

# **Call to Order / Roll Call**

# STATE OF ALASKA 2021

## State Holidays

Date	Holiday
01/01	New Year's Day
01/18	MLK Jr.'s Birthday
02/15	Presidents' Day
03/29	Seward's Day
05/31	Memorial Day
07/04	Independence Day (observed 7/5)
09/06	Labor Day
10/18	Alaska Day
11/11	Veterans' Day
11/25	Thanksgiving Day
12/25	Christmas Day (observed 12/24)
01/01/22	New Year's Day (observed 12/31/21)

Biweekly employees please refer to appropriate collective bargaining unit agreement for more information regarding holidays.

 Holiday



State calendar maintained by the  
Division of Finance,  
Department of Administration  
<http://dos.alaska.gov/calendars.html>  
Revised 12/16/2019

# HOLIDAY CALENDAR

## JANUARY

S	M	T	W	T	F	S
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30
31						

## FEBRUARY

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28						

## MARCH

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## APRIL

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## MAY

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## JUNE

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## AUGUST

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## SEPTEMBER

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## OCTOBER

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31						

## NOVEMBER

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## DECEMBER

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26	27	28	29	30	31	



# **STATE OF ALASKA**

## **DEPARTMENT OF COMMERCE, COMMUNITY, AND ECONOMIC DEVELOPMENT**

### **DIVISION OF OCCUPATIONAL LICENSING BOARD OF DENTAL EXAMINERS**

# **MISSION STATEMENT**

**To protect the health, safety, and welfare of Alaskans by ensuring that practitioners possess competency, ethical standards, and integrity necessary to offer or deliver quality services to consumers.**

# **VISION STATEMENT**

**To ensure that all Alaskans receive the best possible dental care.**

# Dental Board Roster

David Nielson, DDS – *Board President*

Kelly Lucas, DDS

Jesse Hronkin, DDS

Dominic Wenzell, DMD

Jon Woller, DDS

Greg Johnson, DDS

Brittany Dschaak, RDH

Christina Hansen, RDH

Bradley Heaston, Public Member

# **Ethics Report**

# MEMORANDUM

## State of Alaska Department of Law

TO:

DATE:

FILE NO.:

TEL. NO.:

FROM: Angie White  
Litigation Assistant  
Department of Law  
Opinions, Appeals, & Ethics Section

FAX:

SUBJECT: Executive Branch Ethics Act, AS  
39.52 Quarterly Report

**\*\*\*\*SAMPLE LANGUAGE – PLEASE COPY ONLY THE PARTS THAT APPLY  
ONTO YOUR BOARD OR COMMISSION’S LETTERHEAD \*\*\*\***

As designated ethics supervisor and chair [executive director] for the \_\_\_\_\_, I wish to advise you that I have received no notifications of potential violations or requests for ethics determinations under the Ethics Act (AS 39.52) and have made no written determinations for this quarter.

**OR**

As designated ethics supervisor and chair [executive director] for the \_\_\_\_\_, I have received \_\_\_\_ notification(s) of a potential violation and \_\_\_\_ requests for ethics determinations under the Ethics Act (AS 39.52). I have attached a copy of the notices and requests along with my written determination(s) for review by the attorney general. I did [did not] receive an advisory opinion from the Attorney General.

**AND**

Except as addressed above, no other [board member] [commissioner] disclosed a potential conflict of interest at a recorded public meeting during this quarter.

**OR**

In addition to the above, at the [date] meeting, [Board member] [Commissioner] \_\_\_\_\_ disclosed a potential conflict with respect to \_\_\_\_\_ [insert brief description] \_\_\_\_\_. *Insert disposition:* [S/He refrained from participation.] *or* [I determined s/he could [could not] participate.] *or* [The Board [Commission] members voted to permit [not to permit] participation.]

**CONFIDENTIAL**

**ETHICS SUPERVISOR DETERMINATION FORM**

(Board or Commission Member)

Board or Commission: \_\_\_\_\_

Member Disclosing Potential Ethics Violation: \_\_\_\_\_

I have determined that the situation described on the attached ethics disclosure form

☐ does or would violate AS 39.52.110 - .190. Identify applicable statute below.

☐ does not or would not violate AS 39.52.110 - .190.

\_\_\_\_\_  
Signature of Designated Ethics Supervisor (Chair)

\_\_\_\_\_  
Printed Name of Designated Ethics Supervisor

Date: \_\_\_\_\_

COMMENTS (Please attach a separate sheet for additional space):

**Note: Disclosure Form must be attached.** Under AS 39.52.220, if the chair or a majority of the board or commission, not including the disclosing member, determines that a violation of AS 39.52.110 - 39.52.190 will exist if the member participates, the member shall refrain from voting, deliberating, or participating in the matter. A member will not be liable under the Ethics Act for action in accordance with such a determination so long as the member has fully disclosed all facts reasonably necessary to the determination and the attorney general has not advised the member, chair, or board or commission that the action is a violation. Forward disclosures with determinations to the State Ethics Attorney as part of your quarterly report. Quarterly reports are submitted to Litigation Assistant, Opinions, Appeals & Ethics, Department of Law, 1031 W. 4<sup>th</sup> Avenue, Suite 200, Anchorage, AK 99501.

Revised 2012

## State of Alaska Department of Law

### Who Is My Designated Ethics Supervisor?

Every state public officer, employee or board or commission member, has a designated ethics supervisor.

#### Executive Agencies

The ethics supervisor for each agency is the Commissioner or a senior manager to whom the Commissioner has delegated the function. The current ethics supervisor for each agency is listed below. The ethics supervisor for a Commissioner is Guy Bell, Director of Administrative Services in the Office of Governor, by delegation from the Governor.

#### Boards and Commissions

The Chair of each board and commission serves as the ethics supervisor for the other members and any executive director. The ethics supervisor for the Chair is Guy Bell, Director of Administrative Services in the Office of Governor, by delegation from the Governor. If a board or commission employs staff, the executive director serves as the ethics supervisor for these employees.

#### Public Corporations

The Chair of the board serves as the ethics supervisor for the other members of the board and any executive director. The executive director is the ethics supervisor for employees of the corporation.

#### Office of the Governor

The ethics supervisor for the Governor and Lieutenant Governor is the Attorney General. By delegation from the Governor, the ethics supervisor for the staff of the offices of the Governor and Lieutenant Governor is Guy Bell, Director of Administrative Services.

#### University of Alaska

By delegation of the University President, the ethics supervisor for university employees is Associate General Counsel Andy Harrington.

### EXECUTIVE BRANCH AGENCIES



Administration: Leslie Ridle, Deputy Commissioner

Commerce, Community & Economic Development: Jon Bittner, Deputy Commissioner

Corrections: April Wilkerson, Director of Administrative Services

Education & Early Development: Les Morse, Deputy Commissioner

Environmental Conservation: Tom Cherian, Director of Administrative Services

Fish & Game: Kevin Brooks, Deputy Commissioner

Health & Social Services: Dallas Hargrave, Human Resource Manager

Labor & Workforce Development: Michael Monagle, Director, Division of Workers Compensation

Law: Jonathan Woodman, Assistant Attorney General

Military & Veterans Affairs: Marty Meyer, Special Assistant to Commissioner

Natural Resources: John Crowther, Inter-Governmental Coordinator

Public Safety: Terry Vrabec, Deputy Commissioner

Revenue: Dan DeBartolo, Administrative Services Director

Transportation & Public Facilities:

- Highways & Public Facilities: Steve Hatter, Deputy Commissioner
- Aviation: John Binder, Deputy Commissioner
- Central Region: Rob Campbell, Regional Director
- Northern Region: Rob Campbell, Acting Regional Director
- Southcoast Region: Acting Regional Director
- Alaska Marine Highway System: Michael Neussl, Deputy Commissioner
- Headquarters: Mary Siroky, Administrative Services Director

Updated April 2015

Department of Law attorney.general@alaska.gov P.O. Box 110300, Juneau, AK 99811-0300  
Phone: 907-465-3600 Fax: 907-465-2075 TTY: 907-258-9161  
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## State of Alaska Department of Law

# Ethics Information for Members of Boards & Commissions (AS 39.52)

## Introduction

This is an introduction to AS 39.52, the Alaska Executive Branch Ethics Act. This guide is not a substitute for reading the law and its regulations. State board and commission members who have further questions should contact their board chair or staff.

The Ethics Act applies to all current and former executive branch public employees and members of statutorily created boards and commissions.

## Scope of Ethics Act (AS 39.52.110)

Service on a state board or commission is a public trust. The Ethics Act prohibits substantial and material conflicts of interest. Further, board or commission members, and their immediate family, may not improperly benefit, financially or personally, from their actions as board or commission members. The Act does not, however, discourage independent pursuits, and it recognizes that minor and inconsequential conflicts of interest are unavoidable.

## Misuse of Official Position (AS 39.52.120)

Members of boards or commissions may not use their positions for personal gain or to give an unwarranted benefit or treatment to any person. For example, board members may not:

- use their official positions to secure employment or contracts;
- accept compensation from anyone other than the State for performing official duties;
- use State time, equipment, property or facilities for their own personal or financial benefit or for partisan political purposes;
- take or withhold official action on a matter in which they have a personal or financial interest; or
- coerce subordinates for their personal or financial benefit.
- attempt to influence outcome of an administrative hearing by privately contacting the hearing officer.



Terry knew that a proposal that was before the board would harm Terry's business competitor. Instead of publicly disclosing the matter and requesting recusal, Terry voted on the proposal.



Board member Mick has board staff employee Bob type an article for him that Mick hopes to sell to an Alaskan magazine. Bob types the article on State time.

## Improper Gifts (AS 39.52.130)

A board member may not solicit or accept gifts if a person could reasonably infer from the circumstances that the gift is intended to influence the board member's action or judgment. "Gifts" include money, items of value, services, loans, travel, entertainment, hospitality, and employment. All gifts from registered lobbyists are presumed to be improper, unless the giver is immediate family of the person receiving the gift.

A gift worth more than \$150 to a board member or the board member's immediate family must be reported within 30 days if:

- the board member can take official action that can affect the giver, or
- the gift is given to the board member because he or she is on a state board.

The receipt of a gift worth less than \$150 may be prohibited if a person could reasonably infer from the circumstances that the gift is intended to influence the board member's action or judgment. Receipt of such a gift should be disclosed.

Any gift received from another government, regardless of value, must be reported; the board member will be advised as to the disposition of this gift.

A form for reporting gifts is available at [www.law.alaska.gov/doclibrary/ethics](http://www.law.alaska.gov/doclibrary/ethics) or from the board or commission staff.

This restriction on gifts does not apply to lawful campaign contributions.



The commission is reviewing Roy's proposal for an expansion of his business. Roy invites all the board members out to dinner at an expensive restaurant. He says it will be okay, since he isn't excluding any of the members.



Jody receives a holiday gift every year from Sam. Jody was recently appointed to a state board, but Sam has no business that is before the board. Jody may accept the gift.

## Improper Use or Disclosure of Information (AS 39.52.140)

No former or current member of a board may use or disclose any information acquired from participation on the board if that use or disclosure could result in a financial or personal benefit to the board member (or immediate family), unless that information has already been disseminated to the public. Board members are also prohibited from disclosing confidential information, unless authorized to do so.



Sheila has been on the board for several years. She feels she has learned a great deal of general information about how to have a successful business venture. So she sets up her own business and does well.



Delores has always advised and assisted the other doctors in her clinic on their continuing education requirements. After Delores is appointed to the medical board, she discloses this role to the board and continues to advise the doctors in her clinic.



Jim reviews a confidential investigation report in a licensing matter. He discusses the practitioner's violation with a colleague who is not a board member.

## Improper Influence in State Grants, Contracts, Leases or Loans (AS 39.52.150)

A board member, or immediate family, may not apply for, or have an interest in a State grant, contract, lease, or loan, if the board awards or takes action to administer the State grant, contract, lease, or loan.

A board member (or immediate family) may apply for or be a party to a competitively solicited State grant, contract or lease, if the board as a body does not award or administer the grant, contract, or lease and so long as the board member does not take official action regarding the grant, contract, or lease.

A board member (or immediate family) may apply for and receive a State loan that is generally available to the public and has fixed eligibility standards, so long as the board member does not take (or withhold) official action affecting the loan's award or administration.

Board members must report to the board chair any personal or financial interest (or that of immediate family) in a State grant, contract, lease or loan that is awarded or administered by the agency the board member serves. A form for this purpose is available at [www.law.alaska.gov/doclibrary/ethics](http://www.law.alaska.gov/doclibrary/ethics) or from the board or commission staff.



John sits on a board that awards state grants. John hasn't seen his daughter for nearly ten years so he figures that it doesn't matter when her grant application comes up before the board.



The board wants to contract out for an analysis of the board's decisions over the last ten years. Board member Kim would like the contract since she has been on the board for ten years and feels she could do a good job.

## Improper Representation (AS 39.52.160)

A board or commission member may not represent, advise, or assist a person in matters pending before the board or commission for compensation. A nonsalaried board or commission member may represent, advise, or assist in matters in which the member has an interest that is regulated by the member's own board or commission, if the member acts in accordance with AS 39.52.220 by disclosing the involvement in writing and on the public record, and refraining from all participation and voting on the matter. This section does not allow a board member to engage in any conduct that would violate a different section of the Ethics Act.



Susan sits on the licensing board for her own profession. She will represent herself and her business partner in a licensing matter. She discloses this situation to the board and refrains from participation in the board's discussions and determinations regarding the matter.

## Restriction on Employment After Leaving State Service (AS 39.52.180)

For two years after leaving a board, a former board member may not provide advice or work for compensation on any matter in which the former member personally and substantially participated while serving on the board. This prohibition applies to cases, proceedings, applications, contracts, legislative bills, regulations, and similar matters. This section does not prohibit a State agency from contracting directly with a former board member.

With the approval of the Attorney General, the board chair may waive the above prohibition if a determination is made that the public interest is not jeopardized.

Former members of the governing boards of public corporations and former members of boards and commissions that have regulation-adoption authority, except those covered by the centralized licensing provisions of AS 08.01, may not lobby for pay for one year.



The board has arranged for an extensive study of the effects of the Department's programs. Andy, a board member, did most of the liaison work with the contractor selected by the board, including some negotiations about the scope of the study. Andy quits the board and goes to work for the contractor, working on the study of the effects of the Department's programs.



Andy takes the job, but specifies that he will have to work on another project.

## Aiding a Violation Prohibited (AS 39.52.190)

Aiding another public officer to violate the Ethics Act is prohibited.

## Agency Policies (AS 39.52.920)

Subject to the Attorney General's review, a board may adopt additional written policies further limiting personal or financial interests of board members.

## Disclosure Procedures

### **DECLARATION OF POTENTIAL VIOLATIONS BY MEMBERS OF BOARDS OR COMMISSIONS (AS 39.52.220)**

A board member whose interests or activities could result in a violation of the Ethics Act if the member participates in board action must disclose the matter on the public record and in writing to the board chair who determines whether a violation exists. A form for this purpose is available at [www.law.alaska.gov/doclibrary/ethics](http://www.law.alaska.gov/doclibrary/ethics) or from the board or commission staff. If another board member objects to the chair's ruling or if the chair discloses a potential conflict, the board members at the meeting (excluding the involved member) vote on the matter. If the chair or the board determines a violation will occur, the member must refrain from deliberating, voting, or participating in the matter. For more information, see Ethics Act Procedures for Boards and Commissions available at the above noted web site.

When determining whether a board member's involvement in a matter may violate the Ethics Act, either the chair or the board or commission itself may request guidance from the Attorney General.

### **ATTORNEY GENERAL'S ADVICE (AS 39.52.240-250)**

A board chair or a board itself may request a written advisory opinion from the Attorney General interpreting the Ethics Act. A former board member may also request a written advice from the Attorney General. These opinions are confidential. Versions of opinions without identifying information may be made available to the public.

### **REPORTS BY THIRD PARTIES (AS 39.52.230)**

A third party may report a suspected violation of the Ethics Act by a board member in writing and under oath to the chair of a board or commission. The chair will give a copy to the board member and to the Attorney General and review the report to determine whether a violation may or does exist. If the chair determines a violation exists, the board member will be asked to refrain from deliberating, voting, or participating in the matter.

## Complaints, Hearings, and Enforcement

### **COMPLAINTS (AS 39.52.310-330)**

Any person may file a complaint with the Attorney General about the conduct of a current or former board member. Complaints must be written and signed under oath. The Attorney General may also initiate complaints based on information provided by a board. A copy of the complaint will be sent to the board member who is the subject of the complaint and to the Personnel Board.

All complaints are reviewed by the Attorney General. If the Attorney General determines that the complaint does not warrant investigation, the complainant and the board member will be notified of the dismissal. The Attorney General may refer a complaint to the board member's chair for resolution.

After investigation, the Attorney General may dismiss a complaint for lack of probable cause to believe a violation occurred or recommend corrective action. The complainant and board member will be promptly notified of this decision.

Alternatively, if probable cause exists, the Attorney General may initiate a formal proceeding by serving the board or commission member with an accusation alleging a violation of the Ethics Act. Complaints or accusations may also be resolved by settlement with the subject.

## **CONFIDENTIALITY (AS 39.52.340)**

Complaints and investigations prior to formal proceedings are confidential. If the Attorney General finds evidence of probable criminal activity, the appropriate law enforcement agency shall be notified.

## **HEARINGS (AS 39.52.350-360)**

An accusation by the Attorney General of an alleged violation may result in a hearing. An administrative law judge from the state's Office of Administrative Hearings serves as hearing officer and determines the time, place and other matters. The parties to the proceeding are the Attorney General, acting as prosecutor, and the accused public officer, who may be represented by an attorney. Within 30 days after the hearing, the hearing officer files a report with the Personnel Board and provides a copy to the parties.

## **PERSONNEL BOARD ACTION (AS 39.52.370)**

The Personnel Board reviews the hearing officer's report and is responsible for determining whether a violation occurred and for imposing penalties. An appeal may be filed by the board member in the Superior Court.

## **PENALTIES (AS 39.52.410-460)**

When the Personnel Board determines a board member has violated the Ethics Act, it will order the member to refrain from voting, deliberating, or participating in the matter. The Personnel Board may also order restitution and may recommend that the board member be removed from the board or commission. If a recommendation of removal is made, the appointing authority will immediately remove the member.

If the Personnel Board finds that a former board member violated the Ethics Act, it will issue a public statement about the case and will ask the Attorney General to pursue appropriate additional legal remedies.

State grants, contracts, and leases awarded in violation of the Ethics Act are voidable. Loans given in violation of the Ethics Act may be made immediately payable.

Fees, gifts, or compensation received in violation of the Ethics Act may be recovered by the Attorney General.

The Personnel Board may impose a fine of up to \$5,000 for each violation of the Ethics Act. In addition, a board member may be required to pay up to twice the financial benefit received in violation of the Ethics Act.

Criminal penalties are in addition to the civil penalties listed above.

## **DEFINITIONS (AS 39.52.960)**

Please keep the following definitions in mind:

**Benefit** - anything that is to a person's advantage regardless financial interest or from which a person hopes to gain in any way.

**Board or Commission** - a board, commission, authority, or board of directors of a public or quasi-public corporation, established by statute in the executive branch, including the Alaska Railroad Corporation.

**Designated Ethics Supervisor** - the chair or acting chair of the board or commission for all board or commission members and for executive directors; for staff members, the executive director is the designated ethics supervisor.

