATE AFFAIRS COMMITTEE POUCH V, JUNEAU 99811
SENATOR VIC FISCHER, CHAIRMAN (907) 465-4954

MEMORANDUM

TO: Senator Vic Fischer

FROM: Nancy Schaufelberger Nancy
Committee Staff

DATE: May 16, 1983

SUBJ: HCR 9--Removal of "Nimbus" and replacing it with a veteran's memorial.

BACKGROUND

In 1974 the Alaska Court System, the Alaska State Council on the Arts (ASCA) and the National Endowment for the Arts (NEA) agreed on a project application under the NEA's Art in Public Places Program to commission a contemporary sculpture for the courtyard of the new Juneau Court Building.

The NEA agreed to provide $20,000 in grant funding if matching monies were made available by the state--the Alaska Court System agreed to provide $10,000 and ASCA the other $10,000. A selection committee was established consisting of representatives from the Alaskan community and those selected by the NEA. After following established grant guidelines and procedures, the committee voted, and unanimously selected Mr. Robert Murray as the artist of first preference.

NEA

On May 13, I spoke with Stacy Paleologos, Consultant to the Art in Public Places Program, at the NEA to inquire about the implications of replacing "Nimbus." Ms. Paleologos was very familiar with the sculpture, and the controversy surrounding it, and offered the following comments.

She indicated that the grant was given for a permanent work of art and to move it (which might possibly destroy it) would go outside the guidelines and would be considered a serious violation of the grant provisions by the NEA. She further indicated that moving "Nimbus" would warrant action of some kind by the NEA, possibly even repayment of the federal grant portion by the state. Additionally, Ms. Paleologos indicated that the NEA was very satisfied with the piece in question, and has included it in their pictorial book on art in public places.

VETERAN'S MEMORIALS

As another point, it is interesting to note that Juneau already has a memorial to veterans--the local library. According to library re[illegible] when the present library was opened in 1951 it was named Juneau M[illegible] Library and dedicated to those who served in the wars.

Also, more recently, Chapter 30, SLA 1981, created a memorial to A[illegible] veterans in Denali State Park near the Parks Highway. $200,000 was appropriated for this purpose and the memorial should be completed this summer.

THE LEGISLATURE OF THE STATE OF ALASKA
THIRTEENTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. CS FOR HOUSE CONCURRENT RESOLUTION NO. 9 (Finance) am
Title Calling for erection of a suitable memorial to honor veterans of all wars involving [redacted] the United States on the site presently occupied by "Nimbus".
Requested by: Senate State Affairs Committee Date: 05/13/83

II. FISCAL DETAIL
Agency Affected Legislature
Program Category Affected General Government
BRU, Program, Or Subprogram(s) Affected Legislative Council
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
100 PERSONAL SERVICES		2.5				
200 TRAVEL		6.7				
300 CONTRACTUAL		0.5				
400 COMMODITIES		0.2				
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS,CLAIMS,ETC.						
TOTAL		9.9				

FUNDING (Thousands of Dollars)

GENERAL FUND		9.9				
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY		1				

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

Assumption 1: Temporary/part-time clerical - @$10.30/hr x 4 hrs daily for 60 working days = $2,472.00

Assumption 2: 3 meetings - Travel 4 roundtrip tickets for 4 members from Anchorage to Jnu = $3,840.00
Per diem @$80 x 4 members for 2 days x 3 meetings ---------- = $1,920.00
Per diem @$80 x 4 members for 1 day x 3 meetings ---------- = $ 960.00 $2,880.00
Total Travel & per diem $6,720.00

Assumption 3: An office in the Capitol will be used at no charge. Credit card toll calls $500.00

Assumption 4: Office supplies, etc. ------ $200.00

Assumption 5: Use existing legislative office equipment at no charge.

IV. DATE 05-13-83 PREPARED BY Wally Harrison, Director, Admin. Services
AGENCY Legislative Affairs Agency
PHONE 465-3850

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named)

33-001 (Rev. 12/82)

ALASKA STATE LEGISLATURE
SENATE STATE AFFAIRS COMMITTEE POUCH V, JUNEAU 99811
SENATOR VIC FISCHER, CHAIRMAN (907) 465-4954

May 31, 1983 Butrovich Room
3:00 p.m.

Members Present

Senator Vic Fischer, Chair
Senator Bill Ray, Vice-Chair
Senator Arliss Sturgulewski
Senator Pat Rodey
Senator Tim Kelly

Agenda

HB 289 Time for opening the polls on election day

HB 306 Veterans burial benefits

HB 406 National Guard reenlistment bonus

HCR 9 Veterans' memorial

HB 289 Time for opening the polls on election day

Neil Phelps Munson, aide to Speaker Hayes (prime sponsor), testified for the bill.

Mary Lou Meiners, Director of the Division of Elections, testified for the bill as it would allow people to vote on the way to work.

