



# LAWS OF ALASKA

1990

**Source**

CSHB 146(Fin) am

**Chapter No.**

126

**AN ACT**

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

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

THE ACT FOLLOWS ON PAGE 1, LINE 16

UNDERLINED MATERIAL INDICATES TEXT THAT IS BEING ADDED TO THE LAW AND BRACKETED MATERIAL IN CAPITAL LETTERS INDICATES DELETIONS FROM THE LAW; COMPLETELY NEW TEXT OR MATERIAL REPEALED AND RE-ENACTED IS IDENTIFIED IN THE INTRODUCTORY LINE OF EACH BILL SECTION.

Approved by the Governor: June 14, 1990  
Actual Effective Date: June 15, 1990

## AN ACT

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

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

Sec. 08.02.020. LIMITATION OF LIABILITY [FOR MEMBERS OF LICENSING BOARDS AND PEER REVIEW COMMITTEES]. An action may not be brought

against a [A] person [IS NOT LIABLE] for damages resulting from

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

(A) a member of, or witness before, a licensing board or peer review committee established to review a licensing matter; [,]

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

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

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

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

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

(b) The regulations adopted under (a) of this section may include limitations relating to the

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

\* Sec. 3. AS 08.64.101 is amended to read:

Sec. 08.64.101. DUTIES. The board shall

- (1) examine and issue licenses to applicants;
- (2) develop written guidelines to ensure [INSURE] that licensing requirements are not unreasonably burdensome and the

1 issuance of licenses is not unreasonably withheld or delayed;

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

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

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

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

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

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

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

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

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

Chapter 126

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

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

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

10 (1) [REPEALED

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

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

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

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

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

27 (b) The board shall determine whether each physician applicant  
28 has any disciplinary or other actions recorded in the nationwide  
29 disciplinary data bank of the Federation of State Medical Boards. If  
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1 the physician applicant was licensed or practiced in a jurisdiction  
2 that does not record information with the data bank of the Federation  
3 of State Medical Boards, the board shall contact the medical regula-  
4 tory body of that jurisdiction to obtain comparable information about  
5 the applicant.

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

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

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

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

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

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

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

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

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

29 (3) meet other qualifications of experience or education  
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Chapter 126

1 which the board may require.

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

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

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

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

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

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

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

- 22 (a) The board may not grant a license if  
23 (1) the applicant fails or cheats during the examination;  
24 (2) the applicant has surrendered a license in another  
25 jurisdiction while under investigation and the license has not been  
26 reinstated in that jurisdiction;  
27 (3) the board determines that the applicant is profession-  
28 ally unfit to practice medicine or osteopathy in the state; or  
29 (4) [(3)] the applicant fails to comply with a requirement  
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1 of this chapter.

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

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

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

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

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

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

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

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

29 \* Sec. 15. AS 08.64.270 is amended by adding new subsections to read:  
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Chapter 126

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

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

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

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

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

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

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

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

29 \* Sec. 19. AS 08.64.275(c) is amended to read:  
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1 (c) An osteopath applying under (a) of this section shall pay  
2 the required fee and shall meet the requirements of AS 08.64.205 and  
3 08.64.279. In addition, the osteopath shall submit evidence of hold-  
4 ing a license to practice in a state or territory of the United States  
5 or in a territory or province of Canada.

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

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

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

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

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

27 Sec. 08.64.279. INTERVIEW REQUIRED FOR PERMITS. An applicant  
28 for an intern permit, a resident permit, or a temporary permit for  
29 locum tenens practice must be interviewed in person by at least one  
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Chapter 126

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

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

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

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

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

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

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

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

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

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

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

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

29 (8) has demonstrated  
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1 (A) professional incompetence, gross negligence, or  
2 repeated negligent conduct; the board may not base a finding of  
3 professional incompetence solely on the basis that a licensee's  
4 practice is unconventional or experimental in the absence of  
5 demonstrable physical harm to a patient;

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

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

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

14 (10) has violated AS 18.16.010;

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

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

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

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

27 Sec. 08.64.335. REPORTS OF DISCIPLINARY ACTION OR LICENSE SUS-  
28 PENSION OR SURRENDER. The board shall promptly report to the Fed-  
29 eration of State Medical Boards for inclusion in the nationwide  
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Chapter 126

1 disciplinary data bank license and permit refusals under AS 08.64.240,  
2 actions taken by the board under AS 08.64.331, and license and permit  
3 suspensions or surrenders under AS 08.64.332 or 08.64.334.

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

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

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

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

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

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

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

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

8 \* Sec. 27. This Act takes effect immediately under AS 01.10.070(c).  
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