**Financial Interest** - any property, ownership, management, professional, or private interest from which a board or commission member or the board or commission member's immediate family receives or expects to receive a financial benefit. Holding a position in a business, such as officer, director, partner, or employee, also creates a financial interest in a business.

**Immediate Family** - spouse; another person cohabiting with the person in a conjugal relationship that is not a legal marriage; a child, including a stepchild and an adoptive child; a parent, sibling, grandparent, aunt, or uncle of the person; and a parent or sibling of the person's spouse.

**Official Action** - advice, participation, or assistance, including, for example, a recommendation, decision, approval, disapproval, vote, or other similar action, including inaction, by a public officer.

**Personal Interest** - the interest or involvement of a board or commission member (or immediate family) in any organization or political party from which a person or organization receives a benefit.



For further information and disclosure forms, visit our Executive Branch Ethics web site or please contact:

State Ethics Attorney  
Alaska Department of Law  
1031 West 4th Avenue, Suite 200  
Anchorage, Alaska 99501-5903  
(907) 269-5100  
attorney.general@alaska.gov

Revised 9/2013

Department of Law attorney.general@alaska.gov P.O. Box 110300, Juneau, AK 99811-0300  
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# State of Alaska

## Department of Law

### Executive Branch Ethics Act

## Responsibilities of Designated Ethics Supervisors for Boards and Commissions

Boards and commissions subject to the Ethics Act have designated ethics supervisors. The chair serves as the designated ethics supervisor for board or commission members and the executive director. The executive director is the designated ethics supervisor for staff. The designated ethics supervisor for a chair is the governor, who has delegated this responsibility to Guy Bell, Administrative Director of the Office of the Governor.

Designated ethics supervisors should refer to the Manual for Designated Ethics Supervisors (April 2008), available from the state ethics attorney, regarding their responsibilities under the Ethics Act. Briefly, as designated ethics supervisor, you must --

1. Ensure that members and employees are provided copies of the guides, Ethics Information for Members of Boards and Commissions and Ethics Act Procedures for Boards and Commissions -- and keep a supply of disclosure forms.
  1. These guides, other educational materials, disclosure forms, statutes and regulations are available for review and copying on the Department of Law ethics web site. If access to this page is not available, please contact the Attorney General's office at 269-7195.
2. Review all disclosures, investigate potential ethics violations, make determinations regarding conduct, and take action.
3. Keep member or employee disclosure statements (of potential violations, receipt of gifts, and interests in grants/contracts/leases/loans) on file in your office. Disclosure of a gift received from another government must be forwarded to the Office of the Governor.
4. Submit an ethics report to the Department of Law in April, July, October and January for the preceding quarter. You will receive a reminder. There is a sample report on the ethics web page.
  1. Mail, email or fax to Kim Halstead, Litigation Assistant, Department of Law, Opinions, Appeals & Ethics Section, 1031 W. 4th Avenue, Suite 200, Anchorage, AK, 99501, [ethicsreporting@alaska.gov](mailto:ethicsreporting@alaska.gov), fax no. 907-279-2834.

You may request ethics advice from your agency's Assistant Attorney General or from the State Ethics Attorney, Jon Woodman, at 269-5100 or [jonathan.woodman@alaska.gov](mailto:jonathan.woodman@alaska.gov). Please direct questions about reporting procedures to Kim Halstead at 269-7195 or [kimberly.halstead@alaska.gov](mailto:kimberly.halstead@alaska.gov).

6/14

Department of Law [attorney.general@alaska.gov](mailto:attorney.general@alaska.gov) P.O. Box 110300, Juneau, AK 99811-0300  
Phone: 907-465-3600 Fax: 907-465-2075 TTY: 907-258-9161  
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# **Review / Approve Agenda**

STATE OF ALASKA  
DEPARTMENT OF COMMERCE, COMMUNITY, AND ECONOMIC DEVELOPMENT  
DIVISION OF CORPORATIONS, BUSINESS, AND PROFESSIONAL LICENSING

BOARD OF DENTAL EXAMINERS AGENDA  
March 15, 2021

Teleconference

Meeting ID: 991 5668 0168

Registration Link: <https://zoom.us/join/join?secret=99156680168&pwd=99156680168>

Remote Call in Number: 1-253-215-8782

AGENDA

<u>TIME</u>	<u>TOPIC</u>	<u>LEAD PERSON</u>
1. 9:00 AM	Call to Order/Roll Call <ul style="list-style-type: none"><li>• Welcome New Members</li><li>• Ethics Report</li><li>• Review/Approve Agenda</li></ul>	Chair
2. 9:15 AM	Review/Approve Minutes	Chair
3. 9:30 AM	Investigations	Bautista
4. 10:00 AM	Public Comment	Chair
5. 10:15 AM	Break	
6. 10:30 AM	Division Update <ul style="list-style-type: none"><li>• 2<sup>nd</sup> Quarter Report</li><li>• SB 68</li></ul>	Division Staff
7. 11:30 AM	PDMP Report <ul style="list-style-type: none"><li>• PHA Board Proposed Changes</li><li>• PDMP Penalty Matrix</li></ul>	Sherrell
8. 12:00 PM	Lunch	
9. 1:00 PM	Regulations Update <ul style="list-style-type: none"><li>• Evaluate 28.951(e)(f) and 28.940(b)(8)(c)</li><li>• Temporary Licensing<ul style="list-style-type: none"><li>○ SB86</li><li>○ HB15</li></ul></li><li>• Military Licensing<ul style="list-style-type: none"><li>○ Sec. 08.01.064</li></ul></li></ul>	Maiquis/Zinn

	<ul style="list-style-type: none"> <li>• Advanced Hygiene License             <ul style="list-style-type: none"> <li>○ HB111</li> <li>○ HB127</li> </ul> </li> </ul>	
10. 2:00 PM	Old Business	Chair
11. 2:15 PM	New Business	Chair
	<ul style="list-style-type: none"> <li>• Interstate Licensing Compact             <ul style="list-style-type: none"> <li>○ Presentation/Q&amp;A</li> <li>○ SB 67</li> <li>○ Support Letter for AK Nursing Board</li> </ul> </li> <li>• OnBoard Ballot Upload Schedule</li> </ul>	Zeibert
12. 3:00 PM	Adjourn	

**Review / Approve  
Past Meeting  
Minutes**

1 State of Alaska  
2 DEPARTMENT OF COMMERCE, COMMUNITY, AND ECONOMIC DEVELOPMENT  
3 DIVISION OF CORPORATION, BUSINESS, AND PROFESSIONAL LICENSING  
4 BOARD OF DENTAL EXAMINERS  
5

6 Minutes of the meeting on  
7 October 16, 2020  
8

9 These are DRAFT minutes prepared by the staff of the Division of Corporation, Business, and  
10 Professional Licensing. These minutes have not been approved by the Board.

11 By authority of AS 08.01.070(2) and AS 08.36.040 and in compliance with the provision of Article 6 of AS  
12 44.62, a meeting of the Board of Dental Examiners was held October 16, 2020, via Zoom  
13 Videoconferencing.

14 The meeting was called to order by Dr. Neilson at 10:06 a.m.

15 **Agenda Item 1 – Roll Call**

16 Board Members present, constituting a quorum, were:

17 Dr. David Neilson, President  
18 Ms. Gail Walden  
19 Ms. Brittany Dschaak  
20 Dr. Jesse Hronkin  
21 Ms. Robin Wahto  
22 Dr. Dominic Wenzell  
23 Dr. Kelly Lucas – *joined at 10:15 a.m.*  
24 Dr. Jon Woller – *joined at 10:12 a.m.*

25 Board Members Absent:

26 Dr. Steven E. Scheller

27 In attendance from the Division of Corporations, Business & Professional Licensing, Department of  
28 Commerce, Community and Economic Development were:

29 Ms. Sara Chambers, Division Director – *joined at 11:19 a.m.*  
30 Ms. Jasmin Bautista, Investigator III  
31 Ms. Melissa Dumas, Administrative Officer II - *Joined at 11:20 a.m.*  
32 Mr. Joseph Bonnell, Records and Licensing Supervisor  
33 Ms. Sher Zinn, Regulations Specialist – *Joined at 12:00 p.m.*  
34 Ms. Abby O'Brien, Licensing Examiner  
35

36 In attendance from the Office of Administrative Hearings, were:

37  
38 Ms. Cheryl Mandala, Deputy Chief Administrative Law Judge  
39 Mr. Eric Senta, AAG

Ms. Joan Wilson, AAG

**Members of the Public in attendance:**

Mr. Chester Gilmore, Attorney

Dr. Seth Lookhart

Ms. Mary Murphy, American Dental Association

Dr. Dave Logan, Alaska Dental Society

Mr. Mitchell MacGregor

405-593-1244

Dr. Neilson began the meeting by reading the ethics statement. He then entertained a motion to accept the agenda.

On a motion duly made by Dr. Wenzell, seconded by Dr. Hronkin, and with unanimous consent, it was **RESOLVED** that the Board accept the agenda for the meeting as written.

Board Member	Motion	First	Second	Yes	No	Abstain
David Nielson, DDS						
Gail Walden						
Steven Scheller, DDS						
Dominic Wenzell, DDS		X				
Kelly Lucas, DDS						
Robin Wahto						
Jesse Hronkin, DDS			X			
Jonathan Woller, DDS						
Brittany Dschaak						

**Agenda Item 2 - OAH Hearing: Case No. 17-0607-DEN**

On a motion duly made by Gail Walden, seconded by Dominic Wenzell with unanimous consent, it was **RESOLVED** that Pursuant to AS 44.62.310(d)(1), that the Board enter a deliberative session to make a decision in the adjudicatory proceeding captioned OAH Case No. 17-0607-DEN. The Administrative Law Judge with the Board's Records and Licensing Supervisor and Occupational Licensing Examiner will remain in the deliberative session to assist the Board if needed.

*Off Record at 10:12 a.m.*

*On Record at 11:01 a.m.*

Dr. Neilson allowed both Dr. Lookhart and Ms. Wilson up to 5 minutes to make a statement. Dr. Lookhart read a statement in the form of an apology letter. Ms. Wilson made a reply emphasizing the Board's responsibility to protect the public.

On a motion duly made by Gail Walden, seconded by Jesse Hronkin with unanimous consent, it was **RESOLVED** that Pursuant to AS 44.62.310(d)(1), that the Board enter a deliberative session to make a decision in the adjudicatory proceeding captioned OAH Case No. 17-0607-DEN. The Administrative



Law Judge with the Board's Records and Licensing Supervisor and Occupational Licensing Examiner will remain in the deliberative session to assist the Board if needed.

*Off Record at 11:08 a.m.*

*On Record at 11:16 a.m.*

On a motion duly made by Dr. Wenzell, seconded by Dr. Hronkin, and with unanimous consent, and pursuant to AS 44.64.060 (e)(1) regarding OAH Hearing Case No. 17-0607-DEN, it was RESOLVED to adopt the Administrative Law Judge's proposed Decision as written.

Board Member	Motion	First	Second	Yes	No	Abstain
David Nielson, DDS				X		
Gail Walden				X		
Steven Scheller, DDS						
Dominic Wenzell, DDS	X					
Kelly Lucas, DDS				X		
Robin Wahto				X		
Jesse Hronkin, DDS			X			
Jonathan Woller, DDS				X		
Brittany Dschaak				X		

*Joan left, Gilmore/Lookhart left, Mandala left, Senta left*

### **Agenda Item 3 - EA Proposal**

Dr. Neilson presented an introduction to subject. He believes that having an Executive Administrator (EA) would allow the Board to expedite the licensure process. Director Chambers provided a brief explanation of the EA position. Dr. Woller recommended that more in-depth discussion be moved to the upcoming December meeting. Director Chambers said it would require legislation to create this position, so the Board needs to allow ample time for this process. Ms. Walden asked to clarify which statutes creating the position would affect, to which Director Chambers replied that it would amend state dental statutes. Ms. Walden asked the average time that an EA would stay with a program, to which Director Chambers replied that it is market-dependent.

### **Agenda Item 4 - Fee Changes/Budget Reviewal**

Dr. Neilson introduced a letter that he and Dr. Wenzell composed regarding the fee changes. Many questions were raised regarding indirect expenses. He was concerned how the Division came up with the 5,300 number regarding the number of licenses and certifications. He stated that the board is concerned that they're getting a fair breakdown on indirect expenses. Ms. Walden agreed with Dr. Neilson, emphasizing the number of times a licensee is calculated into the budget, based on their initial application and any additional certifications.

Director Chambers gave an explanation and breakdown of how the indirect fees are created and applied. She stated that indirect fees are going up across the division. These fees include the number of office staff that spend time processing papers, as well as maintenance of software and systems for information processing, creation, and storage. Director Chambers requested an hour at the Board's

next quarterly meeting to go over the expense report in detail. She also explained that the cost of processing an application remains the same, regardless of the size of the fee attached to the application. Director Chambers and Ms. Dumas recognized Dr. Neilson's concern that the Board is paying for items that are inactive. Director Chambers reassured the Board that the Division is checking that the Board isn't being charged for things that are unused, and that only active expenses from new applications are being calculated.

Dr. Wenzell asked when the last fee increase was, and if the Division had requested a board meeting. Ms. Dumas replied that the last increase was in FY2017. Ms. Dumas explained that she was under the impression that fees could not be discussed due to the Governor's mandates. She continued that the Division had planned to discuss fee changes after the upcoming renewal period for the dental board, but was given permission to start early to address the board's financial situation. Director Chambers explained that the process was started earlier to prevent the board from going into \$300,000-\$400,000 of debt before the renewal period.

Ms. Walden and Dr. Wenzell expressed concern that the process of changing the fees had not been optimally followed. Director Chambers and Ms. Dumas reminded the Board that these fee changes are a proposal, and are not a final draft. Director Chambers let the Board know that she is taking public comment and the board's comments into consideration to reevaluate and update the fee changes. She stated that the fiscal variable for the licensee has not yet been taken into consideration. She also recognized that 2020 has been an exceptional year due to the fiscal impact of COVID on dental licensees, and that may play into fee proposals. Dr. Neilson stated that he would amend the letter to include a line about COVID.

On a motion duly made by Dr. Wenzell, seconded by Dr. Hronkin, and with unanimous consent, it was RESOLVED that the Board approve and accept the letter created by Dr. Neilson and Dr. Wenzell to send to Director Chambers and Ms. Zinn for reviewal.

Board Member	Motion	First	Second	Yes	No	Abstain
David Nielson, DDS				X		
Gail Walden				X		
Steven Scheller, DDS						
Dominic Wenzell, DDS		X				
Kelly Lucas, DDS						
Robin Wahto				X		
Jesse Hronkin, DDS			X			
Jonathan Woller, DDS				X		
Brittany Dschaak				X		

#### **Agenda Item 5 – PBIS Closing**

Dr. Neilson introduced the issue that PBIS is going out of business at the end of the year and not accepting any more applications for reviewal after mid-November. He said that he had talked to other state boards to inquire as to their processes for license verification without PBIS.

Mr. Bonnell explained that communications with PBIS mainly provided which states were being affected by the closure, and which background services the company was utilizing. Mr. Bonnell explained that the he has reached out to the other states to find out their plans of action, and that several were mirroring the direction that Alaska is taking, by moving more of their verifications in-house

Dr. Neilson expressed the need to expedite the process, and that the regulation changes mainly remove "PBIS" from the regulations. Ms. Zinn confirmed, and listed the documentation that should be sent directly to the Board of dental examiners from the application. She also explained that the board needs to have a certification in the dental application during the lapse period when PBIS closes and there is something to replace it. Director Chambers reminded the board that they have to go through the legislative process if they want to require applicants to have a background check or fingerprints processed by the state of Alaska.

Director Chambers explained that PBIS leaving would increase the division's workload, so the fee would stay to cover the costs of moving the verifications to in-house. Ms. Zinn would amend the regulations to include removal of the application fee in section 12 AAC 28.915 and remove any mention of PBIS from all conforming regulations.

12 AAC 28.915 is amended to read:

**12 AAC 28.915. Application deadline for personal interview.** To be scheduled for a personal interview as required in AS 08.36.234, an applicant for licensure by credentials must file with the department a complete application at least 30 days before the interview will be conducted. An application is considered complete when the completed application form, all supporting document required in AS 08.36.234 and 12 AAC 28.951, and the application [AND CREDENTIAL REVIEW FEES] fee required in 12 AAC 02.190 are filed with the department. (Eff. 2/28/96, Register 137; am 5/29/98, Register 146; am 11/15/2005, Register 176; am 12/15/2013, Register 208; am 3/11/2016, Register 217; am \_\_\_\_/\_\_\_\_/\_\_\_\_, Register \_\_\_\_)

**Authority:** AS 08.36.070 AS 08.36.110 AS 08.36.234

12 AAC 28.932 – Gives board ability to request additional documentation (ie, background checks) if necessary

**12 AAC 28.932 – Additional documentation for licensure.** The board may require additional documentation necessary to substantiate the qualifications for a license under AS 08.32.014, AS 08.36.110, and this chapter, before approving an applicant for licensure to practice dental hygiene or dentistry. (Eff \_\_\_\_/\_\_\_\_/\_\_\_\_, Register \_\_\_\_)

**Authority:** AS 08.32.014 AS 08.36.070 AS 08.36.234

AS 08.32.030 AS 08.36.110

Ms. Zinn explained that this amendment gives the board the authority to request more information from an applicant if necessary. In her experience, Ms. Zinn has not found an example of information being omitted from an application that wasn't found by other means, such as NPDB or Clearinghouse. She also explained that should the board wish for a background check, that the applicant must provide that themselves, in accordance to local statutes.

On a motion duly made by Dr. Wenzell, seconded by Dr. Hronkin, and with unanimous consent, it was RESOLVED that the Board accept the proposed regulation changes under Chapter 28 to support removal of the PBIS Report and conforming regulations as presented.

Board Member	Motion	First	Second	Yes	No	Abstain
David Nielson, DDS	X					
Gail Walden				X		
Steven Scheller, DDS						
Dominic Wenzell, DDS		X				
Kelly Lucas, DDS				X		
Robin Wahto				X		
Jesse Hronkin, DDS			X			
Jonathan Woller, DDS				X		
Brittany Dschaak				X		

**Agenda Item 6 - Hygiene exams**

Ms. Dschaak said that the board needs to make it as easy as possible for hygienists to get licensed in Alaska. She stated that the hoops an applicant needed to jump through were excessive, especially for military spouses. Ms. Walden stated that CRDTS is another exam that is comparable to WREB, based on its patient-based and written instruction components, and therefore should be considered equivalent.

Dr. Nielson stated that the board needed to decide whether a patient-based exam is required or not. He mentioned that ADEX is not patient based, so it wouldn't pass current requirements. He said that some of the soft-tissue tests on mannequins are not comparable to live patients, so these exams wouldn't qualify. He restated the importance of easing licensure for military spouses. He also proposed making the wording to the hygienist's regulation changes equivalent to dentist's applications.

Ms. Zinn recommended adding "or equivalent examination" to the regulation to encapsulate the various exams.

On a motion duly made by Gail Walden, seconded by Dr. Hronkin with unanimous consent, it was RESOLVED that the Board adopt the regulation project for 12 AAC 28.320 (a)(4) and 12 AAC 28.935(a)(7) with amendments.