Ginny Chitwood, Alaska Municipal League, testified that municipalities wanted to set the poll hours for municipal elections.

Senator Ray asked if the bill applied to municipalities. He suggested that a committee substitute be drafted to allow community input into the time for opening the polls in non-statewide elections.

Senator Fischer directed staff to prepare a committee substitute.

HB 306 Veterans burial benefits

Linda Edgewater, aide to Representative Liska (prime sponsor) testified for the bill. She said the bill is designed to correct a situation where survivors are denied federal veterans benefits if they are eligible for a lesser state benefit.

Paul Arnoldt, Director of the Division of Business Loans and Veteran's Affairs, testified for the bill. He reiterated the testimony of the previous witness.

Senator Rodey moved and asked unanimous consent that the bill pass from committee with individual recommendations. There was no objection.

HB 406 National Guard reenlistment bonus

Richard Roundtree, Department of Military Affairs, testified for the bill. He said the bill merely clarifies the intent of the existing law.

Senator Fischer asked if the bill granted additional benefits. The witness said "no".

Senator Kelly moved and asked unanimous consent that the bill pass from committee with individual recommendations. There was no objection.

HCR 9 Veteran's memorial

Committee staff presented a committee substitute for consideration.

Senator Ray objected to the resolution on the grounds that the sculpture "Nimbus" belongs to the court system and is not under the control of the Legislature. He said that a constitutional separation of powers question may be involved. He further suggested an amendment which would clarify that the memorial would honor veterans of undeclared wars, such as Vietnam and Korea, as well as declared wars.

Senator Rodey moved and asked unanimous consent for the committee to adopt the committee substitute as amended. There was no objection. He then moved and asked unanimous consent for the committee substitute to move from committee. There was no objection.

The meeting adjourned at 3:30 p.m.

12 May 1983

Nancy Schaufelberger
Senator Vic Fischer's Office
Pouch V
Juneau, Alaska 99811

Dear Nancy:

As we discussed on the telephone yesterday and this morning, I have enclosed some background information on Nimbus, the sculpture by Robert Murray in front of the Court Building in Juneau. The outline includes details of who was involved in actually getting a piece of sculpture for the site as well as the steps which were taken and funds which were granted to select and pay the artist. You can see that planning began in 1974. The piece was permanently installed in June, 1978.

I understand that House Concurrent Resolution 9 calls for the organization of a task force to study ways to remove Nimbus and plan for the installtion of a war memorial on the Court Plaza Site. The Director of the State Arts Council is named in the resolution as a member of the task force.

There are several issues at stake regarding the removal of Nimbus:

- no one will argue against the creation of a war memorial only against the removal of another creative work on the same site. The State Arts Council and its Public Art Panel would happily provide technical assistance on the selection of an alternative site should that be an option

- the actual Juneau Court Building Plaza was redesigned for the installation of Nimbus. Murray asked that the "downhill" side of the plaza be opened up to allow for a broader view of his work. Therefore, his piece incorporates the plaza and is, as I understand it, protected by his copyright. Copies of the drawings and construction documents are in our office and can be obtained from Mr. Murray.

- is it appropriate for the Legislature to censor, in

Alaska State Council on the Arts
619 Warehouse Avenue, Suite 220/Anchorage, Alaska 99501/(907) 279-1558

[illegible] of artwork the public is exposed to [illegible] individual members have different feelings [illegible] particular work? The State Arts Council agrees [illegible] government censorship is not a good thing.

[illegible] only touched upon a few things regarding the piece [illegible] on public art. Please feel free to call me prior [illegible] State Affairs meeting Tuesday when public comment on [illegible] will be taken.

Sincerely,

Christine D'Arcy

Christine D'Arcy
Acting Executive Director

cc: Alaska State Council on the Arts Members

enclosures

CD:mt

ALASKA STATE
COUNCIL ON THE ARTS
May 11, 1977

...use Sculpture Project

...ing is a listing in order of the events and actions to date ... the commissioning of a sculpture for the Juneau Courthouse

1. In July, 1974 Lou Cassetta, architect of the Juneau Courthouse, met with Roy Helms of the ASCA to discuss possible matching funding from the National Endowment for the Arts for works of art in conjunction with the new building. Under consideration at that time was the restoration of a totem pole, the construction of display cases for museum pieces in the lobby of the building, and a piece of sculpture in or adjacent to the plaza. (re.: July 24, 1974 letter from Lou Cassetta to Arthur Snowden II)

2. By the time the application was filed the inclusion of the totem pole was set aside since this would not be an new work of art, but a restoration, and fibre wall hangings were included for the four court rooms.

3. The National Endowment responded on November 6, 1974 indicating that they could only consider funding for one project, the sculpture for the plaza. (Letter from Richard Koshalek, November 6, 1974).