12 AAC 28.320(a)(4) is amended to read:

Evidence of having passed the local anesthetic written and patient based clinical components [PORTION] of the Western Regional Examining Board (WREB) dental hygienist examination or equivalent examination within the five years immediately preceding the date of application. (Eff. 5/31/81, Register 78: am 5/6/88, Register 106; am 1/22/2004, Register 169: am \_\_\_\_/\_\_\_\_/\_\_\_\_, Register \_\_\_\_)

Authority: AS 08.32.110 AS 08.36.070

Board Member	Motion	First	Second	Yes	No	Abstain
David Nielson, DDS				X		



Gail Walden	X					
Steven Scheller, DDS						
Dominic Wenzell, DDS				X		
Kelly Lucas, DDS						
Robin Wahto				X		
Jesse Hronkin, DDS			X			
Jonathan Woller, DDS						
Brittany Dschaak				X		

#### **Agenda Item 7 - Regulation Update: Dental Exam Deadline Extension**

Dr. Neilson proposed moving the deadline for accepting mannequin-based exams from December 31<sup>st</sup>, 2020 to December 31<sup>st</sup>, 2021 to deal with the lack of patient-based exams due to COVID. He cited the accuracy of hard tissue component in the new mannequin-based exams as acceptable. He stated that the board is not obligated to change this, but if they don't, it would limit the number of applicants in Alaska for the upcoming year. Dr. Wenzell agreed that the date should be changed, as the field of dentistry is still in flux from COVID. Dr. Neilson asked if Ms. Zinn could add the change to the regulations project, which she confirmed.

On a motion made by Dr. Neilson, seconded by Dr. Wenzell, and passed unanimously, it was RESOLVED to amend the end date of 12 AAC 28.940(b)(8)(B)(vi) from December 31<sup>st</sup>, 2020 to December 31<sup>st</sup>, 2021.

Board Member	Motion	First	Second	Yes	No	Abstain
David Nielson, DDS	X					
Gail Walden				X		
Steven Scheller, DDS						
Dominic Wenzell, DDS			X			
Kelly Lucas, DDS				X		
Robin Wahto				X		
Jesse Hronkin, DDS				X		
Jonathan Woller, DDS						
Brittany Dschaak				X		

#### **Agenda Item 8 - New Business**

Dr. Neilson addressed an application that had been tabled on September 25<sup>th</sup>, 2020, for Dr. Mitchell MacGregor. He asked Dr. MacGregor for an update on both his court situation and his living personal situation. Dr. MacGregor stated that his investigation is ongoing, and asserted that the delays were coming from the Arizona court system, which hasn't allowed him to receive a final disposition on his case. He has since moved to Juneau and is awaiting licensure from the board. Dr. Neilson explained that the board usually likes to have all potential cases closed before issuance of a license. Dr. Wenzell inquired as to whether the charges were misdemeanor or felony, to which Dr. MacGregor replied they were a misdemeanor. Dr. Wenzell asked Ms. O'Brien to reopen the application packet for Dr. MacGregor on OnBoard, so that they may review the information available and vote on his licensure. Ms. O'Brien agreed to reopen the application later that afternoon when the meeting was finished.

218 Having completed the agenda as approved for the day, Dr. Neilson entertained a motion to adjourn,  
219 which was seconded by Ms. Walden.

220

221 *Off Record at 1:10 p.m.*

222

223

224

225 Respectfully Submitted,

226

227 \_\_\_\_\_

\_\_\_\_\_

228 Abby O'Brien

Date

229 Occupational Licensing Examiner

230

231 \_\_\_\_\_

\_\_\_\_\_

232 David Neilson, DDS

Date

233 Board Chair

1 State of Alaska  
2 DEPARTMENT OF COMMERCE, COMMUNITY, AND ECONOMIC DEVELOPMENT  
3 DIVISION OF CORPORATION, BUSINESS, AND PROFESSIONAL LICENSING  
4 BOARD OF DENTAL EXAMINERS  
5

6 Minutes of the meeting on  
7 December 4, 2020  
8

9 These are DRAFT minutes prepared by the staff of the Division of Corporation, Business, and  
10 Professional Licensing. These minutes have not been approved by the Board.

11 By authority of AS 08.01.070(2) and AS 08.36.040 and in compliance with the provision of Article 6 of AS  
12 44.62, a meeting of the Board of Dental Examiners was held December 4, 2020, via Zoom  
13 Videoconferencing.

14 The meeting was called to order by Dr. Neilson at 9:04AM.

15 Agenda Item 1 – Roll Call

16 Board members present, constituting a quorum, were:

17 Dr. David Nielson - Board President  
18 Ms. Gail Walden - Board Secretary  
19 Dr. Dominic Wenzell  
20 Dr. Kelly Lucas  
21 Dr. Jesse Hronkin– *Joined 11:00AM*  
22 Dr. Jon Woller  
23 Ms. Brittany Dschaak  
24 Ms. Robin Wahto

25 Board members absent:

26 Steven Scheller, DDS  
27

28 In attendance from the Division of Corporations, Business & Professional Licensing, Department of  
29 Commerce, Community and Economic Development were:

30 Joe Bonnell – Records and Licensing Supervisor  
31 Abby O'Brien – Licensing Examiner  
32 Jasmin Bautista – Investigator – *Joined 9:12 AM*  
33 Erika Priksat – Senior Investigator – *Joined 9:12 AM*  
34 Melissa Dumas – Administrative Officer – *Joined 9:32 AM*  
35 Lisa Sherrell – PDMP Manager – *Joined 10:45 AM*  
36 Sher Zinn – Regulations Specialist – *Joined 11:00 AM*  
37

38 Members of the Public in attendance:

39  
40 Dr. David Logan  
41 Dr. Kenley Michaud – *Joined 10:18 AM*

Dr. Neilson began the meeting by reading the ethics statement. He then entertained a motion to accept the agenda.

On a motion duly made by Ms. Walden, seconded by Dr. Woller, and with unanimous consent, it was RESOLVED that the Board accept the agenda for the meeting as written.

#### Agenda Item 2 – Review/Approve Minutes

The Division had no minutes to present. Mr. Bonnell said that he and Ms. O'Brien will get both the August and October minutes to the board for reviewal within the following week. Dr. Neilson asked if OnBoard could be used as a reviewal platform, and Mr. Bonnell replied yes. Both Ms. Walden and Mr. Bonnell added that if major changes need to be made to the minutes after reviewal, then the minutes will be held and discussed at the next quarterly meeting.

While waiting for investigations to call in, Dr. Neilson moved to review new business. He asked if the board had reviewed the CDCA membership invite email. He stated if AK accepted CDCA exams, having a membership would be helpful with having a seat at the table for voting reasons and committee work. Ms. Walden stated that if Alaska is accepting other exams other than WREB, then it's a good idea to be involved with other organizations and provide representation for the state.

On a motion duly made by Ms. Walden, seconded by Ms. Wahto, and with unanimous consent, it was RESOLVED that the Board move to accept CDCA membership for both dentists and hygienists.

#### Agenda Item 3 - Investigations Report

Ms. Bautista introduced Ms. Prieksat, the new Senior Investigator, as her new supervisor. Ms. Prieksat offered her assistance in future board matters.

Ms. Bautista then presented a review of the Investigative Report from August 4, 2020 through November 25, 2020. The investigations team has 51 cases open and 3 cases closed, which do not include CE audits or other license actions that handled by paralegal. Dr. Neilson asked about the meaning of "litigation initiated". Ms. Bautista explained that any step in the legal process can be noted as litigation initiated, and that if there were any questions to a specific case, the board would need to enter executive session. Ms. Bautista asked board to check emails regarding case reviews, as she had not yet received a response.

Gail Walden – move that the Alaska State Board of Dental Examiners enter into executive session in accordance with AS 44.62.310 ( c), and Alaska Constitutional Right to Privacy Provisions, for the purpose of discussing matters which by law, municipal charter, ordinance are required to be confidential, with board staff to remain. Wahto seconded.

Off record at 9:23 AM

On record at 9:45 AM

Roll Call

Division Update – Dumas



Ms. Dumas presented the review of FY20 4<sup>th</sup> quarter report, indirect expense report, and the FY21 1<sup>st</sup> quarter report.

3 complete bienniums represented for comparison. Dental board total revenue of \$77,965 Direct expenditures - \$299,500; indirect expenditures - \$ 137,967; total expenditures - \$437,467; Cumulative deficit of \$ 332,821 heading into FY21.

Dr. Neilson asked if the Division had received the letter board had sent in October. Ms. Dumas said yes, adding that the letter led to a conversation regarding the number of licensees, as radiological equipment permits had been incorrectly added as licenses. She added the Division had since amended its number of licensees and subsequently the board's indirect expenses. Dr. Wenzell clarified that the number of licensees lowered reflects a lower cost of indirect expenses, as he estimated that the number of radiological permits represented nearly 40% of licensees. Ms. Dumas confirmed, showing the board the reduction of indirect expenditures from FY19 to FY20 had been by roughly the same percentage.

Ms. Walden stated that certain costs should be adjusted to cover for the division's higher workload since PBIS was closing and the State would cover the time and cost of additional document processing. Ms. Dumas replied that the fee analysis was already at LAW, and there is little chance of finalizing the fee changes before renewals are launched. She recommended an option for collecting new fees would be to push the renewal date out by 60 or 90 days, adding that other boards had done so to relieve the pressure on licensees to meet requirements made difficult by COVID. This would be a temporary extension, and not a permanent change.

Ms. Dumas explained what goes into costs, such as level of effort needed by the division to process an application and how much anticipated income an applicant will have once licensed in their field. She also reviewed the dental board's indirect expenses, including the three ways how they are charged, and the three allocations the Division uses to determine a program's share of the overall costs

Dr. Wenzell was concerned that hygienists were being accounted for multiple times. Ms. Dumas explained that the program is being charged for every application that they submit because that is "level of effort" needed by administrative services to process each document. She stated that while other programs may only have a few types of applications, the dental board has many, and that leads to higher processing costs from the division which are in turn reflected in the indirect expenses. She explained that administrators divide their time between multiple boards and programs, so their hours are allotted as such and calculated into a board's operating costs. Ms. Dumas stated that the division's methodology is based on the percentage of the number of transactions.

Dr. Neilson asked for reconfirmation of what's going to occur in February regarding fees. Dumas stated that she would have to meet with Division staff to determine a course of action.

Ms. Walden asked if the board would be able to review again, expressing concern that the board had been overcharged. Ms. Dumas said that the opportunity for review had already passed and that the fee changes were being reviewed by LAW. She added the changes in the costs were a reflection of the division changing their methodologies for measuring costs, and that the board had not been overcharged.

116 Wahto asked for clarification regarding the scheduling of renewals with new fees added. Dumas  
117 explained that the renewal would have to be pushed back to allow for the fee changes to be completed  
118 and applied to incoming applications.

119 Dr. Woller brought up that the board sets their fees based on how long they believe it will take to review  
120 an application, while the state treats all applications equally, and that may be where the  
121 misunderstanding occurs regarding indirect fees. Ms. Dumas confirmed, stating that the cost of  
122 processing an application from an administrative standpoint is the same across all boards, regardless of  
123 the program fees that may be attached. She said that there are several days' worth of work involved  
124 with each form that arrives at the office. Dr. Woller suggested a strategy in the future to reduce these  
125 costs would be to condense the applications and certifications to reduce the number of forms that were  
126 coming into the office. Ms. Dumas confirmed and presented the number of applications and  
127 certifications that the Dental Board utilized. She stated that it was one of the most complicated  
128 programs, based solely on the amount of differing forms that were available.

129 Dr. Neilson thanked Dumas for her time and moved for a break.

130 Off record at 10:31AM – Break

131 Back on Record 10:48AM

132 Roll Call 10:49AM

133 Ms. Sherrell presented the PDMP Report. She thanked the dental board for their advocacy in helping  
134 her program secure two grants. She stated that the program has put a search out for a new vendor, and  
135 that proposals have been submitted and are being reviewed. The program is working on automatic  
136 compliance notifications and online updates to send to applicants who directly dispense. They are also  
137 working on license integration as the previous launch attempt was not successful.

138 Ms. Sherrell explained the two processes that an applicant needs to go through for PDMP certification,  
139 both Portal/inhouse registration, and creating an AWARe profile online. She emphasized that while the  
140 94% initial online profile setup rate was encouraging, applicants needed to complete the Portal  
141 registration and pay their fees to be fully compliant, as only 52% of licensees had performed both steps.  
142 O'Brien confirmed that new licensees receive documentation with information regarding PDMP  
143 registration when their certificates are mailed out. Ms. Sherrell said that Ms. O'Brien and Mr. Bonnell  
144 had started to merge the PDMP and Dental renewals to streamline the process. She added that her  
145 team is working on seeing which licensees are required to register, to help clean up the numbers.

146 When addressing compliance for July through October of 2020, Ms. Sherrell stated only 5.62% of  
147 prescriptions issued were properly searched. She said that training and education need to happen to  
148 educate prescribers, as the search is in statutes. She asked if it's common for dentists to directly  
149 dispense. Dr Lucas said it is more common to dispense in remote locations, while in town the only thing  
150 he dispenses regularly are sedation agents and not opioids.

151 Ms. Sherrell said that the program is working on tracking reports with current vendor. She recommends  
152 using delegates to increase the number of reviews and to encourage reporting. Ms. Sherrell added that  
153 education on prescribing practices and the use of dangerous combinations should be available. She  
154 stated that licensees should be made aware that they cannot prescribe until their registration is

complete. She recommended improving communication to licensees, post-licensure, to give better instructions on compliance, and encouraging them to verify their user roles and specialties. Ms. Walden stated that dissemination of this information would be beneficial for all licensees and not just the board. Dr. Nielson agreed, stating that the board needs to address the issue before it becomes license actions. Ms. Sherrell stated that these reports are public info and will be available on the PDMP website and notifications can be made through AWARxE. Ms. Walden asked how many applicants have emails for corresponding. Ms. O'Brien replied that an applicant has to have an email to register with AWARxE, and that most applicants in Portal are opting for email correspondence.

Neilson – PDMP penalty matrix, anything new to offer? Hronkin – passed the torch off to Wenzell. Wenzell – thought it looked fine, didn't change anything Jesse submitted.

11:17 AM – Regs Update

Changes to Chapter 28.

Ms. Zinn stated that no public comments had been received for this regulations project. Ms. Walden stated that her only concern is in the omission of background checks, which PBIS had previously provided. Ms. Zinn replied that the first section of the regulation changes is about requesting additional documentation and gives the board latitude to do so if they feel it is needed. She indicated the use of other verification services, such as NPDB or Clearinghouse, would alert the board if a background check necessary. Dr. Neilson asked if NPDB performs criminal background checks. Ms. Zinn replied no, adding that regulations state that any criminal activity must affect an applicant's ability to practice. She added that the number of applicants who intentionally lie or omit information on their paperwork is exceptionally low. Ms. Walden advocated for verification of documentation as a critical component of an application. Dr. Neilson agreed, and stated that what the board has in place must suffice until there is a new option for applications.

**On a motion duly made by Ms. Wahto, seconded by Ms. Dschaak, and with unanimous consent, it was RESOLVED that the Board adopt the regulation changes in Title 12, Chapter 28 of the Alaska Administrative Code as proposed.**

There is no cost to the public, and no public comments were received.

Dr. Neilson then asked what the board is allowed to do regarding CPR renewals. Ms. Zinn replied that SB241 only allows programs renewing through 12/31/20 are able to waive CE requirements. She was hopeful the legislature will extend this option to other boards, including dental.

Ms. Zinn said that there are online CPR courses a licensee can take which mail a mannequin directly to them for a live skills check over Skype or Zoom, and this method has been utilized by other programs. She said there are places in Juneau and Anchorage where a CPR course instructor goes to a specific office and performs the course with the entire staff. She added that CPR renewal does not meet emergency regulation requirement because the Dental Board renews after 12/31/20. Ms. Zinn didn't know if the Governor has the ability to make a new declaration and extend SB241 before the next legislative session would begin.

Ms. Walden asked where these requests for renewal modifications were coming from. Ms. O'Brien replied that one was from a dentist in Anchorage, whom she directed to the AHA website. The second



194 was from a hygienist in Petersburg. Ms. O'Brien had contacted the clinic and was able to set up  
195 appointment for the hygienist using a CPR Simulator. Dr. Neilson suggested sending an email to  
196 licensees stating that the board cannot waive requirements but would present options for CPR renewal.

197 He then asked if the renewal needed an extension. Ms. Zinn replied that fees cannot be raised until the  
198 end of the declaration, which occurs in the middle of December. She suggested extending the renewal  
199 deadline to allow fee changes to take place and time for CPR testing. Ms. Zinn added that the fees  
200 would go through as soon as they're filed and then after the 30-day mandatory waiting period, and that  
201 new applicants would pay the amended fees. She stated that Director Chambers has the authority to  
202 change the date for a renewal period, and that the 2023 renewal deadline would return to normal.

203 Ms. Zinn stated that Coronal Polishing and Restorative Function endorsements for dental assistants  
204 must still be renewed by February 28, 2021, as it is written into statute. Dr. Neilson confirmed, and  
205 asked if Ms. Zinn recommended a certain time frame for an extension. Ms. Zinn replied that two  
206 months should suffice and having the renewals ready by the end of January would let licensees find  
207 more options for CPR courses and complete their hands-on requirement.

208 **11:46 Wenzell – Motion to extend renewal date to April 30<sup>th</sup> for all renewals except the ones that we**  
209 **are not allowed to. Hronkin Second.**

210 Walden – how to send information to licensees? Zinn – Sara sent email to all licensees, Announcement  
211 made on top of dental website, change of license dates in system through IT

212 Having completed all morning agenda items early, Dr. Neilson moved on to New Business.

213 11:50 AM New Business

214 Ms. O'Brien received an email requesting for clarification as to whether a dentist can order an HSAT, and  
215 if the dentist can make adjustments to a patient's care based on the results. The board agreed that a  
216 dentist may prescribe a HSAT, as long as the results are interpreted by a licensed physician, as per AS  
217 08.36.360. The board does not take a stance on insurance payment or who should be reimbursed.

218 Dr. Neilson asked Ms. O'Brien to correspond with Dr. Bressler and reaffirm that he and his wife may  
219 complete all of his CE's online, just no more than 8 credit hours in a day as per 12 AAC 28.410 (i). Also,  
220 Dr. Neilson asked Ms. O'Brien to add in her email that there is a renewal extension coming up so that Dr.  
221 Bressler will have more time to complete his CE's.

222 Ms. Walden asked Ms. O'Brien to contact CDCA and reply that the board wishes to join the state  
223 membership programs. She asked Ms. O'Brien to use her name as a point of contact as well.

224 Having finished all new business early, the board agreed to reconvene after lunch to hear public  
225 comment.

226 Off Record at 12:07PM

227 On Record at 1:02PM

228 Roll call – Lucas, Neilson, Walden, Hronkin, Wahto, Woller, Dschaak, O'Brien

229 Dr. Boothe asked if tribal health centers are considered part of the state or as sovereign entities,  
230 answerable only to the federal government. He also asked if a licensee is privy to board business if

231 solely practicing within an IHS capacity. Ms. O'Brien directed Dr. Boothe to inquire with  
232 [boards@alaska.gov](mailto:boards@alaska.gov), as they would handle jurisdictional matters for all the boards in the state.

233 Nielson asked if there was a Task list

234 1:15PM - PDMP Penalty Matrix – Hronkin made a matrix, sent to Dom, Dom is reviewing it, and it's in a  
235 holding pattern now. Neilson said that the board needs more time to review the finished matrix.  
236 Hronkin said he would appreciate more time to look at it after Wenzell's review. Walden agrees, stating  
237 that the process needs to be more streamlined before the board starts issuing penalties.

238 O'Brien agreed to create a DoodlePoll for the next board meeting in March. Neilson asked O'Brien to  
239 find out where in the nomination process the new Board members are.

240 1:23 – Motion to Adjourn - First Hronkin, Second Walden

241 1:24 – Adjourn

# **Investigations Report**

# **Public Comment**

BREAK TIME



# **Division Update**

# **PDMP Report**

**Alaska Prescription Drug Monitoring Program**  
**Summary Prepared for the Board of Dental Examiners**  
**March 2021**



This report contains summary data from the Prescription Drug Monitoring Program (PDMP). Data is provided as a courtesy for the board and is intended to be used for informational purposes only.

**Notices:**

- The new contract with Apriss will start April 2021

**Registration** (changes since December noted)

**Portal**

Number of licensed Dentists: 844 (increase of 3)  
Number of Dentists with DEA registrations: 717 (increase of 1)  
Number of PDMP Dental registrations: 451 (20% increase)  
Compliance rate (DEA and PDMP registrations): 63%

**AWARxE (PDMP)**

Number registered with the PDMP: 681 (increase of 9)  
Compliance rate (DEA and AWARxE): 95%

**Use**

Q4 2020 Review compliance: 5.92% (439 dispensations; 26 searched)

**MME Use** (Q3/Q4 2020)

Number of patients treated with over 90 MME: 50 (28% increase)  
Number of patients treated with over 120 MME: 14 (55% increase)  
Number of patients treated with dangerous combinations (benzodiazepines and opioids): 278 (11% increase)

**Delinquent Reporters**

Providers who directly dispense are required to report daily. We are currently gathering this information on the renewal applications. As of this report, there were five dentists who indicated they directly dispense.

**Recommendations**

- Encourage increased reviewing, including the use of delegates
- Provide guidance to licensees on prescribing practices related to the use of dangerous combinations
- Providers should be notified they are not able to prescribe until their registration in AWARxE has been approved
- Encourage licensees to verify their user roles and specialties in AWARxE to improve the accuracy of reporting
- Improve communication to licensees, post-licensure, to give better instructions on how to comply with PDMP statutes and regulations
- Develop a plan for communication with licensees about mandatory reporting

Alaska Prescription Drug Monitoring Program  
Summary Prepared for the Board of Dental Examiners  
March 2021



**Analysis and Feedback Questionnaire** (44 dentists participated)

- 43% reported checking the PDMP every time they prescribe; 5% stated they never check
- 90% review while the patient is in the room
- 39% reported not having enough time to check the PDMP, 35% said there was no barrier
- Most dentists stated the PDMP was valuable for informing clinical decisions; however, the prescriber report cards did not change prescribing patterns.
- Overall, only 12% of all prescribers indicated they had delegates

**MME Use**

Q3/Q4 2020

The CDC recommends that primary care clinicians should reassess evidence of the benefits and risks to the individual when increasing dosage to greater or equal to 50 MME/day and avoid increasing to greater or equal to 90 MME/day when possible due to an increased risk of complications. The CDC also recommends avoiding concurrent benzodiazepine and opioid prescriptions, given the high risk of adverse drug-drug interactions, specifically respiratory depression and death.

CDC checklist for prescribing opioids -

[https://www.commerce.alaska.gov/web/portals/5/pub/PDMP\\_OpioidPrescribeCDC\\_06.2018.pdf](https://www.commerce.alaska.gov/web/portals/5/pub/PDMP_OpioidPrescribeCDC_06.2018.pdf)

CDC guidelines for prescribing opioids for chronic pain -

[https://www.commerce.alaska.gov/web/portals/5/pub/PDMP\\_OpioidPrescribeCDCPain\\_2018.10.pdf](https://www.commerce.alaska.gov/web/portals/5/pub/PDMP_OpioidPrescribeCDCPain_2018.10.pdf)

Provider Type	# Providers Prescribing at Least Once	# Providers Who Reviewed 0 Patients	# Providers Prescribing >90MME	# Providers Prescribing >120MME	Dangerous Combo	
					Benzo Opioid	Benzo Opioid Carisoprodol
DEN	321	59% (188)	7% (22)	2% (7)	27% (88)	0
MED	1235	31% (384)	21% (265)	12% (151)	35% (428)	2% (21)
NUR	528	20% (109)	11% (60)	7% (35)	25% (130)	2% (8)
OPT	3	100% (3)	0	0	0	0
PA	359	19% (67)	18% (66)	14% (51)	29% (103)	1% (5)
VET	187	71% (133)	2% (3)	1% (2)	4% (7)	0

## NOTICE OF PROPOSED CHANGES IN THE REGULATIONS OF THE ALASKA BOARD OF PHARMACY

**BRIEF DESCRIPTION:** The Board of Pharmacy proposes to adopt regulations regarding registration with the prescription drug monitoring program controlled substance prescription database.

The Board of Pharmacy (Board) proposes to adopt regulation changes in Title 12, Chapter 52 of the Alaska Administrative Code, dealing with registration with the prescription drug monitoring program (PDMP) controlled substance prescription database including the following:

**12 AAC 52.855. Registration with the prescription drug monitoring program controlled substance prescription database,** is proposed to require pharmacists or practitioners licensed in this state who holds a federal Drug Enforcement Administration (DEA) registration number to register with the PDMP within 30 days of initial licensure as a prescriber.

You may comment on the proposed regulation changes, including the potential costs to private persons of complying with the proposed changes, by submitting written comments to Jun Maiquis, Regulations Specialist, Division of Corporations, Business and Professional Licensing, P.O. Box 110806, Juneau, AK 99811-0806. Additionally, the Board will accept comments by facsimile at (907) 465-2974 and by electronic mail at [RegulationsAndPublicComment@alaska.gov](mailto:RegulationsAndPublicComment@alaska.gov). Comments may also be submitted through the Alaska Online Public Notice System by accessing this notice on the system at <http://notice.alaska.gov/200999>, and using the comment link. **The comments must be received not later than 4:30 p.m. on February 11, 2021.** Comments received after this deadline will not be considered by the Board.

You may submit written questions relevant to the proposed action to Jun Maiquis, Regulations Specialist, Division of Corporations, Business and Professional Licensing, P.O. Box 110806, Juneau, AK 99811-0806 or by e-mail at [RegulationsAndPublicComment@alaska.gov](mailto:RegulationsAndPublicComment@alaska.gov). **The questions must be received at least 10 days before the end of the public comment period.** The Board will aggregate its response to substantially similar questions and make the questions and responses available on the Alaska Online Public Notice System and on the Board's website at <https://www.commerce.alaska.gov/web/cbpl/ProfessionalLicensing/BoardofPharmacy.aspx>. The Board may, but is not required to, answer written questions received after the 10-day cut-off date and before the end of the comment period.

If you are a person with a disability who needs a special accommodation in order to participate in this process, please contact Jun Maiquis at (907) 465-2537 or [RegulationsAndPublicComment@alaska.gov](mailto:RegulationsAndPublicComment@alaska.gov) not later than February 4, 2021 to ensure that any necessary accommodation can be provided.

A copy of the proposed regulation changes is available on the Alaska Online Public Notice System and by contacting Jun Maiquis at (907) 465-2537 or [RegulationsAndPublicComment@alaska.gov](mailto:RegulationsAndPublicComment@alaska.gov), or go to <https://www.commerce.alaska.gov/web/portals/5/pub/PHA-PDMP-1220.pdf>.

After the public comment period ends, the Board will either adopt the proposed regulation changes or other provisions dealing with the same subject, without further notice, or decide to take no action. The language of the final regulation may be different from that of the proposed regulation. **You should comment during the time allowed if your interests could be affected.** Written comments and questions received are public records and are subject to public inspection.

**Statutory Authority:** AS 08.80.005; AS 08.80.030; AS 17.30.200

**Statutes Being Implemented, Interpreted, or Made Specific:** AS 08.80.005; AS 08.80.030; AS 17.30.200

**Fiscal Information:** The proposed regulation changes are not expected to require an increased appropriation.

DATE: 1/8/2021

/s/  
Jun Maiquis, Regulations Specialist  
Division of Corporations, Business and  
Professional Licensing

For each occupation regulated under the Division of Corporations, Business and Professional Licensing, the Division keeps a list of individuals or organizations who are interested in the regulations of that occupation. The Division automatically sends a Notice of Proposed Regulations to the parties on the appropriate list each time there is a proposed change in an occupation's regulations in Title 12 of the Alaska Administrative Code. If you would like your address added to or removed from such a list, send your request to the Division at the address above, giving your name, either your e-mail address or mailing address (as you prefer for receiving notices), and the occupational area in which you are interested.

### **ADDITIONAL REGULATION NOTICE INFORMATION (AS 44.62.190(d))**

1. **Adopting agency:** Board of Pharmacy – Department of Commerce, Community, and Economic Development, Division of Corporations, Business and Professional Licensing.
2. **General subject of regulation:** Registration with the prescription drug monitoring program controlled substance prescription database (PDMP).
3. **Citation of regulation:** 12 AAC 52.855.
4. **Department of Law file number:** To be assigned.
5. **Reason for the proposed action:** Update and clarification of current regulations; compliance with state statute.
6. **Appropriation/Allocation:** Corporations, Business and Professional Licensing – #2360.
7. **Estimated annual cost to comply with the proposed action to:**  
A private person: \$25 initial PDMP registration fee; \$25 PDMP biennial registration renewal fee.  
Another state agency: None known.  
A municipality: None known.
8. **Cost of implementation to the state agency and available funding (in thousands of dollars):**  
No costs are expected in FY 2021 or in subsequent years.
9. **The name of the contact person for the regulation:**  
Laura Carrillo, Executive Administrator  
Alaska Board of Pharmacy  
Division of Corporations, Business and Professional Licensing  
Department of Commerce, Community, and Economic Development  
Telephone: (907) 465-1073  
E-mail: laura.carrillo@alaska.gov
10. **The origin of the proposed action:** Board of Pharmacy.
11. **Date:** 1/8/2021 **Prepared by:** /s/  
Jun Maiquis  
Regulations Specialist

**Chapter 52. Board of Pharmacy.**

(Words in **boldface and underlined** indicate language being added; words [CAPITALIZED AND BRACKETED] indicate language being deleted.)

12 AAC 52.855 is amended to read:

**12 AAC 52.855. Registration with the prescription drug monitoring program controlled substance prescription database. (a) A prescriber shall register with the PDMP within 30 days after the date of initial licensure or registration with the federal Drug Enforcement Administration (DEA), whichever is later.** A licensed pharmacist **practicing in this state** shall register with the prescription drug monitoring program's controlled substance prescription database (PDMP). **Registration must be completed within 30 days of initial licensure if the pharmacist's practice is expected to involve** [BEFORE] dispensing a schedule II, III, or IV controlled substance under federal law. **If not dispensing in this state, a pharmacist must submit a PDMP dispensation exemption form provided by the board within 30 days of initial licensure. A pharmacist who submitted a dispensation exemption form must register before dispensing a schedule II, III, or IV controlled substance under federal law in this state.**

(b) **Except as provided in (a) of this section, before** [BEFORE] dispensing, prescribing, or administering a schedule II, III, or IV controlled substance under federal law, a pharmacist or practitioner required to register with the PDMP must

(1) register online on the PDMP website; and

(2) pay the fee established in 12 AAC 02.107.

(c) After completing the registration requirements, a pharmacist or practitioner required to register with the PDMP will be issued a user account, login name, and password by the department.

(d) A pharmacist or practitioner required to register with the PDMP must access information in the PDMP using the user account, login name, and password issued by the department.

(e) A pharmacist or practitioner required to register with the PDMP may access information in the PDMP using another registrant's credentials only as authorized by a contract executed by the department for the purposes of AS 47.05.270. (Eff. 12/29/2011, Register 200; am 6/7/2018, Register 226; am \_\_\_\_/\_\_\_\_/\_\_\_\_\_, Register \_\_\_\_\_)

**Authority:** AS 08.80.005 AS 08.80.030 AS 17.30.200



## **State of Alaska Dental Board PDMP Penalty Matrix- Proposed**

### **Prescribing Issues**

Inappropriate prescribing due to incompetence or negligence. AS 08.36.315

Failure to practice pain management with sufficient knowledge, skills, and training and in accordance with professional standards. AS 08.36.315

### **Proposed Sanctions**

Reprimand, Civil Fine of up to \$25,000, require Proper Prescribing Course CE, License suspension.  
Discipline to be commensurate with severity of violation.

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### **Prescribing Issues**

Failure to maintain appropriate records for prescribing controlled substances. AS 08.36.315

Failure to review information from the PDMP before prescribing schedule II or III controlled substances.  
AS 17.30.200 b

Failure to comply with maximum dosage for opioid prescriptions. AS 08.36.355

### **Proposed Sanctions**

Reprimand, Civil Fine of up to \$25,000, Proper Prescribing Course CE, Medical Record Keeping CE.  
Discipline to be commensurate with the severity of the violation.

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### **Prescribing issues**

Failure of a licensee who has a DEA registration to register with the PDMP when no schedule II or III controlled prescriptions have been issued. AS 17.30.200, 12 ACC 28.953

### **Proposed Sanctions**

Civil Fine of \$1,000 for each violation. Discipline to commensurate with severity of violation.

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### **Education Requirements**

Failure of applicants for licensure to receive education in pain management and opioid use and addiction prior to licensure, unless the applicant has demonstrated to the satisfaction of the board that the applicant does not currently hold a valid federal DEA registration number. AS 08.36.110

Failure to no provide documentation of at least two hours of education in pain management and opioid misuse and addiction in the two years preceding application for renewal of license, unless the applicant has demonstrated to the satisfaction of the board that the applicant does not currently hold a valid federal DEA registration number. AS 08.36.070

### **Proposed Sanctions**

Reprimand, require completion of required education before license is renewed or approved.

## **Unprofessional Conduct issues**

Allowing an unlicensed individual to perform duties that would normally be performed by a licensed individual. AS 17.30.200(d)

## **Proposed sanctions**

- o First time violation – Imposition of civil fine without censure or reprimand (technical violation not related to the delivery of health care); Civil Fine of \$1,000 for each violation or each unlicensed individual, unless there are mitigating factors.
- o Additional violations, or if mitigating factors - Reprimand; Civil Fine of up to \$10,000 for each violation or each unlicensed individual. Discipline to be commensurate with the severity of the violation.



*Lunch Time*

# **Regulations Project**

**SENATE BILL NO. 86**

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-SECOND LEGISLATURE - FIRST SESSION

BY THE SENATE LABOR AND COMMERCE COMMITTEE

Introduced: 2/15/21

Referred: Labor & Commerce, Finance

**A BILL**

**FOR AN ACT ENTITLED**

1   **"An Act relating to occupational licensing; relating to temporary licenses, permits, and**  
2   **certificates; and providing for an effective date."**

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

4    \* **Section 1.** AS 08.01.062 is repealed and reenacted to read:

5           **Sec. 08.01.062. Temporary licenses, permits, and certificates.** (a) The  
6           department may on an expedited basis issue a temporary license, permit, or certificate  
7           under this section to engage in an occupation regulated under this chapter to an  
8           individual who holds a corresponding license, permit, or certificate in good standing in  
9           another jurisdiction and pays the required fee for a temporary license, permit, or  
10          certificate established by the department.

11          (b) A temporary license or permit issued under this section is valid for one  
12          year. A temporary license, permit, or certificate issued under this section allows the  
13          temporary license, permit, or certificate holder to temporarily practice the occupation  
14          for which the license, permit, or certificate was granted, within the scope designated

by the department or applicable board.

\* **Sec. 2.** AS 08.11.050 is amended to read:

**Sec. 08.11.050. Fees.** The department shall set fees under AS 08.01.065 for each of the following:

- (1) application;
- (2) credential review;
- (3) audiologist license and speech-language pathologist license;
- (4) [TEMPORARY LICENSE;
- (5)] renewal of license;
- (5) [(6)] delinquency;
- (6) [(7)] reinstatement;
- (7) [(8)] duplicate license;
- (8) [(9)] speech-language pathologist assistant registration application and renewal.

\* **Sec. 3.** AS 08.13.070 is amended to read:

**Sec. 08.13.070. License required.** A person may not

- (1) practice barbering, hairdressing, hair braiding, manicuring, esthetics, body piercing, tattooing, or permanent cosmetic coloring without a license, [TEMPORARY PERMIT,] temporary license issued under AS 08.01.062, temporary supervised practice license, or student permit unless exempted under AS 08.13.160(d);
- (2) practice barbering, hairdressing, hair braiding, manicuring, esthetics, body piercing, tattooing, or permanent cosmetic coloring except in a shop or school licensed under this chapter unless exempted under AS 08.13.160(d) or permitted under AS 08.13.160(e);
- (3) open or conduct a school of barbering, hairdressing, manicuring, or esthetics without a license;
- (4) teach in a school of barbering, hairdressing, manicuring, or esthetics, or supervise an apprentice in barbering, hairdressing, manicuring, or esthetics without an instructor's license;
- (5) operate a shop in violation of AS 08.13.120;

(6) permit an employee or other person being supervised who is not exempted under AS 08.13.160(d) to practice barbering, hairdressing, hair braiding, manicuring, esthetics, body piercing, tattooing, or permanent cosmetic coloring without a license, [TEMPORARY PERMIT,] temporary license issued under AS 08.01.062, temporary supervised practice license, or student permit;

(7) permit the use of the person's license, [TEMPORARY PERMIT,] temporary license issued under AS 08.01.062, temporary supervised practice license, or student permit by another person;

(8) obtain or attempt to obtain a license, [TEMPORARY PERMIT,] temporary license issued under AS 08.01.062, temporary supervised practice license, or student permit by fraudulent means.

\* **Sec. 4.** AS 08.13.130(a) is amended to read:

(a) A practitioner shall display the practitioner's license in a conspicuous location in the practitioner's place of business. Each shop owner is responsible for the conspicuous display of the shop's license and the licenses of employees and individuals renting booths in the shop. A person holding a student permit, temporary license issued under AS 08.01.062, or temporary supervised practice license [, OR TEMPORARY PERMIT] shall display the permit or license in a conspicuous location in the school in which the person is enrolled or the shop in which the person works. The school or shop owner is responsible for the display of a permit or license for each enrolled student, apprentice, or temporary license holder.

\* **Sec. 5.** AS 08.13.150 is amended to read:

**Sec. 08.13.150. Disciplinary sanctions and grounds for refusal of a license or permit.** The board may, in addition to the actions authorized under AS 08.01.075, refuse, suspend, or revoke a license, student permit, temporary license issued under AS 08.01.062, or temporary supervised practice license [, OR TEMPORARY PERMIT] for failure to comply with this chapter, with a regulation adopted under this chapter, with a regulation adopted by the Department of Environmental Conservation under AS 44.46.020, or with an order of the board.