4. The Court System confirmed that there was no conflict between the guidelines of the National Endowment for the Arts and the legislative appropriation limitations. The manner in which to spend $25,000 for works of art was left to the discretion of the Court System by the Legislature. (Letter of August 5, 1974 from Arthur Snowden, II to Lucian Cassetta.)

5. In December, 1974 the project application to the National Endowment was changed to include only the plaza sculpture. A total of $10,000 was applied for with $10,000 matching pledged by the Alaska Court System. (Letter of December 13, 1974 from Roy Helms to David Bancroft).

6. On August 18, 1975 Brian O'Doherty, Director of the Visual Arts Programs of the National Endowment indicated a reluctance on the part of the review panel to consider a sculpture project with such a low budget. He indicated that they would be willing to fund $20,000 if there were $20,000 matching available.

7. The Alaska State Council on the Arts was approached by the Alaska State Court System on August 20, 1975 for the additional $10,000. This was approved by telephone conference on August 29, 1975 of the Visual Arts Committee and the Executive Committee.

8. On June 28, 1976, a grant was awarded to the Alaska State Council on the Arts from the National Endowment for the Arts in the amount of $20,000 for the Juneau Sculpture Project. The grant conditions included adherence to the guidelines under which the Alaska State Council on the Arts applied which included:

a. Appointment by the ASCA of three individuals with knowledge of the local area and of contemporary art to a selection committee.

b. Appointment by the National Endowment for the Arts of three nationally recognized experts to the selection committee.

c. The selection committee will be empowered to select the artist for the commission. The selection will be made on the basis of the review of previous work of artists of national or regional significance.

d. The selected artist will prepare a model for the project for review by the Alaskan members of the selection committee. The National Council on the Arts will also have the opportunity to review the model.

e. The National Council on the Arts advised that the selection process be extended widely to include artists both outside and inside the state.

9. On June 14, 1976 the ASCA granted Arts Alaska, Inc. $10,000 from the Public Art program for the Juneau Sculpture project.

10. On September 15, 1976 the ASCA granted Arts Alaska, Inc. $20,000 from the National Endowment grant for the Juneau Sculpture project.

11. On April 19, 1977 the Alaska Court System issued a check to Arts Alaska in the amount of $10,000 for the Juneau Sculpture project.

12. Selection procedures:

a. Notification of the availability of the commission was made in the press and in "The Arts in Alaska". Alaskan sculptors were encouraged to have their portfolios filed with the ASCA for review by the selection committee.

b. The Alaskan portion of the selection committee was appointed by the ASCA including Ron Senungetuk, Lou Cassetta, and Justice Connor.

c. The National Endowment portion of the selection committee was appointed to include Sebastian Adler, Museum of Contemporary Art, LaJolla, CA; Suzanne Foley, San Francisco Museum of Modern Art; and Maurice Tuchman, Los Angeles County Museum.

d. The committee met in Juneau at the site on November 19, 1976. (Connie Boochever substituting for Justice Connor.)

e. The committee first viewed the site, discussed its unique needs, and then began reviewing slides of artists work. They first reviewed the portfolios of 21 Alaskan artists. They then reviewed slides of sculptors' work from the rest of the United States.

f. Each of the committee members was asked to list those artists that stood out in their minds as fulfilling the criterion set forth. From this list discussion took place. (See addendum)

g. The committee eventually voted and unanimously selected the following three artists in the ranked preference listed
1. Robert Murray. 2. Cliff Westermann. 3. Robert Breer.

12. Robert Murray was contacted and was willing to undertake the commission. A contract between Arts Alaska, Inc. and Robert Murray was negotiated effective 23 December, 1976.

13. Robert Murray visited the site on 18 January 1977, met with Justices Boochever, Connor, and Stewart to discuss the proposed sculpture, the desired changes in the concrete pad in the plaza, and desired alterations to the surrounding buildings for long-term planning purposes.

14. It is intended that the model for the sculpture will be ready for review by the committee in mid-June, 1977. At that time the three Alaskan members of the selection committee will meet with Murray in Juneau to review the plans and approve or disapprove the proposed sculpture.

ADDENDUM: Criterion outlined relative to the site and the selection process

1. The sculpture will be viewed from all sides and heights, including above and below.
2. If the sculpture is to be centered in the circular central space in the plaza a net diameter of 20' is possible.
3. Consideration needs to be given to the "gray" nature of the climate in Juneau. The material and finish would desirably be highly reflective or brightly colored.
4. There is a potential of strong winds from all directions which should be taken into consideration when considering large, flat surfaces.
5. The work of art to be commissioned is to be of national or regional significance. This was interpreted to the committee as meaning that the artist selected should have a demonstrated record of nationally or regionally recognized work as a contemporary sculptor.
6. The general vicinity of the plaza is "busy" visually with closely built structures of varying heights and colors. It was agreed that a "busy" sculpture would not be appropriate and this was kept in mind when reviewing artists.
7. A variety of philosophies about the proposed nature of the to-be-commissioned work were suggested including consideration of "strength" as descriptive of the Court System and accessibility to the community (especially the children of the community).

HCR

11

COMMITTEE REPORT

SENATE

FURTHER:

Date: _____

Mr. President:

The Committee on _____ has had _____

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

[ ] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

[ ] replace with CS for _____ [ ] same title [ ] new title

and recommends _____

[ ] AND attaches a "Letter of Intent" [ ] New Fiscal Note

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING DO PASS	MEMBERS HAVING OTHER RECOMMENDATIONS:
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	
_____	
_____	

_____
CHAIRMAN

S 60 (Rev. 12/78)

ALASKA STATE LEGISLATURE - SENATE

SENATOR RICHARD I. ELIASON

LABOR AND COMMERCE COMMITTEE, CHAIRMAN
RESOURCES COMMITTEE
JUDICIARY COMMITTEE
FISHERIES SUB-COMMITTEE

P.O. BOX 143
SITKA, ALASKA 99835

POUCH V
JUNEAU, ALASKA 99811
(907) 465-4316

MEMORANDUM

TO: Sen. Bill Ray, Chair
Senate Judiciary Committee

FROM: Sen. Dick Eliason

DATE: March 2, 1983

RE: HCR 11 - Relating to the use by petit jurors of earphones

As requested I reviewed the above-referenced resolution and I am now reporting my findings to you.

This resolution, introduced by Rep. Fritz, would encourage the Alaska Court System to study the use of earphones by petit jurors. The use of earphones may alleviate the occasional problems caused when an individual juror may not be able to hear the testimony offered during a trial due either to distractions in the court room or an unstated physical impairment to the hearing of the juror. The fiscal impact of this resolution is zero.

Rep. Milo Fritz is available to meet with committee members to explain the rationale behind this resolution if you so wish.

Attachment

STATE OF ALASKA
PRELIMINARY STATEMENT OF FISCAL IMPACT

Bill No: HCR 11 Date on Bill:
Title: "Relating to use by petit jurors of headphones"
Sponsor:
Requestor:

1. Estimated fiscal impacts on:

a. Expenditures:

(Thousands of Dollars)

			FY 83	FY 84	FY 85	FY 86		
Capital								
Operating								
Total	0		0	0	0	0		

b. Revenues:

Revenue								

2. Source of funds to offset fiscal impact of bill:

3. Assumptions:

4. Disclaimer:
-- This statement has not been reviewed by the OMB in the Office of the Governor. not represent the policy of the Sheffield Administration or the final estimate of impact.

Prepared By: Curtis H Snowden II Phone:
Division: Alaska Court System, Fiscal Operations Date: 2/15/83

Approved by Commissioner: Date:
Department:

5. Distribution:
Original to Legislative Finance
Copy to OMB
Copy to Sponsor
Copy to Requestor

2/8/83

HCR 9, (cont'd)

resolves that this project be financed through public contributions.

Introduced January 20 and referred to State Affairs and Finance.

Access to Whittier, Alaska

HOUSE CONCURRENT RESOLUTION NO. 10, by Reps. Fritz, Szymanski and Barnes. Requests the Governor to direct the Dept. of Transportation and Public Facilities to study paving of the Whittier railroad tunnel for vehicular traffic and to enter into negotiations with the Alaska Railroad for the acquisition of right-of-way privileges to permit use of the right-of-way for vehicular access to Whittier, Alaska. States that there are a number of places along the railbed of the Alaska Railroad that are paved for temporary use by automobiles when snowslides cover the Seward Highway, and that a significant number of people seek access to Whittier and access is limited to service on the Alaska Railroad.

Introduced January 21 and referred to State Affairs, Transportation and Finance.

Petit Jurors (use of earphones)

HOUSE CONCURRENT RESOLUTION NO. 11, by Rep. Fritz. Would encourage the Alaska Court System to study the use of earphones by petit jurors. States that there are occasions where an individual juror may not be able to hear the testimony offered during a trial, due either to distractions in the court room or an unstated physical impairment to the hearing of the juror.

Introduced January 21 and referred to Judiciary.

Yukon-Kuskokwim Canal

HOUSE CONCURRENT RESOLUTION NO. 12, by Rep. Fritz. Requests the Governor to direct the Dept. of Transportation and Public Facilities to conduct a study regarding the feasibility and cost of construction of a canal between the Yukon and Kuskokwim Rivers at the place where the rivers approach one another most closely, which would give central Alaska access to a seaport. The study must give due recognition and consideration to the rights of Native people and to the environmental effects of such a canal. The Commissioner of Transportation and Public Facilities would be required to submit to the Legislature by January 30, 1984, a final report concerning a Yukon-Kuskokwim canal.

Introduced January 21 and referred to State Affairs, Transportation and Finance.