\* **Sec. 6.** AS 08.13.175 is amended to read:

**Sec. 08.13.175. Temporary supervised practice license.** A person who meets

the requirements of AS 08.13.080(a)(1), (2), (3), (4), or (6) is entitled to **receive a temporary supervised practice license** [BE TEMPORARILY LICENSED] after applying for examination under this chapter if the applicant works under the direct supervision, and within the physical presence, of a person who is licensed in the area of practice for which the applicant has applied for examination. A temporary **supervised practice** license issued under this section is valid for 120 days and is nonrenewable. A person may not receive more than one temporary **supervised practice** license for each area of practice licensed under this chapter. An application for a temporary **supervised practice** license must be signed by the supervising licensee and accompanied by the temporary **supervised practice** license fee required under AS 08.13.185.

\* **Sec. 7.** AS 08.13.185(a) is amended to read:

(a) The Department of Commerce, Community, and Economic Development shall set fees under AS 08.01.065 for initial licenses and renewals for the following:

- (1) schools;
- (2) school owners;
- (3) instructor;
- (4) shop owner;
- (5) practitioner of barbering;
- (6) practitioner of hairdressing;
- (7) practitioner of manicuring;
- (8) practitioner of esthetics;
- (9) practitioner of tattooing;
- (10) practitioner of body piercing;
- (11) temporary shop license;
- (12) [TEMPORARY PERMIT;
- (13)] temporary **supervised practice** license;
- (13)** [(14)] student permit;
- (14)** [(15)] endorsement for advanced manicuring;
- (15)** [(16)] practitioner of hair braiding;
- (16)** [(17)] practitioner of permanent cosmetic coloring;



1                   **(17)** [(18)] practitioner of non-chemical barbering.

2       \* **Sec. 8.** AS 08.13.190 is amended to read:

3                   **Sec. 08.13.190. Failure to possess a license or permit.** (a) A person who  
4 practices barbering, hairdressing, hair braiding, esthetics, tattooing, permanent  
5 cosmetic coloring, or body piercing, or operates a shop, or operates a school of  
6 barbering, hairdressing, or esthetics, or teaches in a school of barbering, hairdressing,  
7 or esthetics, without a license, [TEMPORARY PERMIT,] temporary license **issued**  
8 **under AS 08.01.062, temporary supervised practice license**, or student permit and  
9 who is not exempt under AS 08.13.120 or **08.13.160(d)** [UNDER AS 08.13.160(d)] is  
10 guilty of a class B misdemeanor.

11                   (b) A person who practices manicuring, operates a shop for manicuring,  
12 operates a school of manicuring, or teaches in a school of manicuring without the  
13 appropriate license, [TEMPORARY PERMIT,] temporary license **issued under**  
14 **AS 08.01.062, temporary supervised practice license**, or student permit and who is  
15 not exempt under AS 08.13.120 or 08.13.160(d) is guilty of a violation.

16       \* **Sec. 9.** AS 08.20.180(a) is amended to read:

17                   (a) An applicant for an examination, reexamination, [ISSUANCE OF A  
18 TEMPORARY PERMIT UNDER AS 08.20.160, ISSUANCE OF A LOCUM  
19 TENENS PERMIT UNDER AS 08.20.163,] issuance of a license by credentials under  
20 AS 08.20.141, one-time issuance of a retired status license, or initial issuance or  
21 renewal of an active or inactive license shall pay a fee established under  
22 AS 08.01.065.

23       \* **Sec. 10.** AS 08.36.100 is amended to read:

24                   **Sec. 08.36.100. License required.** Except as provided in AS 08.36.238 [AND  
25 08.36.254], a person may not practice, or attempt to practice, dentistry without a  
26 license.

27       \* **Sec. 11.** AS 08.63.130 is amended to read:

28                   **Sec. 08.63.130. Temporary practice license for the practice of marital and**  
29 **family therapy.** (a) The board shall issue a temporary **practice** license for the practice  
30 of marital and family therapy to an applicant who satisfies the requirements of  
31 AS 08.63.100(a)(1), (2), and (3)(A), (B), and (C) and has been approved by the board

1 to take the marital and family therapy examination.

2 (b) A person may practice under a temporary practice license until the board  
3 issues the results of the first marital and family therapy examination given after  
4 issuance of the person's temporary practice license and either issues or denies a  
5 license under AS 08.63.100 to the person.

6 (c) If a licensee under this section fails the marital and family therapy  
7 examination, the board may not renew the person's temporary practice license.

8 \* **Sec. 12.** AS 08.64.279 is amended to read:

9 **Sec. 08.64.279. Interview for permits.** An applicant for an intern permit or [,]  
10 a resident permit [, OR A TEMPORARY PERMIT FOR LOCUM TENENS  
11 PRACTICE] may be interviewed in person by the board, a member of the board, the  
12 executive secretary of the board, or a person designated for that purpose by the board.

13 \* **Sec. 13.** AS 08.64.315 is amended to read:

14 **Sec. 08.64.315. Fees.** The department shall set fees under AS 08.01.065 for  
15 each of the following:

- 16 (1) application;
- 17 (2) license by examination;
- 18 (3) license by endorsement or waiver of examination;
- 19 (4) [TEMPORARY PERMIT;
- 20 (5) LOCUM TENENS PERMIT;
- 21 (6)] license renewal, active;
- 22 (5) [(7)] license renewal, inactive;
- 23 (6) [(8)] license by reexamination.

24 \* **Sec. 14.** AS 08.68.220 is amended to read:

25 **Sec. 08.68.220. Fees.** The Department of Commerce, Community, and  
26 Economic Development shall set fees under AS 08.01.065 for each of the following:

- 27 (1) registered nursing:
  - 28 (A) application;
  - 29 (B) license by examination;
  - 30 (C) license by endorsement;
  - 31 (D) license renewal;

1 [(E) TEMPORARY PERMIT;]

2 (2) practical nursing:

3 (A) application;

4 (B) license by examination;

5 (C) license by endorsement;

6 (D) license renewal;

7 [(E) TEMPORARY PERMIT;]

8 (3) advanced practice registered nursing:

9 (A) application;

10 (B) license by certification examination;

11 (C) license by endorsement;

12 (D) license renewal [;

13 (E) TEMPORARY PERMIT].

14 \* **Sec. 15.** AS 08.80.160 is amended to read:

15 **Sec. 08.80.160. Fees.** The Department of Commerce, Community, and  
16 Economic Development shall set fees under AS 08.01.065 for the following:

17 (1) examination;

18 (2) reexamination;

19 (3) investigation for licensing by license transfer;

20 (4) pharmacist license;

21 (5) [TEMPORARY LICENSE;

22 (6)] pharmacy technician license;

23 **(6)** [(7)] pharmacy intern license;

24 [(8) EMERGENCY PERMIT;]

25 **(7)** [(9)] license amendment or replacement;

26 **(8)** [(10)] registration or licensure of a facility classified under

27 AS 08.80.157(b).

28 \* **Sec. 16.** AS 08.84.010(b) is amended to read:

29 (b) The board shall control all matters pertaining to the licensing of physical  
30 therapists, physical therapy assistants, occupational therapists, and occupational  
31 therapy assistants and the practice of physical therapy and the practice of occupational

1 therapy. The board shall

- 2 (1) pass upon the qualifications of applicants;
- 3 (2) provide for the examination of applicants;
- 4 (3) issue [TEMPORARY PERMITS AND] licenses to persons
- 5 qualified under this chapter;
- 6 (4) suspend, revoke, or refuse to issue or renew a license under
- 7 AS 08.84.120;
- 8 (5) keep a current register listing the name, business address, date, and
- 9 number of the license of each person who is licensed to practice under this chapter;
- 10 (6) adopt regulations under AS 44.62 (Administrative Procedure Act)
- 11 necessary to carry out the purposes of this chapter including regulations establishing
- 12 qualifications for licensure and renewal of licensure under this chapter.

13 \* **Sec. 17.** AS 08.84.050 is amended to read:

14 **Sec. 08.84.050. Fees.** The Department of Commerce, Community, and

15 Economic Development shall set fees under AS 08.01.065 for the following:

- 16 (1) application;
- 17 (2) license by examination;
- 18 (3) license by acceptance of credentials;
- 19 (4) renewal [;
- 20 (5) TEMPORARY PERMIT;
- 21 (6) LIMITED PERMIT].

22 \* **Sec. 18.** AS 08.84.150 is amended to read:

23 **Sec. 08.84.150. License required; exceptions.** (a) It is unlawful for a person

24 to practice physical therapy without being licensed under this chapter unless the

25 person is

- 26 (1) a student in an accredited physical therapy program;
- 27 (2) a graduate of a foreign school of physical therapy fulfilling the
- 28 internship requirement of AS 08.84.032, and then only unless under the continuous
- 29 direction and immediate supervision of a physical therapist; or
- 30 (3) issued a **temporary** [LIMITED] permit under **AS 08.01.062**
- 31 [AS 08.84.075].

(b) A person may not provide services that the person describes as occupational therapy without being licensed under this chapter unless the person is

(1) a student in an accredited occupational therapy program or in a supervised field work program;

(2) a graduate of a foreign school of occupational therapy fulfilling the internship requirement of AS 08.84.032, and then only unless under the continuous direction and immediate supervision of an occupational therapist;

(3) an occupational therapist or occupational therapy assistant employed by the United States government while in the discharge of official duties;

(4) granted a temporary [LIMITED] permit under AS 08.01.062 [AS 08.84.075];

(5) licensed under this title and uses occupational therapy skills in the practice of the profession for which the license is issued; or

(6) employed as a teacher or teacher's aide by an educational institution and is required to use occupational therapy skills during the course of employment, if

(A) the occupational therapy skills are used under a program implemented by the employer and developed by a licensed occupational therapist;

(B) the employer maintains direct supervision of the person's use of occupational therapy skills; and

(C) the person does not represent to

(i) be an occupational therapist or occupational therapy assistant; and

(ii) practice occupational therapy.

\* **Sec. 19.** AS 08.98.120(a) is amended to read:

(a) A person may not practice veterinary medicine, surgery, or dentistry unless the person is licensed as a veterinarian under this chapter or has a temporary permit issued under AS 08.01.062 [AS 08.98.186], except that a person may perform functions authorized by

(1) regulation of the board if the person is licensed as a veterinary

1 technician; or

2 (2) a permit issued under AS 08.02.050 if the person is employed by  
3 an agency that has a permit issued under AS 08.02.050.

4 \* **Sec. 20.** AS 08.98.180 is amended to read:

5 **Sec. 08.98.180. Temporary supervised practice license.** A person who meets  
6 the requirements of AS 08.98.165(a)(1), (4), and (5) is entitled to **receive a**  
7 **temporary supervised practice license** [BE TEMPORARILY LICENSED] after  
8 applying for examination if the person works under the supervision of a licensed  
9 veterinarian. A license issued under this section is valid until the results of the  
10 examinations are published. A person may not receive more than one temporary  
11 license. An application for a temporary **supervised practice** license must be signed by  
12 the supervising veterinarian and accompanied by the temporary license fee required  
13 under AS 08.98.190.

14 \* **Sec. 21.** AS 08.98.190 is amended to read:

15 **Sec. 08.98.190. Fees.** The department shall set fees under AS 08.01.065 for the  
16 following:

- 17 (1) application;
- 18 (2) examination;
- 19 (3) investigation of credentials;
- 20 (4) license;
- 21 (5) license renewal;
- 22 (6) temporary **supervised practice** license [;
- 23 (7) TEMPORARY PERMIT].

24 \* **Sec. 22.** AS 08.01.063, 08.01.064(b), 08.01.064(c), 08.01.064(d); AS 08.11.020,  
25 08.11.025; AS 08.13.170; AS 08.15.030; AS 08.20.160, 08.20.163; AS 08.26.050;  
26 AS 08.36.254; AS 08.45.035; AS 08.64.101(b)(2), 08.64.270, 08.64.275; AS 08.68.210;  
27 AS 08.70.130; AS 08.80.150, 08.80.155; AS 08.84.065, 08.84.075; AS 08.86.135, 08.86.166;  
28 AS 08.95.125; and AS 08.98.186 are repealed.

29 \* **Sec. 23.** This Act takes effect January 1, 2022.

**HOUSE BILL NO. 15**

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-SECOND LEGISLATURE - FIRST SESSION

**BY REPRESENTATIVE THOMPSON**

**Introduced: 1/8/21**

**Referred: Prefiled**

**A BILL**

**FOR AN ACT ENTITLED**

1   **"An Act relating to occupational licensing; relating to temporary licenses and permits;**  
2   **relating to certification of teachers; and providing for an effective date."**

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

4    \* **Section 1.** AS 08.01.062 is repealed and reenacted to read:

5           **Sec. 08.01.062. Temporary licenses and permits.** (a) The department shall  
6           issue to an applicant a temporary license or permit under this section to engage in an  
7           occupation regulated under this chapter if

8                   (1) the applicant

9                           (A) is licensed or credentialed to practice the occupation in  
10                   another state or territory of the United States or a foreign country, territory, or  
11                   province that

12                                   (i) has requirements for a license or permit to practice  
13                   the occupation that are substantially equivalent to or greater than the  
14                   requirements for the occupation under this title; or

(ii) authorizes a scope of practice substantially equivalent to the scope of practice of the corresponding license or permit in this state;

(B) meets the qualifications and requirements for a license or permit to practice that occupation under this title and resides in a state or territory of the United States or in a foreign country, territory, or province that does not license individuals to practice that occupation;

(C) is awaiting the results of an examination required for licensure in the occupation and meets the remaining qualifications and requirements for licensure in that occupation under this title; or

(D) meets the qualifications and requirements for a license or permit to engage in that occupation under this title through military education, training, and service under AS 08.01.064(a) and does not already hold a license or permit to practice that occupation in another jurisdiction as a member of one of the armed forces listed in AS 08.01.064(a)(2);

(2) at the time of the application, the applicant is not

(A) subject to disciplinary action related to the occupation in another jurisdiction; or

(B) the subject of an ongoing review or disciplinary proceeding by the occupation's licensing entity in that jurisdiction;

(3) within the 10 years immediately preceding the date of the application, the applicant has not committed an act in another jurisdiction that, at the time the act was committed, would have constituted grounds for the denial or revocation of a license, certificate, or permit to practice that occupation under this title; and

(4) the applicable fees are paid.

(b) If the department or applicable board requires that an applicant for an occupational license or permit undergo a criminal history record check, an applicant for a temporary license or permit for that occupation is subject to the same requirement. The department may consider an application and grant a temporary license or permit before obtaining a result from the criminal history record check. If



1 the department later receives criminal record information that would authorize the  
 2 department or a board to take disciplinary action against a temporary license or permit  
 3 holder, the department or board shall exercise that authority.

4 (c) A temporary license or permit issued under this section is valid for 180  
 5 days. An applicant may apply for one 180-day extension, which may be approved at  
 6 the discretion of the department.

7 (d) A temporary license or permit issued under this section for an occupation  
 8 regulated under this chapter allows the temporary license or permit holder to  
 9 temporarily practice the occupation for which the license or permit was granted,  
 10 within the scope designated by the department or applicable board.

11 (e) The department may extend the 180-day temporary license or permit  
 12 period under (c) of this section for an applicant for a temporary license or permit under  
 13 (a)(1)(D) of this section if the applicant shows that the required occupational training  
 14 period is longer than 180 days.

15 (f) The department shall issue a license or permit under this section to an  
 16 active duty member of the armed forces of the United States or a spouse of an active  
 17 duty member of the armed forces of the United States who meets the requirements of  
 18 this section within 30 days after the department receives the person's complete  
 19 application for the license or permit.

20 \* **Sec. 2.** AS 08.13.175 is amended to read:

21 **Sec. 08.13.175. Temporary license.** After [A PERSON WHO MEETS THE  
 22 REQUIREMENTS OF AS 08.13.080(a)(1), (2), (3), (4), OR (6) IS ENTITLED TO  
 23 BE TEMPORARILY LICENSED AFTER] applying for examination under this  
 24 chapter, an [IF THE] applicant who receives a temporary license under  
 25 AS 08.01.062 may work only [WORKS] under the direct supervision, and within the  
 26 physical presence, of a person who is licensed in the area of practice for which the  
 27 applicant has applied for examination. [A TEMPORARY LICENSE ISSUED  
 28 UNDER THIS SECTION IS VALID FOR 120 DAYS AND IS NONRENEWABLE.  
 29 A PERSON MAY NOT RECEIVE MORE THAN ONE TEMPORARY LICENSE  
 30 FOR EACH AREA OF PRACTICE LICENSED UNDER THIS CHAPTER. AN  
 31 APPLICATION FOR A TEMPORARY LICENSE MUST BE SIGNED BY THE

1 SUPERVISING LICENSEE AND ACCOMPANIED BY THE TEMPORARY  
2 LICENSE FEE REQUIRED UNDER AS 08.13.185.]

3 \* **Sec. 3.** AS 08.13.190(a) is amended to read:

4 (a) A person who practices barbering, hairdressing, hair braiding, esthetics,  
5 tattooing, permanent cosmetic coloring, or body piercing, or operates a shop, or  
6 operates a school of barbering, hairdressing, or esthetics, or teaches in a school of  
7 barbering, hairdressing, or esthetics, without a license, [TEMPORARY PERMIT,]  
8 temporary license under AS 08.01.062, or student permit and who is not exempt  
9 under AS 08.13.120 or 08.13.160(d) [UNDER AS 08.13.160(d)] is guilty of a class B  
10 misdemeanor.

11 \* **Sec. 4.** AS 08.20.180(a) is amended to read:

12 (a) An applicant for an examination, reexamination, [ISSUANCE OF A  
13 TEMPORARY PERMIT UNDER AS 08.20.160, ISSUANCE OF A LOCUM  
14 TENENS PERMIT UNDER AS 08.20.163,] issuance of a license by credentials under  
15 AS 08.20.141, one-time issuance of a retired status license, or initial issuance or  
16 renewal of an active or inactive license shall pay a fee established under  
17 AS 08.01.065.

18 \* **Sec. 5.** AS 08.36.100 is amended to read:

19 **Sec. 08.36.100. License required.** Except as provided in AS 08.36.238 [AND  
20 08.36.254], a person may not practice, or attempt to practice, dentistry without a  
21 license.

22 \* **Sec. 6.** AS 08.64.279 is amended to read:

23 **Sec. 08.64.279. Interview for permits.** An applicant for an intern permit or [,]  
24 a resident permit [, OR A TEMPORARY PERMIT FOR LOCUM TENENS  
25 PRACTICE] may be interviewed in person by the board, a member of the board, the  
26 executive secretary of the board, or a person designated for that purpose by the board.

27 \* **Sec. 7.** AS 08.84.010(b) is amended to read:

28 (b) The board shall control all matters pertaining to the licensing of physical  
29 therapists, physical therapy assistants, occupational therapists, and occupational  
30 therapy assistants and the practice of physical therapy and the practice of occupational  
31 therapy. The board shall

- 1 (1) pass upon the qualifications of applicants;
- 2 (2) provide for the examination of applicants;
- 3 (3) issue [TEMPORARY PERMITS AND] licenses to persons
- 4 qualified under this chapter;
- 5 (4) suspend, revoke, or refuse to issue or renew a license under
- 6 AS 08.84.120;
- 7 (5) keep a current register listing the name, business address, date, and
- 8 number of the license of each person who is licensed to practice under this chapter;
- 9 (6) adopt regulations under AS 44.62 (Administrative Procedure Act)
- 10 necessary to carry out the purposes of this chapter including regulations establishing
- 11 qualifications for licensure and renewal of licensure under this chapter.