OPEC Meetings (Alaskan observer)

HOUSE RESOLUTION NO. 1, by Rep. Lindauer. Would request and encourage the Governor to send an observer to OPEC meetings for the purpose of participating in the meetings to the fullest extent permissible. States that it is important for the state to have current world oil market information for adequate planning.

Introduced January 18 and referred to Resources and Finance.

Representative Barnes moved and asked unanimous consent that the Journal for the thirty-first day be approved as certified by the Chief Clerk. There being no objection, it was so ordered.

MESSAGES FROM THE SENATE

A message dated February 16, 1983, was read stating the Senate has approved the following citations and is transmitting the same for consideration:

Honoring Merrily Hill
by Senators Bennett and Fahrenkamp

Honoring Amy Harms
by Senators Bennett and Fahrenkamp

The above citations were referred to the Rules Committee for placement on the calendar.

A message dated February 16, 1983, was read stating the Senate has passed the following and it is transmitted for consideration:

FIRST READING AND REFERENCE OF SENATE RESOLUTIONS

CSSSJR 10(Res)

COMMITTEE SUBSTITUTE FOR SENATE JOINT RESOLUTION NO. 10 (Resources)

Requesting rejection and renegotiation of the proposed United States-Canada salmon interception treaty.

was read the first time and referred to the House Special Committee on Fisheries and the Resources Committee.

REPORTS OF STANDING COMMITTEES

HCR 11

The Judiciary Committee has had HOUSE CONCURRENT RESOLUTION NO. 11 (relating to the use by petit jurors of earphones) under consideration, recommends it do pass and

HCR 11

attaches a zero fiscal note. Concurring: Russell (Chairman), Barnes, Wendte, Clocksin and Linke.

HCR 11 was referred to the Rules Committee for placement on the calendar.

HCR 16

The Health, Education and Social Services Committee has had HOUSE CONCURRENT RESOLUTION NO. 16 (relating to hepatitis B) under consideration and recommends it do pass. Concurring: Fritz (Co-Chairman), Tlacher (Co-Chairman), Koponen, Gato and H. W. Miller.

HCR 16 was referred to the Rules Committee for placement on the calendar.

HB 74

The Transportation Committee has had HOUSE BILL NO. 74 (special appropriation to the City of Nenana for rehabilitation of the Tanana River dock and waterfront facilities; effective date) under consideration and recommends it do pass. Concurring: Gato (Chairman), Abood, M.W.Miller, Lacher and Phillips. Not concurring: Herrmann had no recommendation.

HB 74 was referred to the Finance Committee.

HB 152

The Community and Regional Affairs Committee has had HOUSE BILL NO. 152 (making a supplemental appropriation to the miscellaneous services account; effective date) under consideration and recommends it be replaced with COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 152 (C&RA) (same title), that it do pass, and attaches a zero fiscal note. Concurring: Lacher (Chairman), Fritz, McBride, Clocksin and Phillips. Not concurring: Tlacher had no recommendation.

HB 152 was referred to the Finance Committee.

HB 153

The Community and Regional Affairs Committee has had HOUSE BILL NO. 153 (making a supplemental appropriation

HB 219

Responsibility for the regulation of marine pilotage is shared by the federal and state governments. The federal government, through the U.S. Coast Guard (USCG), regulates pilotage on enrolled vessels, while the individual states are given the right, in the United States Code, to regulate pilotage on registered vessels. Enrolled vessels are vessels registered in the United States and engaged in commerce between American ports; registered vessels are those vessels engaged in foreign trade. The individual states have the right to regulate pilotage on vessels engaged in foreign trade.

"(4) an assessment of alternative methods of achieving the purposes of the program;"

The Committee concluded that there was not a viable alternative method of achieving the purposes of the program.

"(5) an assessment of the consequences of eliminating the board, commission or program and consolidating its activities with another program, or of funding it at a lower level;"

The Committee believes the consequences of eliminating the board or consolidating it activities would expose shipping, the public, and the environment to the potential consequences of a maritime mishap.

"(6) a justification for the recommended continuation or extension of the board, commission or program, and an explanation of the manner in which it avoids duplication of or conflict with other efforts; and"

The Committee believes that a safety record of over 2,000 dockings without mishap justifies continuing the Board of Marine Pilots.

"(7) any other information which, in the opinion of the committee, would improve the performance of the board, commission or agency with respect to its representation of and responsiveness to the public interest."

The Board of Marine Pilots should work with Department of Commerce and Economic Development, Division of Occupational Licensing to ensure that public notices of examinations are sufficiently and timely advertised.

The letter was signed by Representative Furnace (Chairman), Dehling, Koponen and Malone.

HB 219

HOUSE BILL NO. 219 by Lindauer, Abood, Barnes, Bunnell, Cato, Cowdery, Duncan, Flood, Fritz, Fuller, Furnace, Grussendorf, Hurlbert, Liska, M. H. Miller, Pestinger, Phillips, Tischer, Uehling, Ward and Hayes, entitled:

> "An Act relating to local Citizen Advisory Boards of the University of Alaska."

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

CONSIDERATION OF THE DAILY CALENDAR

SECOND READING OF HOUSE RESOLUTIONS

HCR 11

HOUSE CONCURRENT RESOLUTION NO. 11 (relating to the use by petit jurors of earphones) was read the second time with the Judiciary Committee report (page 292 of the Journal).

The question being: "Shall HCR 11 pass the House?" The roll was taken with the following result:

HCR 11

Yeas:	31	Abood, Adams, Barnes, Bunnell, Cato, Glockain, Cowdery, Davis, Duncan, Flood, Fritz, Fuller, Furnace, Grussendorf, Hayes, Lacher, Larson, Lindauer, Liska, Martin, McBride, Miller,M.H., Miller,M.W., Phillips, Ringstad, Shultz, Szymanski, Tischer, Uehling, Vaska, Wendte
Nays:	0	
Excused:	5	Bettisworth, Goll, Malone, Pestinger, Zharoff
Absent:	4	Herrmann, Hurlbert, Koponen, Ward

And so, HCR 11 passed the House and was referred to the Chief Clerk for engrossment.

HJR

1

FILE WITH HJR 1

Alaska State Legislature

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

BOX 142
EAGLE RIVER, ALASKA
99577

Representative Randy Phillips

HOUSE DISTRICT ~~8~~ 1

MEMORANDUM

TO: SENATOR BILL RAY
CHAIRMAN, SENATE JUDICIARY COMMITTEE

FROM: REPRESENTATIVE RANDY PHILLIPS

DATE: MARCH 9, 1983

RE: HJR 1

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

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

Encs.

MEMORANDUM State of Alaska

TO Hon. Terry Miller
Lieutenant Governor

DATE November 7, 1980

FILE NO. J-66-001-81

ATTN: Patty Ann Polley, Director
Division of Elections

TELEPHONE NO. 465-3665

FROM: WILSON L. CONDON
ATTORNEY GENERAL

SUBJECT Restoration of voting rights to convicted felons

By:
Laura L. Davis
Assistant Attorney General

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

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

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

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

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

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

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

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

We hope that this answers your questions.

LLD/pjg

Enc.

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

FELONIES INVOLVING MORAL TURPITUDE

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

House passes expulsion rule for lawmakers

by Bill White
Times Juneau Bureau

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

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

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

The court would be ordered to hear any appeal quickly.

Hohman is the only Alaska lawmaker expelled from the legislature.

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

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

See House, page A-4

House

(Continued from page A-1)

case came up. His conviction still is under appeal.

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

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

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

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

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

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

Alaska State Legislature

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

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

Representative Randy Phillips

HOUSE DISTRICT 15

TO: MEMBERS
ALASKA HOUSE OF REPRESENTATIVES

FROM: REPRESENTATIVE RANDY PHILLIPS REP

DATE: FEBRUARY 9, 1983

RE: CS HJR 1 (JUDICIARY)

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

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

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

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

February 8, 1983

Randy:

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

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

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

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

Janet

TO: REP

FROM: JSS

DATE: FEB. 8, 1983

RE: HJR 1

Attached are the following:

1. One page definition of bill

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

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

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

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

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

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

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

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

ALASKA

STATE LEGISLATURE

February 4, 1983

MEMORANDUM

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

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

CHAPTER = 04.11
SECTION = 04.11.370
TITLE = 04

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

CITATION Sec. 04.11.370.

CATCH LINE
SUSPENSION AND REVOCATION OF LICENSES AND PERMITS.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

HISTORY (Sec. 2 ch 131 SLA 1980)

END OF DOCUMENT

CHAPTER = 05.15
SECTION = 05.15.060
TITLE = 05

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

CITATION Sec. 05.15.060.

CATCH LINE
REGULATIONS.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

CHAPTER = 08.24
SECTION = 08.24.110
TITLE = 08

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

CITATION Sec. 08.24.110.

CATCH LINE
QUALIFICATION FOR OPERATOR'S LICENSE.

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

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

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

(3) be of good moral character;

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

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

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

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

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

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

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

HISTORY (Sec. 1 ch 101 SLA 1968)

END OF DOCUMENT

CHAPTER = 08.24
SECTION = 08.24.290
TITLE = 08

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

CITATION Sec. 08.24.290.

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

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

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

HISTORY (Sec. 1 ch 191 SLA 1968)

END OF DOCUMENT

CHAPTER = 08.42
SECTION = 08.42.090
TITLE = 08

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

CITATION Sec. 08.42.090.

CATCH LINE

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

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

(1) fraud or misrepresentation in obtaining a license;

(2) misrepresentation or fraud in the practice of

mortuary science;

(3) false or misleading advertising,

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

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

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

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

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

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

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

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

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

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

(13) conviction of a felony involving moral turpitude.