12 \* **Sec. 8.** AS 08.84.150 is amended to read:

13 **Sec. 08.84.150. License required; exceptions.** (a) It is unlawful for a person

14 to practice physical therapy without being licensed under this chapter unless the

15 person is

- 16 (1) a student in an accredited physical therapy program;
- 17 (2) a graduate of a foreign school of physical therapy fulfilling the
- 18 internship requirement of AS 08.84.032, and then only unless under the continuous
- 19 direction and immediate supervision of a physical therapist; or
- 20 (3) issued a **temporary** [LIMITED] permit under **AS 08.01.062**
- 21 [AS 08.84.075].

22 (b) A person may not provide services that the person describes as

23 occupational therapy without being licensed under this chapter unless the person is

- 24 (1) a student in an accredited occupational therapy program or in a
- 25 supervised field work program;
- 26 (2) a graduate of a foreign school of occupational therapy fulfilling the
- 27 internship requirement of AS 08.84.032, and then only unless under the continuous
- 28 direction and immediate supervision of an occupational therapist;
- 29 (3) an occupational therapist or occupational therapy assistant
- 30 employed by the United States government while in the discharge of official duties;
- 31 (4) granted a **temporary** [LIMITED] permit under **AS 08.01.062**

1 [AS 08.84.075];

2 (5) licensed under this title and uses occupational therapy skills in the  
3 practice of the profession for which the license is issued; or

4 (6) employed as a teacher or teacher's aide by an educational  
5 institution and is required to use occupational therapy skills during the course of  
6 employment, if

7 (A) the occupational therapy skills are used under a program  
8 implemented by the employer and developed by a licensed occupational  
9 therapist;

10 (B) the employer maintains direct supervision of the person's  
11 use of occupational therapy skills; and

12 (C) the person does not represent to

13 (i) be an occupational therapist or occupational therapy  
14 assistant; and

15 (ii) practice occupational therapy.

16 \* **Sec. 9.** AS 08.98.120(a) is amended to read:

17 (a) A person may not practice veterinary medicine, surgery, or dentistry unless  
18 the person is licensed as a veterinarian under this chapter or has a temporary permit  
19 issued under **AS 08.01.062** [AS 08.98.186], except that a person may perform  
20 functions authorized by

21 (1) regulation of the board if the person is licensed as a veterinary  
22 technician; or

23 (2) a permit issued under AS 08.02.050 if the person is employed by  
24 an agency that has a permit issued under AS 08.02.050.

25 \* **Sec. 10.** AS 08.98.180 is amended to read:

26 **Sec. 08.98.180. Temporary license.** A person who **is granted a temporary**  
27 **license by the department under AS 08.01.062 may work only** [MEETS THE  
28 REQUIREMENTS OF AS 08.98.165(a)(1), (4), AND (5) IS ENTITLED TO BE  
29 TEMPORARILY LICENSED AFTER APPLYING FOR EXAMINATION IF THE  
30 PERSON WORKS] under the supervision of a licensed veterinarian. [A LICENSE  
31 ISSUED UNDER THIS SECTION IS VALID UNTIL THE RESULTS OF THE

EXAMINATIONS ARE PUBLISHED. A PERSON MAY NOT RECEIVE MORE THAN ONE TEMPORARY LICENSE. AN APPLICATION FOR A TEMPORARY LICENSE MUST BE SIGNED BY THE SUPERVISING VETERINARIAN AND ACCOMPANIED BY THE TEMPORARY LICENSE FEE REQUIRED UNDER AS 08.98.190.]

\* **Sec. 11.** AS 14.20.015 is amended by adding a new subsection to read:

(g) The department shall issue a preliminary teacher certificate under this section to an active duty member of the armed forces of the United States or a spouse of an active duty member of the armed forces of the United States who meets the requirements of this section within 30 days after the department receives the person's complete application for the preliminary teacher certificate.

\* **Sec. 12.** AS 08.01.063, 08.01.064(b), 08.01.064(c), 08.01.064(d); AS 08.11.020, 08.11.025; AS 08.13.170; AS 08.15.030; AS 08.20.160, 08.20.163; AS 08.26.050; AS 08.36.254; AS 08.45.035; AS 08.63.130; AS 08.64.101(b)(2), 08.64.270, 08.64.275; AS 08.68.210; AS 08.70.130; AS 08.80.150, 08.80.155; AS 08.84.065, 08.84.075; AS 08.86.135, 08.86.166; AS 08.95.125; AS 08.98.186, 08.98.190(6), and 08.98.190(7) are repealed.

\* **Sec. 13.** The uncodified law of the State of Alaska is amended by adding a new section to read:

TRANSITION: REGULATIONS. The Department of Commerce, Community, and Economic Development may adopt regulations necessary to implement the changes made by this Act. The regulations take effect under AS 44.62 (Administrative Procedure Act), but not before the effective date of the law implemented by the regulation.

\* **Sec. 14.** Section 13 of this Act takes effect immediately under AS 01.10.070(c).

\* **Sec. 15.** Except as provided in sec. 14 of this Act, this Act takes effect January 1, 2022.



THE STATE  
of **ALASKA**  
GOVERNOR MIKE DUNLEAVY

**Department of  
Commerce, Community and  
Economic Development**

DIVISION OF CORPORATIONS, BUSINESS  
AND PROFESSIONAL LICENSING  
Board of Dental Examiners

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February 20, 2020

To Whom It May Concern,

On February 11, 2020, the Alaska Board of Dental Examiners held a publicly noticed teleconference to discuss applicable sections in omnibus bills SB157 and HB216. As the bills progress through various committee assignments, we hope this letter will prove useful during your deliberations because it describes some concerns raised with section 2 on "Temporary Licenses." That being said, the Dental Board does support sections 5 and 28 which allow the Department of Health and Social Services to take over and run the inspection and registration of dental radiological equipment. For a variety of reasons, the radiological equipment inspection program has proven impossible for the Board to maintain.

Our meeting focused on the proposed repeal and reenactment of AS 08.01.062. According to the re-write, the Department by using at least one of five possible pathways SHALL issue temporary licenses to applicants who want to work in any profession regulated under the entire chapter if certain conditions are met. Unfortunately, the bill's current language makes the assumption all professional license categories in Alaska share similar qualifications either with each other or with other countries, territories or provinces. In reality, licensure qualifications between professional disciplines and between countries are vastly different, particularly when it comes to a healthcare field like dentistry. The Board appreciates the Departments desire to provide a speedy process geared towards putting qualified people to work in Alaska. But as written, section 2 will have some unintended consequences that either the Dental Board or the Department will end up having to unwind or deal with. Let's look at a breakdown of the proposed changes to 08.01.062.

**Section 2 08.01.062(a)(1):** Below listed A-D are five pathways, any one of which may allow the Department to issue a 180-day temporary license to practice dentistry in Alaska. Each has a possible situation as an example.

(A)(i): Who in the Department will determine if requirements to obtain a license to practice dentistry in Turkey, for example, are "substantially equivalent" to those in the United States? There are rigorous accreditation requirements for dental schools in the US. Foreign schools sometimes apply for accreditation in the US. Only one school has achieved it so far.

(A)(ii): This is perhaps the most concerning pathway. Who in the Department will decide if the scope of practice "authorized" for a dentist in Burma is "substantially equivalent" to what we allow in Alaska regardless of training and educational requirements? How can one even find out that information and who has the time to do it?

(B): The Board is confident that any country or territory that doesn't even license their dentists will not meet the requirements needed to get a license in Alaska. So, this pathway is likely a non-issue as it should be next to impossible for dentistry.

(C): This is a more reasonable pathway and we understand the need for something like a "provisional license" in some cases. However, preliminary licensure exam results are now available within days and exam results are not at all what hold up the process. It is the professional background services we employ to collect all the documentation needed. Once it is collected the Dental Board votes online within 10 days. A "provisional license" could be added to chapter 36 somewhere as it could allow an applicant to work while going through the credentialing process.

(D): The Board understands the Departments desire to expedite members of the military and their families into the workforce. However, the military does not have a dental school and in fact require their all dentists to have a current dental license in a US state or territory. Additionally, the Dental Board already uses 08.01.064(a)(1) when considering additional training received in the military for certain requirements.

08.01.062(2-3): These are both good conditions to include and help qualify or disqualify potential applicants. The question is, who in the Department is responsible for gathering and collating **all** the information on an applicant from the Philippines applying under 08.01.062(A)(1)(ii)? Are the Department's investigators doing it? Is our licensing examiner who has little or no dental experience doing it? We have had 4 licensing examiners in 4 years. We now employ a dental background information gathering service just for this purpose.

08.01.062(b): A professional background check should be added to the criminal history check. But again, who in the Department is willing and able to perform this function when dealing with a foreign country? And how does the Department decide when to grant a temporary license before results of the check are received? The Board visualizes a situation where the Department grants a license and then the Board has to take the time and expense to revoke it. It is always harder to take something away than to not grant it in the first place.

08.01.062(c) and (e): So, at the Departments discretion a "dentist" authorized to extract wisdom teeth in Bolivia, may do the same in Alaska for up to 360 days before he decides to apply for a license with the Dental Board.

08.01.062(g): The Board realizes fees must be set for this temporary license. We also realize our \$100 courtesy license would disappear. For those dentists wanting to come to Alaska from another state to do pro bono work, they would need to apply through this new process and we highly doubt \$100 will cover it. This could be a detrimental blow to those organizing charitable events.

**Section 6** 0801.077(b): As long as the Dental Board remains able to summarily suspend the license of a dentist or hygienist who is a clear or imminent threat to the welfare of the public whether or not they have been charged, arrested, indicted or convicted, the Board is willing to work with the department to determine in regulations what disqualifying criminal convictions would apply to chapters 32 and 36.

It remains unclear what roll the dental board will play in writing regulations for the temporary license, who in the Department decides if criteria are met and who has jurisdictional control over someone with a temporary license. For example, if there is demonstrated malpractice during the 180-360 day period and the temporary license holder skips town without ever applying for a permanent license, is the Dental Board responsible for paying to prosecute the case?

From dentistry's perspective, most of section 2 "Temporary license" in SB157 and HB216 are solutions looking for a problem. And most of the concern comes from the fact that qualifications and training to perform dentistry within a certain standard of care and in a safe manner, is not adequate in many parts of the world.

Thank You for Your Consideration,

David Nielson, DDS  
*President, Alaska State Board of Dental Examiners*



**HOUSE BILL NO. 111**

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-SECOND LEGISLATURE - FIRST SESSION

BY REPRESENTATIVES SPOHNHOLZ, Kreiss-Tomkins

Introduced: 2/24/21

Referred: Labor and Commerce, Finance

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act relating to the practice of dental hygiene; relating to advanced practice permits  
2 for dental hygienists; relating to dental assistants; prohibiting unfair discrimination  
3 under group health insurance against a dental hygienist who holds an advanced practice  
4 permit; relating to medical assistance for dental hygiene services; and providing for an  
5 effective date."

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

7 \* **Section 1.** AS 08.32.110(e) is amended to read:

8 (e) This section does not prohibit a licensed dental hygienist

9 (1) with an endorsement issued under AS 08.32.085 from performing  
10 the activities authorized under AS 08.32.085;

11 (2) who **holds an advanced practice permit issued by the board**  
12 **under AS 08.32.125 or** has entered into a collaborative agreement approved by the  
13 board under AS 08.32.115 from performing the activities authorized under the **permit**

1        or collaborative agreement; or

2                    (3) from performing a dental operation, procedure, or service a dentist  
3        may delegate to a dental assistant under AS 08.36.346.

4        \* **Sec. 2.** AS 08.32 is amended by adding a new section to read:

5                    **Sec. 08.32.125. Advanced practice permits.** (a) The board may issue an  
6        advanced practice permit to a licensed dental hygienist with a minimum of 4,000  
7        documented hours of clinical experience. A licensed dental hygienist holding an  
8        advanced practice permit may

9                    (1) promote oral health and provide disease prevention education and  
10       oral systemic health education;

11                   (2) remove calcareous deposits, accretions, and stains from the  
12       surfaces of teeth;

13                   (3) apply topical preventive or prophylactic agents, including silver  
14       diamine fluoride, fluoride varnishes, and pit and fissure sealants;

15                   (4) polish and smooth restorations;

16                   (5) remove marginal overhangs;

17                   (6) perform preliminary charting and triage to formulate a dental  
18       hygiene assessment and dental hygiene treatment plan;

19                   (7) expose and develop radiographs;

20                   (8) use local periodontal therapeutic agents;

21                   (9) perform nonsurgical periodontal therapy, with or without the  
22       administration of local anesthesia;

23                   (10) screen for oral cancer;

24                   (11) if certified by the board, administer local anesthesia;

25                   (12) prescribe

26                        (A) fluoride that is applied or provided to a patient; and

27                        (B) chlorhexidine or a similar antibacterial rinse; and

28                   (13) delegate dental operations and services to a dental assistant as  
29       provided in AS 08.36.346.

30                   (b) A licensed dental hygienist holding an advanced practice permit may  
31       provide the services described in (a) of this section to a patient who is unable to

1 receive dental treatment because of age, infirmity, or disability and is

2 (1) a resident in a senior center, including a hospital, long-term care  
3 facility, adult foster home, residential care facility, or adult congregate living facility;

4 (2) a resident in a health care facility, including a mental health  
5 residential program or facility for individuals with developmental or other disabilities;

6 (3) held in a local correctional facility for juveniles or adults;

7 (4) enrolled in a nursery school, day care program, vocational training  
8 facility, primary school, secondary school, private school, or public charter school;

9 (5) entitled to benefits under 42 U.S.C. 1786 (Special Supplemental  
10 Nutrition Program for Women, Infants, and Children);

11 (6) homebound; or

12 (7) a resident of a dental health professional shortage area designated  
13 under 42 U.S.C. 254e.

14 (c) A licensed dental hygienist holding an advanced practice permit may  
15 provide the services described in (a) of this section to a patient described in (b) of this  
16 section without

17 (1) the physical presence, authorization, or supervision of a licensed  
18 dentist;

19 (2) a licensed dentist's examination of the patient.

20 (d) A licensed dental hygienist who provides services under an advanced  
21 practice permit shall maintain professional liability insurance and provide the patient,  
22 or the parent or legal guardian of the patient, with

23 (1) a written notice that the treatment provided will be limited to  
24 services permitted under (a) of this section;

25 (2) a written recommendation that the patient be examined by a  
26 licensed dentist for comprehensive oral health care services; and

27 (3) assistance in obtaining a referral to a licensed dentist for further  
28 dental planning and treatment, including a written description of methods for  
29 obtaining a referral and a list of licensed dentists in the patient's community or other  
30 resources for finding a licensed dentist.

31 (e) A licensed dental hygienist holding an advanced practice permit may

1 practice as an independent contractor.

2 (f) An advanced practice permit is valid until the expiration of the dental  
3 hygienist's license to practice. A licensed dental hygienist may renew an advanced  
4 practice permit at the time of license renewal under AS 08.32.071.

5 \* **Sec. 3.** AS 08.32.160 is amended to read:

6 **Sec. 08.32.160. Grounds for discipline, suspension, or revocation of license.**

7 The board may revoke or suspend the license of a dental hygienist, or may reprimand,  
8 censure, or discipline a licensee, if, after a hearing, the board finds that the licensee

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

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

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

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

17 (5) failed to comply with this chapter, with a regulation adopted under  
18 this chapter or under AS 08.36, or with an order of the board;

19 (6) continued to practice after becoming unfit due to

20 (A) professional incompetence;

21 (B) addiction or dependence on alcohol or other drugs that  
22 impairs the licensee's ability to practice safely;

23 (C) physical or mental disability;

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

26 (8) **except as permitted under an advanced practice permit under**  
27 **AS 08.32.125,** performed clinical procedures without being under the supervision of a  
28 licensed dentist;

29 (9) did not conform to professional standards in delivering dental  
30 hygiene services to patients regardless of whether actual injury to the patient occurred;

31 **(10) permitted a dental assistant employed by a dental hygienist or**

working under the supervision of a dental hygienist to perform a dental procedure in violation of AS 08.32.110 or AS 08.36.346;

(11) falsified or destroyed a patient or facility record, or failed to maintain a patient or facility record for at least seven years after the date the record was created.

\* Sec. 4. AS 08.36.346 is amended by adding a new subsection to read:

(c) A dental hygienist holding an advanced practice permit issued under AS 08.32.125 may delegate to a dental assistant under a level of supervision specified by the board in regulations

(1) the exposure and development of radiographs;

(2) application of topical preventive agents or pit and fissure sealants;

(3) other tasks specified by the board in regulations.

\* Sec. 5. AS 21.36.090(d) is amended to read:

(d) Except to the extent necessary to comply with AS 21.42.365 and AS 21.56, a person may not practice or permit unfair discrimination against a person who provides a service covered under a group health insurance policy that extends coverage on an expense incurred basis, or under a group service or indemnity type contract issued by a health maintenance organization or a nonprofit corporation, if the service is within the scope of the provider's occupational license. In this subsection, "provider" means a state licensed physician, physician assistant, dentist, osteopath, optometrist, chiropractor, advanced practice registered nurse, naturopath, physical therapist, occupational therapist, marital and family therapist, psychologist, psychological associate, licensed clinical social worker, licensed professional counselor, [OR] certified direct-entry midwife, or dental hygienist holding an advanced practice permit.

\* Sec. 6. AS 47.07.030(b) is amended to read:

(b) In addition to the mandatory services specified in (a) of this section and the services provided under (d) of this section, the department may offer only the following optional services: case management services for traumatic or acquired brain injury; case management and nutrition services for pregnant women; personal care services in a recipient's home; emergency hospital services; long-term care

noninstitutional services; medical supplies and equipment; advanced practice registered nurse services; clinic services; rehabilitative services for children eligible for services under AS 47.07.063, substance abusers, and emotionally disturbed or chronically mentally ill adults; targeted case management services; inpatient psychiatric facility services for individuals 65 years of age or older and individuals under 21 years of age; psychologists' services; clinical social workers' services; marital and family therapy services; midwife services; prescribed drugs; physical therapy; occupational therapy; chiropractic services; low-dose mammography screening, as defined in AS 21.42.375(e); hospice care; treatment of speech, hearing, and language disorders; adult dental and dental hygiene services; prosthetic devices and eyeglasses; optometrists' services; intermediate care facility services, including intermediate care facility services for persons with intellectual and developmental disabilities; skilled nursing facility services for individuals under 21 years of age; and reasonable transportation to and from the point of medical care.

\* **Sec. 7.** The uncodified law of the State of Alaska is amended by adding a new section to read:

REGULATIONS. The Department of Commerce, Community, and Economic Development, the Department of Health and Social Services, and the Board of Dental Examiners may adopt regulations necessary to implement the changes made by this Act. The regulations take effect under AS 44.62 (Administrative Procedure Act), but not before the effective date of the law implemented by the regulations.

\* **Sec. 8.** Section 7 of this Act takes effect immediately under AS 01.10.070(c).

\* **Sec. 9.** Except as provided in sec. 8 of this Act, this Act takes effect January 1, 2022.