HISTORY (Sec. 1 ch 197 SLA 1976)

END OF DOCUMENT

CHAPTER = 08.54
SECTION = 08.54.110
TITLE = 08

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

CITATION Sec. 08.54.110.

CATCH LINE

QUALIFICATIONS FOR REGISTERED GUIDE LICENSE.

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

(1) is 21 years of age or more;

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

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

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

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

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

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

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

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

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

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

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

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

HISTORY (Sec. 1 ch 17 SLA 1973)

END OF DOCUMENT

CHAPTER = 08.64
SECTION = 08.64.380
TITLE = 08

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

CITATION Sec. 08.64.380.

CATCH LINE

DEFINITIONS.

TEXT As used in this chapter

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

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

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

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

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

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

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

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

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

(3) "unprofessional or dishonorable conduct" means

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

LIMITED EFFECTIVE DATE

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

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

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

(C) conviction of an offense involving moral turpitude;

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

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

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

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

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

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

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

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

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

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

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

(B) is trained by a licensed physician

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

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

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

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

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

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

(A) a patient shall be concurrently referred to a

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

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

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

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

END OF DOCUMENT

CHAPTER = 08.88
SECTION = 08.88.171
TITLE = 08

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

CITATION Sec. 08.88.171.

CATCH LINE
ENTITLEMENT TO LICENSE.

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

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

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

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

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

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

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

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

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

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

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

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

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

END OF DOCUMENT

CHAPTER = 14.07
SECTION = 14.07.145
TITLE = 14

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

CITATION Sec. 14.07.145.

CATCH LINE
. COMMISSIONER OF EDUCATION.

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

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

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

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

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

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

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

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

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

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

HISTORY (Sec. 1 ch 96 SLA 1967)

END OF DOCUMENT

CHAPTER = 14.20
SECTION = 14.20.030
TITLE = 14

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

CITATION Sec. 14.20.030.

CATCH LINE

CAUSES FOR REVOCATION AND SUSPENSION.

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

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

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

crime involving moral turpitude;

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

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

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

END OF DOCUMENT

CHAPTER = 14.20
SECTION = 14.20.170
TITLE = 14

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

CITATION Sec. 14.20.170.

CATCH LINE
DISMISSAL.

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

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

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

crime involving moral turpitude; or

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

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

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

END OF DOCUMENT

CHAPTER = 14.20
SECTION = 14.20.175
TITLE = 14

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

CITATION Sec. 14.20.175.

CATCH LINE

NONRETENTION.

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

may request and receive an informal hearing by the board.

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

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

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

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

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

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

END OF DOCUMENT

CHAPTER = 15.05
SECTION = 15.05.030
TITLE = 15

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

CITATION Sec. 15.05.030.

CATCH LINE

TEXT LOSS AND RESTORATION OF VOTING RIGHTS.

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

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

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

END OF DOCUMENT

CHAPTER = 15.07
SECTION = 15.07.135
TITLE = 15

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

CITATION Sec. 15.07.135.

CATCH LINE

SUSPENSION OF REGISTRATION OF CONVICTED PERSONS.

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

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

END OF DOCUMENT

CHAPTER = 15.60
SECTION = 15.60.010
TITLE = 15

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

CITATION Sec. 15.60.010.

CATCH LINE
DEFINITIONS.

TEXT In this title, unless the context otherwise requires,

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

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

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

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

composed of the three election judges;

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

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

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

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

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

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

be marked by hand with a pen or pencil;

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

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

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

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

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

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

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

accordance with AS 15.07.125;

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

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

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

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

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

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

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

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

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

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

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

the state constitution;

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

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

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

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

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

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

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

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

END OF DOCUMENT

CHAPTER = 18.65
SECTION = 18.65.440
TITLE = 18

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

CITATION Sec. 18.65.440.

CATCH LINE
REVOCATION OF LICENSE.

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

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

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

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

turpitude while licensed;

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

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

HISTORY (Sec. 1 ch 59 SLA 1976)

END OF DOCUMENT

CHAPTER = 21.09
SECTION = 21.09.150
TITLE = 21

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

CITATION Sec. 21.09.150.

CATCH LINE
SUSPENSION OR REVOCATION FOR VIOLATIONS AND SPECIAL GROUNDS.

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

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

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

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

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

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

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

(5) is affiliated with and under the same general

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

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

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

HISTORY (Sec. 1 ch 120 SLA 1966)

END OF DOCUMENT

CHAPTER = 21.22
SECTION = 21.22.020
TITLE = 21

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

CITATION Sec. 21.22.020.

CATCH LINE
CONTENT OF STATEMENT FOR ACQUISITION OR MERGER FILING.

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

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

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

misdemeanor convictions involving moral turpitude during the past 10 years;

(B) if the person is not an individual,

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

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

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

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

(A) the source, nature and amount;

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

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

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

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

(A) [illegible]

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

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

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

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

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

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

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

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

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

(11) the terms of any agreement, contract or

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

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

HISTORY: Sec. 1 ch 222 SLA 1976

END OF DOCUMENT

CHAPTER = 22.30
SECTION = 22.30.011
TITLE = 22

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

CITATION Sec. 22.30.011.

CATCH LINE
POWERS AND DUTIES OF THE COMMISSION.

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

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

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

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

constitute

(A) wilful misconduct in office,

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

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

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

(4) is habitually intemperate.

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

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

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

(1) exonerate the judge of the charges,

(2) reprimand the judge publicly or privately;

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

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

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

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

HISTORY: [illegible] SB 214 [illegible]

END OF DOCUMENT

CHAPTER = 22.30
SECTION = 22.30.070
TITLE = 22

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

CITATION Sec. 22.30.070.

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

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

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

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

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

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

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

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

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

CHAPTER = CH014

CHAPTER NUMBER

CH014

SPECIAL INFO

CHAPTER 14

Source: SB 238 am H

Approved by the Governor: March 22, 1982

Actual Effective Date: July 2, 1982

RELATING TO

AN ACT

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

TEXT

* Section 1. AS 08.68.010 is amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

considers necessary;

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

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

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

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

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

(b) The board may

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

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

(3) prescribe requirements for competence to continue practice.

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

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

the board.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

-$20-

(B) license by examination fee 20

(C) license by endorsement fee 20

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

-15-

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

-NURSING-

4

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

-$15-

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

-15-

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

-15-

(D) biennial license renewal fee . (_20_)

-15-

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

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

abbreviation "R.N."

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

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

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

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

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

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

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

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

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

5

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

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

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

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

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

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

6

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

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

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

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

PATIENT-;

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

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

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

under it_);

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

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

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

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

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

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

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

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

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

8

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

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

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

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

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

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

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

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

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

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

(7) conduct a nursing education program and

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

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

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

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

Sec. 08.68.400. EXCEPTIONS TO APPLICATION OF CHAPTER.

(a) This chapter does not apply to

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

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

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

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

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

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

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

Sec. 08.68.410. DEFINITIONS. In this chapter,

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

10

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

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

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

(5) "licensed registered nurse" is equivalent to

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

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

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

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

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

(A) assessment of problems, counseling, and teaching

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

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

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

(C) teaching others the skills of nursing;

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

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

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

12

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

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

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

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

EFFECTIVE DATE

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

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

CHAPTER = 08.48
SECTION = 08.48.111
TITLE = 08

CITATION NOTES FOR AS 08.48.111.

ANNOTATIONS

EFFECT OF AMENDMENTS.

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

COLLATERAL REFERENCES.

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

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

END OF DOCUMENT

CHAPTER = 08.64
SECTION = 08.64.380
TITLE = 08

CITATION NOTES FOR AS 08.64.380.

ANNOTATIONS

REVISOR'S NOTES.

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

CROSS REFERENCES.

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

As to malpractice actions, see AS 09.55.530 - 09.55.560.

EFFECT OF AMENDMENTS.

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

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

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

NOTES TO DECISIONS.

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

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

COLLATERAL REFERENCES.

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

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

END OF DOCUMENT

CHAPTER = 08.68
SECTION = 08.68.270
TITLE = 08

CITATION NOTES FOR AS 08.68.270.

ANNOTATIONS

EFFECT OF AMENDMENTS.

The 1978 amendment added paragraph (11).

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

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

EDITOR'S NOTES.

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

NOTES TO DECISIONS.

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

COLLATERAL REFERENCES.

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

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

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

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

82 ALR 2d 606.

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

END OF DOCUMENT

CHAPTER = 08.84
SECTION = 08.84.120
TITLE = 08

CITATION NOTES FOR AS 08.84.120.

ANNOTATIONS

EFFECT OF AMENDMENTS.

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

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

EDITOR'S NOTES.

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

NOTES TO DECISIONS.

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

END OF DOCUMENT

CHAPTER = 15.05
SECTION = 15.05.030
TITLE = 15

CITATION NOTES FOR AS 15.05.030.

ANNOTATIONS

CROSS REFERENCES.

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

EFFECT OF AMENDMENTS.

The 1980 amendment rewrote the section.

OPINIONS OF ATTORNEY GENERAL.

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

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

For a list of crimes which constitute felonies involving moral

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

COLLATERAL REFERENCES.

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

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

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

END OF DOCUMENT

CHAPTER = 15.07
SECTION = 15.07.135
TITLE = 15

CITATION NOTES FOR AS 15.07.135.

ANNOTATIONS

REVISOR'S NOTES.

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

CROSS REFERENCES.

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

COLLATERAL REFERENCES.

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

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

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

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