**HOUSE BILL NO. 127**

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-FIRST LEGISLATURE - FIRST SESSION

BY REPRESENTATIVE SPOHNHOLZ

Introduced: 4/9/19

Referred:

**A BILL**

**FOR AN ACT ENTITLED**

1   **"An Act relating to the practice of dental hygiene; establishing an advanced practice**  
2   **permit; prohibiting unfair discrimination under group health insurance against a dental**  
3   **hygienist who holds an advanced practice permit; relating to medical assistance for**  
4   **dental hygiene services; and providing for an effective date."**

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

6    \* **Section 1.** AS 08.32.110(e) is amended to read:

7           (e) This section does not prohibit a licensed dental hygienist

8               (1) with an endorsement issued under AS 08.32.085 from performing  
9           the activities authorized under AS 08.32.085;

10               (2) who **holds an advanced practice permit issued by the board**  
11           **under AS 08.32.125 or** has entered into a collaborative agreement approved by the  
12           board under AS 08.32.115 from performing the activities authorized under the **permit**  
13           **or** collaborative agreement; or

14               (3) from performing a dental operation, procedure, or service a dentist

1 may delegate to a dental assistant under AS 08.36.346.

2 \* **Sec. 2.** AS 08.32 is amended by adding a new section to read:

3 **Sec. 08.32.125. Advanced practice permits.** (a) The board may issue an  
4 advanced practice permit to a licensed dental hygienist with a minimum of 4,000  
5 documented hours of clinical experience. A licensed dental hygienist holding an  
6 advanced practice permit may perform one or more of the following:

7 (1) oral health promotion, disease prevention education, and oral  
8 systemic health education;

9 (2) removal of calcareous deposits, accretions, and stains from the  
10 surfaces of teeth;

11 (3) application of topical preventive or prophylactic agents, including  
12 silver diamine fluoride, fluoride varnishes, and pit and fissure sealants;

13 (4) polishing and smoothing restorations;

14 (5) removal of marginal overhangs;

15 (6) preliminary charting and triage to formulate a dental hygiene  
16 assessment and dental hygiene treatment plan;

17 (7) the exposure and development of radiographs;

18 (8) use of local periodontal therapeutic agents;

19 (9) nonsurgical periodontal therapy, with or without the administration  
20 of local anesthesia;

21 (10) screening for oral cancer;

22 (11) administration of local anesthesia; and

23 (12) writing prescriptions for

24 (A) fluoride that is applied or provided to a patient; and

25 (B) chlorhexidine or a similar antibacterial rinse.

26 (b) A licensed dental hygienist holding an advanced practice permit may  
27 provide the services described in (a) of this section to a patient who is unable to  
28 receive dental treatment because of age, infirmity, or disability and is

29 (1) a resident in a senior center, including a hospital, long-term care  
30 facility, adult foster home, residential care facility, or adult congregate living facility;

31 (2) a resident in a health care facility, including a mental health



1 residential program or facility for individuals with developmental or other disabilities;

2 (3) held in a local correctional facility for juveniles or adults;

3 (4) enrolled in a nursery school, day care program, vocational training  
4 facility, primary school, secondary school, private school, or public charter school;

5 (5) entitled to benefits under 42 U.S.C. 1786 (Special Supplemental  
6 Food Program for Women, Infants, and Children);

7 (6) homebound; or

8 (7) a resident of a dental health professional shortage area designated  
9 under 42 U.S.C. 254e.

10 (c) A licensed dental hygienist holding an advanced practice permit may  
11 provide the services described in (a) of this section to a patient described in (b) of this  
12 section without

13 (1) the physical presence, authorization, or supervision of a licensed  
14 dentist;

15 (2) a licensed dentist's examination of the patient.

16 (d) A licensed dental hygienist who provides services under an advanced  
17 practice permit shall maintain professional liability insurance and provide the patient,  
18 or the parent or legal guardian of the patient, with

19 (1) a written notice that the treatment provided will be limited to  
20 services permitted under (a) of this section;

21 (2) a written recommendation that the patient be examined by a  
22 licensed dentist for comprehensive oral health care services; and

23 (3) assistance in obtaining a referral to a licensed dentist for further  
24 dental planning and treatment, including a written description of methods for  
25 obtaining a referral and a list of licensed dentists in the patient's community or other  
26 resources for finding a licensed dentist.

27 (e) A licensed dental hygienist holding an advanced practice permit may  
28 practice as an independent contractor.

29 (f) An advanced practice permit is valid until the expiration of the dental  
30 hygienist's license to practice. A licensed dental hygienist may renew an advanced  
31 practice permit at the time of license renewal under AS 08.32.071.

1 \* **Sec. 3.** AS 21.36.090(d) is amended to read:

2 (d) Except to the extent necessary to comply with AS 21.42.365 and  
 3 AS 21.56, a person may not practice or permit unfair discrimination against a person  
 4 who provides a service covered under a group health insurance policy that extends  
 5 coverage on an expense incurred basis, or under a group service or indemnity type  
 6 contract issued by a health maintenance organization or a nonprofit corporation, if the  
 7 service is within the scope of the provider's occupational license. In this subsection,  
 8 "provider" means a state licensed physician, physician assistant, dentist, osteopath,  
 9 optometrist, chiropractor, advanced practice registered nurse, naturopath, physical  
 10 therapist, occupational therapist, marital and family therapist, psychologist,  
 11 psychological associate, licensed clinical social worker, licensed professional  
 12 counselor, [OR] certified direct-entry midwife, or dental hygienist holding an  
 13 advanced practice permit.

14 \* **Sec. 4.** AS 47.07.030(b) is amended to read:

15 (b) In addition to the mandatory services specified in (a) of this section and the  
 16 services provided under (d) of this section, the department may offer only the  
 17 following optional services: case management services for traumatic or acquired brain  
 18 injury; case management and nutrition services for pregnant women; personal care  
 19 services in a recipient's home; emergency hospital services; long-term care  
 20 noninstitutional services; medical supplies and equipment; advanced practice  
 21 registered nurse services; clinic services; rehabilitative services for children eligible  
 22 for services under AS 47.07.063, substance abusers, and emotionally disturbed or  
 23 chronically mentally ill adults; targeted case management services; inpatient  
 24 psychiatric facility services for individuals 65 years of age or older and individuals  
 25 under 21 years of age; psychologists' services; clinical social workers' services; marital  
 26 and family therapy services; midwife services; prescribed drugs; physical therapy;  
 27 occupational therapy; chiropractic services; low-dose mammography screening, as  
 28 defined in AS 21.42.375(e); hospice care; treatment of speech, hearing, and language  
 29 disorders; adult dental and dental hygiene services; prosthetic devices and  
 30 eyeglasses; optometrists' services; intermediate care facility services, including  
 31 intermediate care facility services for persons with intellectual and developmental

1 disabilities; skilled nursing facility services for individuals under 21 years of age; and  
2 reasonable transportation to and from the point of medical care.

3 \* **Sec. 5.** The uncodified law of the State of Alaska is amended by adding a new section to  
4 read:

5 REGULATIONS. The Department of Commerce, Community, and Economic  
6 Development and the Board of Dental Examiners may adopt regulations necessary to  
7 implement the changes made by this Act. The regulations take effect under AS 44.62  
8 (Administrative Procedure Act), but not before the effective date of the law implemented by  
9 the regulation.

10 \* **Sec. 6.** Section 5 of this Act takes effect immediately under AS 01.10.070(c).

11 \* **Sec. 7.** Except as provided in sec. 6 of this Act, this Act takes effect July 1, 2020.



THE STATE  
of **ALASKA**  
GOVERNOR MIKE DUNLEAVY

**Department of  
Commerce, Community and  
Economic Development**

DIVISION OF CORPORATIONS, BUSINESS  
AND PROFESSIONAL LICENSING  
Board of Dental Examiners

PO Box 110806  
Juneau, Alaska 99811-0806  
Main: 907.465.22501  
Fax: 907.465.2974

March 9, 2020

To Whom It May Concern,

During our last publicly noticed Board of Dental Examiners meeting held March 3, 2020, the board discussed the committee substitute versions of HB 127 from Representative Spohnholz's office and SB 68 from Senator Giessel's office. When compared to the original versions of both bills, the substitutes appear to have favorably addressed all the concerns the board had at the time. Therefore, the DEN Board offers this letter in support of both CS SB68 and CS HB 127. We will attempt to have a member available during committee hearings for questions when able depending on scheduling.

Regards,

A handwritten signature in blue ink, appearing to read "David Nielson", followed by the number "1105".

David Nielson, DDS  
President, Alaska Board of Dental Examiners



THE STATE  
of **ALASKA**  
GOVERNOR MICHAEL J. DUNLEAVY

**Department of Commerce, Community,  
and Economic Development**

BOARD OF DENTAL EXAMINERS

P.O. Box 110806  
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April 20, 2019

To Whom It May Concern,

During our latest meeting on April 15<sup>th</sup>, the Alaska Board of Dental Examiners reviewed HB127 which was introduced by Representative Spohnholz on April 9<sup>th</sup>. The new bill would establish an advanced practice permit category for experienced Alaska licensed hygienists. After our review, it was apparent the board was generally in favor of the bill and appreciates that HB127 does not remove the option to work under a collaborative agreement available under 08.32.115, and looks to add the advanced practice permit category under its own section. Because of that, the suggested changes to 08.32.110(e)(2) are appropriate. During the board's discussion, however, a couple of concerns surfaced and we offer two suggestions for consideration.

First, on line 22 of the bill or 08.32.125(a)(11), the board suggests adding "if certified by the board" after administration of local anesthetic. This would ensure an advanced practice permit holder would not perform a procedure they are not certified to do. The board realizes it would be extremely unusual for a licensed hygienist applying for this type of permit to not have a local anesthetic permit as well, but it is possible.

Secondly, because a dentist may be disciplined for failure to create and maintain patient or facility records under 08.36.315(12), a hygienist working independently with an advanced practice permit should have a similar record keeping requirement written into 08.32.125. Along those same lines, if an advanced practice hygienist employs an assistant, a provision similar to 08.36.315(10) should be introduced in the event an employee assistant is found to be performing procedures in violation of 08.36.346. In other words, along with independent practice, come grounds for discipline for certain violations that would have otherwise been covered under an employer dentist's license or not currently covered under 08.32.160.

All in all, the Alaska State Board of Dental Examiners remains in full support of adding an advanced practice permit for licensed hygienists and are only trying to proactively make suggestions that may help clarify issues if they arise. The Dental Board is happy to provide input during the process as needed.

Sincerely,

  
David Nielson, DDS  
President, State of Alaska Board of Dental Examiners

**Chapter 246-16 WAC**  
**STANDARDS OF PROFESSIONAL CONDUCT**

**Last Update:** 11/30/15

**WAC**

246-16-010 Purpose of chapter.  
246-16-020 Definitions.

**SEXUAL MISCONDUCT**

246-16-100 Sexual misconduct.

**MANDATORY REPORTING**

246-16-200 Mandatory reporting—Intent.  
246-16-210 Mandatory reporting—Definitions.  
246-16-220 Mandatory reporting—How and when to report.  
246-16-230 Mandatory reporting—License holder self reports.  
246-16-235 Mandatory reporting—License holder reporting other license holders.  
246-16-240 Mandatory reporting—Reports by professional liability insurance carriers.  
246-16-245 Mandatory reporting—Reports by health care institutions.  
246-16-250 Mandatory reporting—Reports by health service contractors and disability insurers.  
246-16-255 Mandatory reporting—Reports by professional review organizations.  
246-16-260 Mandatory reporting—Reports by courts.  
246-16-265 Mandatory reporting—Reports by state and federal agencies.  
246-16-270 Mandatory reporting—Reports by employers of license holders.

**SANCTIONS**

246-16-800 Sanctions—General provisions.  
246-16-810 Sanction schedule—Practice below standard of care.  
246-16-820 Sanction schedule—Sexual misconduct or contact.  
246-16-830 Sanction schedule—Abuse—Physical and emotional.  
246-16-840 Sanction schedule—Diversion of controlled substances or legend drugs.  
246-16-850 Sanction schedule—Substance abuse.  
246-16-860 Sanction schedule—Criminal convictions.  
246-16-890 Sanctions—Aggravating and mitigating factors.

**WAC 246-16-010 Purpose of chapter.** The rules in this chapter define certain acts of unprofessional conduct for health care providers under the jurisdiction of the secretary of the department of health as provided in RCW 18.130.040 (2)(a) including persons licensed or certified by the secretary under chapter 18.73 RCW or RCW 18.71.205. The rules also provide for sanctions. The secretary may adopt rules applicable to specific professions under RCW 18.130.040(2). These rules also serve as model rules for the disciplining authorities listed in RCW 18.130.040 (2)(b).

[Statutory Authority: RCW 18.130.050 (1), (12) and 18.130.180. WSR 06-18-045, § 246-16-010, filed 8/30/06, effective 9/30/06.]

**WAC 246-16-020 Definitions.** (1) "Health care information" means any information, whether oral or recorded in any form or medium that identifies or can readily be associated with the identity of, and relates to the health care of, a patient or client.

(2) "Health care provider" means an individual applying for a credential or credentialed in a profession listed in RCW 18.130.040 (2)(a).

(3) "Key party" means immediate family members and others who would be reasonably expected to play a significant role in the health care decisions of the patient or client and includes, but is not limited to, the spouse, domestic partner, sibling, parent, child, guardian and person authorized to make health care decisions of the patient or client.

(4) "Legitimate health care purpose" means activities for examination, diagnosis, treatment, and personal care of patients or clients, including palliative care, as consistent with community stand-

ards of practice for the profession. The activity must be within the scope of practice of the health care provider.

(5) "Patient" or "client" means an individual who receives health care from a health care provider.

[Statutory Authority: RCW 18.130.050 (1), (12) and 18.130.180. WSR 06-18-045, § 246-16-020, filed 8/30/06, effective 9/30/06.]

## **SEXUAL MISCONDUCT**

**WAC 246-16-100 Sexual misconduct.** (1) A health care provider shall not engage, or attempt to engage, in sexual misconduct with a current patient, client, or key party, inside or outside the health care setting. Sexual misconduct shall constitute grounds for disciplinary action. Sexual misconduct includes but is not limited to:

- (a) Sexual intercourse;
- (b) Touching the breasts, genitals, anus or any sexualized body part except as consistent with accepted community standards of practice for examination, diagnosis and treatment and within the health care practitioner's scope of practice;
- (c) Rubbing against a patient or client or key party for sexual gratification;
- (d) Kissing;
- (e) Hugging, touching, fondling or caressing of a romantic or sexual nature;
- (f) Examination of or touching genitals without using gloves;
- (g) Not allowing a patient or client privacy to dress or undress except as may be necessary in emergencies or custodial situations;
- (h) Not providing the patient or client a gown or draping except as may be necessary in emergencies;
- (i) Dressing or undressing in the presence of the patient, client or key party;
- (j) Removing patient or client's clothing or gown or draping without consent, emergent medical necessity or being in a custodial setting;
- (k) Encouraging masturbation or other sex act in the presence of the health care provider;
- (l) Masturbation or other sex act by the health care provider in the presence of the patient, client or key party;
- (m) Suggesting or discussing the possibility of a dating, sexual or romantic relationship after the professional relationship ends;
- (n) Terminating a professional relationship for the purpose of dating or pursuing a romantic or sexual relationship;
- (o) Soliciting a date with a patient, client or key party;
- (p) Discussing the sexual history, preferences or fantasies of the health care provider;
- (q) Any behavior, gestures, or expressions that may reasonably be interpreted as seductive or sexual;
- (r) Making statements regarding the patient, client or key party's body, appearance, sexual history, or sexual orientation other than for legitimate health care purposes;
- (s) Sexually demeaning behavior including any verbal or physical contact which may reasonably be interpreted as demeaning, humiliating, embarrassing, threatening or harming a patient, client or key party;



(t) Photographing or filming the body or any body part or pose of a patient, client, or key party, other than for legitimate health care purposes; and

(u) Showing a patient, client or key party sexually explicit photographs, other than for legitimate health care purposes.

(2) Sexual misconduct also includes sexual contact with any person involving force, intimidation, or lack of consent; or a conviction of a sex offense as defined in RCW 9.94A.030.

(3) A health care provider shall not:

(a) Offer to provide health care services in exchange for sexual favors;

(b) Use health care information to contact the patient, client or key party for the purpose of engaging in sexual misconduct;

(c) Use health care information or access to health care information to meet or attempt to meet the health care provider's sexual needs.

(4) A health care provider shall not engage, or attempt to engage, in the activities listed in subsection (1) of this section with a former patient, client or key party within two years after the provider-patient/client relationship ends.

(5) After the two-year period of time described in subsection (4) of this section, a health care provider shall not engage, or attempt to engage, in the activities listed in subsection (1) of this section if:

(a) There is a significant likelihood that the patient, client or key party will seek or require additional services from the health care provider; or

(b) There is an imbalance of power, influence, opportunity and/or special knowledge of the professional relationship.

(6) When evaluating whether a health care provider is prohibited from engaging, or attempting to engage, in sexual misconduct, the secretary will consider factors, including but not limited to:

(a) Documentation of a formal termination and the circumstances of termination of the provider-patient relationship;

(b) Transfer of care to another health care provider;

(c) Duration of the provider-patient relationship;

(d) Amount of time that has passed since the last health care services to the patient or client;

(e) Communication between the health care provider and the patient or client between the last health care services rendered and commencement of the personal relationship;

(f) Extent to which the patient's or client's personal or private information was shared with the health care provider;

(g) Nature of the patient or client's health condition during and since the professional relationship;

(h) The patient or client's emotional dependence and vulnerability; and

(i) Normal revisit cycle for the profession and service.

(7) Patient, client or key party initiation or consent does not excuse or negate the health care provider's responsibility.

(8) These rules do not prohibit:

(a) Providing health care services in case of emergency where the services cannot or will not be provided by another health care provider;

(b) Contact that is necessary for a legitimate health care purpose and that meets the standard of care appropriate to that profession; or



(c) Providing health care services for a legitimate health care purpose to a person who is in a preexisting, established personal relationship with the health care provider where there is no evidence of, or potential for, exploiting the patient or client.

[Statutory Authority: RCW 18.130.050, 18.130.062, and Executive Order 06-03. WSR 15-24-087, § 246-16-100, filed 11/30/15, effective 12/31/15. Statutory Authority: RCW 18.130.050 (1), (12) and 18.130.180. WSR 06-18-045, § 246-16-100, filed 8/30/06, effective 9/30/06.]

## **MANDATORY REPORTING**

**WAC 246-16-200 Mandatory reporting—Intent.** These mandatory reporting rules require certain reports about license holders and are intended to address patient safety. These rules are not intended to limit reports from any person who has a concern about a license holder's conduct or ability to practice safely.

[Statutory Authority: RCW 18.130.070 and 18.130.060. WSR 08-08-066, § 246-16-200, filed 3/31/08, effective 5/1/08.]

**WAC 246-16-210 Mandatory reporting—Definitions.** (1) "Approved impaired practitioner or voluntary substance abuse program" means a program authorized by RCW 18.130.175 and approved by a disciplining authority listed in RCW 18.130.040.

(2) "Conviction" means a court has decided a person is guilty of any gross misdemeanor or felony. It includes any guilty or no contest plea and all decisions with a deferred or suspended sentence.

(3) "Determination or finding" means a final decision by an entity required or requested to report under this chapter. This applies even if no adverse action or sanction has been imposed or if the license holder is appealing the decision.

(4) "License holder" means a person holding a credential in a profession regulated by a disciplining authority listed in RCW 18.130.040 (2).

(5) "Unable to practice with reasonable skill and safety due to a mental or physical condition" means a license holder who:

(a) A court has declared to be incompetent or mentally ill; or

(b) Is not successfully managing a mental or physical condition and as a result poses a risk to patient safety.

(6) "Unprofessional conduct" means the acts, conduct, or conditions described in RCW 18.130.180.

[Statutory Authority: RCW 18.130.070 and 18.130.060. WSR 08-08-066, § 246-16-210, filed 3/31/08, effective 5/1/08.]

**WAC 246-16-220 Mandatory reporting—How and when to report.** (1) Reports are submitted to the department of health. The department will give the report to the appropriate disciplining authority for review, possible investigation, and further action.

(a) When a patient has been harmed, a report to the department is required. A report to one of the approved impaired practitioner or voluntary substance abuse programs is not a substitute for reporting to the department.

(b) When there is no patient harm, reports of inability to practice with reasonable skill and safety due to a mental or physical condition may be submitted to one of the approved impaired practitioner or voluntary substance abuse programs or to the department. Reports of unprofessional conduct are submitted to the department.

(c) Reports to a national practitioner data bank do not meet the requirement of this section.

(2) The report must include enough information to enable the disciplining authority to assess the report. If these details are known, the report should include:

(a) The name, address, and telephone number of the person making the report.

(b) The name, address, and telephone number(s) of the license holder being reported.

(c) Identification of any patient or client who was harmed or placed at risk.

(d) A brief description or summary of the facts that caused the report, including dates.

(e) If court action is involved, the name of the court, the date of filing, and the docket number.

(f) Any other information that helps explain the situation.

(3) Reports must be submitted no later than thirty calendar days after the reporting person has actual knowledge of the information that must be reported.

[Statutory Authority: RCW 18.130.070 and 18.130.060. WSR 08-08-066, § 246-16-220, filed 3/31/08, effective 5/1/08.]

**WAC 246-16-230 Mandatory reporting—License holder self reports.**

Each license holder must self report:

(1) Any conviction, determination, or finding that he or she has committed unprofessional conduct; or

(2) Information that he or she is unable to practice with reasonable skill and safety due to a mental or physical condition; or

(3) Any disqualification from participation in the federal medicare or medicaid program.

[Statutory Authority: RCW 18.130.070 and 18.130.060. WSR 08-08-066, § 246-16-230, filed 3/31/08, effective 5/1/08.]

**WAC 246-16-235 Mandatory reporting—License holder reporting other license holders.** A license holder must report another license holder in some circumstances.

(1) The reporting license holder must submit a report when he or she has actual knowledge of:

(a) Any conviction, determination, or finding that another license holder has committed an act that constitutes unprofessional conduct; or

(b) That another license holder may not be able to practice his or her profession with reasonable skill and safety due to a mental or physical condition.

(2) The license holder does not have to report when he or she is:

(a) A member of a professional review organization as provided in WAC 246-16-255;

(b) Providing health care to the other license holder and the other license holder does not pose a clear and present danger to patients or clients; or

(c) Part of a federally funded substance abuse program or approved impaired practitioner or voluntary substance abuse program and the other license holder is participating in treatment and does not pose a clear and present danger to patients or clients.

[Statutory Authority: RCW 18.130.070 and 18.130.060. WSR 08-08-066, § 246-16-235, filed 3/31/08, effective 5/1/08.]

**WAC 246-16-240 Mandatory reporting—Reports by professional liability insurance carriers.** Every institution, corporation or organization providing professional liability insurance to a license holder must report:

(1) Any malpractice settlement, award, or payment in excess of twenty thousand dollars that results from a claim or action for damages allegedly caused by a license holder's incompetence or negligence in the practice of the profession.

(2) Award, settlement, or payment of three or more claims during a twelve-month period that result from claims or actions for damages allegedly caused by the license holder's incompetence or negligence in the practice of the profession.

(3) Reports made according to RCW 18.57.245 or 18.71.350 meet the requirement.

[Statutory Authority: RCW 18.130.070 and 18.130.060. WSR 08-08-066, § 246-16-240, filed 3/31/08, effective 5/1/08.]

**WAC 246-16-245 Mandatory reporting—Reports by health care institutions.** (1) This section applies to:

(a) Hospitals and specialty hospital defined in chapter 70.41 RCW;

(b) Ambulatory surgery facilities defined in chapter 70.230 RCW;

(c) Childbirth centers defined in chapter 18.46 RCW;

(d) Nursing homes defined in chapter 18.51 RCW;

(e) Chemical dependency treatment programs defined in chapter 70.96A RCW;

(f) Drug treatment agencies defined in chapter 69.54 RCW; and

(g) Public and private mental health treatment agencies defined in RCW 71.05.020 and 71.24.025.

(2) The chief administrator or executive officer or designee of these institutions must report when:

(a) A license holder's services are terminated or restricted because a license holder has harmed or placed at unreasonable risk of harm a patient or client; or

(b) A license holder poses an unreasonable risk of harm to patients or clients due to a mental or physical condition.

(3) Reports made by a hospital according to RCW 70.41.210 meet the requirement.

(4) Commencing July 1, 2009, reports made by an ambulatory surgical center according to RCW 70.230.110 meet the requirement.

[Statutory Authority: RCW 18.130.070 and 18.130.060. WSR 08-08-066, § 246-16-245, filed 3/31/08, effective 5/1/08.]

**WAC 246-16-250 Mandatory reporting—Reports by health service contractors and disability insurers.** The executive officer of health care service contractors and disability insurers licensed under chapters 48.20, 48.21, 48.21A, and 48.44 RCW must report when the entity has made a determination or finding that a license holder has engaged in billing fraud.

[Statutory Authority: RCW 18.130.070 and 18.130.060. WSR 08-08-066, § 246-16-250, filed 3/31/08, effective 5/1/08.]

**WAC 246-16-255 Mandatory reporting—Reports by professional review organizations.** (1) This section applies to every peer review committee, quality improvement committee, or other similarly designated professional review organization operating in the state of Washington.

(2) Unless prohibited by state or federal law, the professional review organization must report:

(a) When it makes a determination or finding that a license holder has caused harm to a patient or placed a patient at unreasonable risk of harm; and

(b) When it has actual knowledge that the license holder poses an unreasonable risk of harm due to a mental or physical condition.

(3) Professional review organizations and individual license holders participating in a professional review organization do not need to report during the investigative phase of the professional review organization's operation if the organization completes the investigation in a timely manner.

[Statutory Authority: RCW 18.130.070 and 18.130.060. WSR 08-08-066, § 246-16-255, filed 3/31/08, effective 5/1/08.]

**WAC 246-16-260 Mandatory reporting—Reports by courts.** The department requests that the clerks of trial courts in Washington report professional malpractice judgments and all convictions against a license holder.

[Statutory Authority: RCW 18.130.070 and 18.130.060. WSR 08-08-066, § 246-16-260, filed 3/31/08, effective 5/1/08.]

**WAC 246-16-265 Mandatory reporting—Reports by state and federal agencies.** The department requests that any state or federal program employing a license holder in Washington reports:

(1) When it determines a license holder has harmed or placed at unreasonable risk of harm a patient or client; and

(2) When it has actual knowledge that the license holder poses an unreasonable risk of harm due to a mental or physical condition.

[Statutory Authority: RCW 18.130.070 and 18.130.060. WSR 08-08-066, § 246-16-265, filed 3/31/08, effective 5/1/08.]

**WAC 246-16-270 Mandatory reporting—Reports by employers of license holders.** (1) Every license holder, corporation, organization, health care facility, and state and local governmental agency that employs a license holder shall report to the department of health when the employed license holder's services have been terminated or restricted based on a final determination or finding that the license holder:

(a) Has committed an act or acts that may constitute unprofessional conduct; or

(b) May not be able to practice his or her profession with reasonable skill and safety due to a mental or physical condition.

(2) Reports under this section must be submitted to the department of health as soon as possible but no later than twenty days after a final determination or finding is made. The report should contain the information described in WAC 246-16-220(2).

(3) Reports made by a hospital according to RCW 70.41.210 and reports by ambulatory surgical facilities according to RCW 70.230.120 meet the requirement of this section.

(4) If a license holder fails to submit a report required by this section, a civil penalty of up to five hundred dollars may be imposed and the disciplining authority may take action against the license holder for unprofessional conduct.

[Statutory Authority: RCW 18.130.080. WSR 09-04-050, § 246-16-270, filed 1/30/09, effective 3/2/09.]

## **SANCTIONS**

**WAC 246-16-800 Sanctions—General provisions.** (1) Applying these rules.

(a) The disciplining authorities listed in RCW 18.130.040(2) will apply these rules to determine sanctions imposed for unprofessional conduct by a license holder in any active, inactive, or expired status. The rules do not apply to applicants.

(b) The disciplining authorities will apply the rules in:

(i) Orders under RCW 18.130.110 or 18.130.160; and

(ii) Stipulations to informal disposition under RCW 18.130.172.

(c) Sanctions will begin on the effective date of the order.

(2) Selecting sanctions.

(a) The disciplining authority will select sanctions to protect the public and, if possible, rehabilitate the license holder.

(b) The disciplining authority may impose the full range of sanctions listed in RCW 18.130.160 for orders and RCW 18.130.172 for stipulations to informal dispositions.

(i) Suspension or revocation will be imposed when the license holder cannot practice with reasonable skill or safety.

(ii) Permanent revocation may be imposed when the disciplining authority finds the license holder can never be rehabilitated or can never regain the ability to practice safely.

(iii) Surrender of a credential may be imposed when the license holder is at the end of his or her effective practice and surrender alone is enough to protect the public. The license holder must agree to retire and not resume practice.

(iv) Indefinite suspension may be imposed in default and waiver of hearing orders. If indefinite suspension is not imposed in a default or waiver of hearing order, the disciplining authority shall impose sanctions determined according to these rules.

(v) "Oversight" means a period of time during which respondent must engage in on-going affirmative conduct intended to encourage rehabilitation and ensure public safety. It also includes active compliance monitoring by the disciplining authority. The passage of time without additional complaints or violations, with or without payment of a fine or costs, is not, by itself, oversight.

(c) The disciplining authority may deviate from the sanction schedules in these rules if the schedule does not adequately address the facts in a case. The disciplining authority will acknowledge the deviation and state its reasons for deviating from the sanction schedules in the order or stipulation to informal disposition.

(d) If the unprofessional conduct is not described in a schedule, the disciplining authority will use its judgment to determine appropriate sanctions. The disciplining authority will state in the order or stipulation to informal disposition that no sanction schedule applies.

(3) Using sanction schedules.

(a) Step 1: The findings of fact in an order or the allegations in an informal disposition describe the unprofessional conduct. The disciplining authority uses the unprofessional conduct described to select the appropriate sanction schedule contained in WAC 246-16-810 through 246-16-860.

(i) If the act of unprofessional conduct falls in more than one sanction schedule, the greater sanction is imposed.

(ii) If different acts of unprofessional conduct fall in the same sanction schedule, the highest sanction is imposed and the other acts of unprofessional conduct are considered aggravating factors.

(b) Step 2: The disciplining authority identifies the severity of the unprofessional conduct and identifies a tier using the sanction schedule tier descriptions.

(c) Step 3: The disciplining authority identifies aggravating or mitigating factors using the list in WAC 246-16-890. The disciplining authority describes the factors in the order or stipulation to informal disposition.

(d) Step 4: The disciplining authority selects sanctions within the identified tier. The starting point for duration of the sanctions is the middle of the tier range.

(i) Aggravating factors move the appropriate sanctions towards the maximum end of the tier range.


(ii) Mitigating factors move the appropriate sanctions towards the minimum end of the tier range.

(iii) Mitigating or aggravating factors may result in determination of a sanction outside the range in the tier. The disciplining authority will state its reasons for deviating from the tier range in the sanction schedule in the order or stipulation to informal disposition. The disciplining authority has complied with these rules if it

acknowledges the deviation and states its reasons for deviating from the sanction schedules in the order or stipulation to informal disposition.


[Statutory Authority: RCW 18.130.390. WSR 09-15-190, § 246-16-800, filed 7/22/09, effective 8/22/09.]

**WAC 246-16-810 Sanction schedule—Practice below standard of care.**

<b>PRACTICE BELOW STANDARD OF CARE</b>				
<b>Severity</b>	<b>Tier / Conduct</b>	<b>Sanction Range In consideration of Aggravating &amp; Mitigating Circumstances</b>		<b>Duration</b>
		<b>Minimum</b>	<b>Maximum</b>	
<div> <div>least</div> <div>  </div> <div>greatest</div> </div>	<b>A</b> – Caused no or minimal patient harm or a risk of minimal patient harm	Conditions that may include reprimand, training, monitoring, supervision, probation, evaluation, etc.	Oversight for 3 years which may include reprimand, training, monitoring, supervision, evaluation, probation, suspension, etc.	0-3 years
	<b>B</b> – Caused moderate patient harm or risk of moderate to severe patient harm	Oversight for 2 years which may include suspension, probation, practice restrictions, training, monitoring, supervision, probation, evaluation, etc.	Oversight for 5 years which may include suspension, probation, practice restrictions, training, monitoring, supervision, probation, evaluation, etc. OR revocation.	2 years - 5 years unless revocation
	<b>C</b> – Caused severe harm or death to a human patient	Oversight for 3 years which may include suspension, probation, practice restrictions, training, monitoring, supervision, probation, evaluation, etc. In addition - demonstration of knowledge or competency.	Permanent conditions, restrictions or revocation.	3 years - permanent

[Statutory Authority: RCW 18.130.390. WSR 09-15-190, § 246-16-810, filed 7/22/09, effective 8/22/09.]


**WAC 246-16-820 Sanction schedule—Sexual misconduct or contact.**

<b>SEXUAL MISCONDUCT OR CONTACT</b> <b>(including convictions for sexual misconduct)</b>				
<b>Severity</b>	<b>Tier / Conduct</b>	<b>Sanction Range</b> <b>In consideration of Aggravating &amp; Mitigating Circumstances</b>		<b>Duration</b>
		Minimum	Maximum	
least    greatest	<b>A</b> –Inappropriate conduct, contact, or statements of a sexual or romantic nature	Conditions that may include reprimand, training, monitoring, probation, supervision, evaluation, etc.	Oversight for 3 years which may include reprimand, training, monitoring, supervision, evaluation, probation, suspension, etc.	0-3 years
	<b>B</b> – Sexual contact, romantic relationship, or sexual statements that risk or result in patient harm	Oversight for 2 years which may include suspension, probation, practice restrictions, training, monitoring, supervision, probation, evaluation, etc.	Oversight for 5 years which may include suspension, probation, practice restrictions, training, monitoring, supervision, probation, evaluation, etc. OR revocation.	2 years - 5 years unless revocation
	<b>C</b> – Sexual contact, including but not limited to contact involving force and/or intimidation, and convictions of sexual offenses in RCW 9.94A.030.	1 year suspension AND oversight for 5 additional years which may include suspension, probation, practice restrictions, training, monitoring, supervision, probation, evaluation, etc. AND demonstration of successful completion of evaluation and treatment.	Permanent conditions, restrictions, or revocation.	6 years - permanent

[Statutory Authority: RCW 18.130.390. WSR 09-15-190, § 246-16-820, filed 7/22/09, effective 8/22/09.]

**WAC 246-16-830 Sanction schedule—Abuse—Physical and emotional.**




<b>ABUSE -- Physical and/or Emotional</b>				
<b>Severity</b>	<b>Tier / Conduct</b>	<b>Sanction Range In consideration of Aggravating &amp; Mitigating Circumstances</b>		<b>Duration</b>
		<b>Minimum</b>	<b>Maximum</b>	
least  greatest	<b>A</b> – Verbal or nonverbal intimidation, forceful contact, or disruptive or demeaning behavior, including general behavior not necessarily directed at a specific patient or patients	Conditions that may include reprimand, training, monitoring, probation, supervision, evaluation, etc.	Oversight for 3 years which may include reprimand, training, monitoring, supervision, evaluation, probation, suspension, etc.	0-3 years
	<b>B</b> – Abusive unnecessary or forceful contact or disruptive or demeaning behavior causing or risking moderate mental or physical harm, including general behavior not directed at a specific patient or patients.	Oversight for 2 years which may include suspension, probation, practice restrictions, training, monitoring, supervision, probation, evaluation, etc.	Oversight for 5 years which may include suspension, probation, practice restrictions, training, monitoring, supervision, probation, evaluation, etc. OR revocation.	2 years - 5 years unless revocation
	<b>C</b> – Severe physical, verbal, or forceful contact, or emotional disruptive behavior, that results in or risks significant harm or death	1 year suspension AND oversight for 5 additional years which may include suspension, probation, practice restrictions, training, monitoring, supervision, probation, evaluation, etc. AND demonstration of successful completion of evaluation and treatment.	Permanent conditions, restrictions, or revocation.	6 years - permanent

[Statutory Authority: RCW 18.130.390. WSR 09-15-190, § 246-16-830, filed 7/22/09, effective 8/22/09.]

**WAC 246-16-840 Sanction schedule—Diversion of controlled substances or legend drugs.**





CRIMINAL CONVICTIONS (excluding sexual misconduct)				
Severity	Tier / Conviction	Sanction Range In consideration of Aggravating & Mitigating Circumstances		Duration
		Minimum	Maximum	
least  greatest	<b>A</b> – Conviction of a Gross Misdemeanor except sexual offenses in RCW 9.94A.030	Conditions that may include reprimand, training, monitoring, probation, supervision, evaluation, etc.	Oversight for 5 years which may include reprimand, training, monitoring, supervision, evaluation, probation, suspension, etc.	0-5 years
	<b>B</b> – Conviction of a Class B, C, OR Unclassified Felony, except sexual offenses in RCW 9.94A.030	Oversight for 2 years which may include suspension, probation, practice restrictions, training, monitoring, supervision, probation, evaluation, etc.	Oversight for 5 years which may include suspension, probation, practice restrictions, training, monitoring, supervision, probation, evaluation, etc. OR revocation.	2 years - 5 years unless revocation
	<b>C</b> – Conviction of a Class A Felony, except sexual offenses in RCW 9.94A.030	5 years suspension	Permanent revocation	5 years - permanent revocation

[Statutory Authority: RCW 18.130.390. WSR 09-15-190, § 246-16-860, filed 7/22/09, effective 8/22/09.]

**WAC 246-16-890 Sanctions—Aggravating and mitigating factors.**

The following nonexclusive list identifies factors that may mitigate or aggravate the sanctions that should be imposed in an order or stipulation to informal disposition.

- (1) Factors related to the unprofessional conduct:
  - (a) Gravity of the unprofessional conduct;
  - (b) Age, capacity and/or vulnerability of the patient, client or victim;
  - (c) Number or frequency of the acts of unprofessional conduct;
  - (d) Injury caused by the unprofessional conduct;
  - (e) Potential for injury to be caused by the unprofessional conduct;
  - (f) Degree of responsibility for the outcome;
  - (g) Abuse of trust;
  - (h) Intentional or inadvertent act(s);
  - (i) Motivation is criminal, immoral, dishonest or for personal gain;
  - (j) Length of time since the unprofessional conduct occurred.
- (2) Factors related to the license holder:
  - (a) Experience in practice;
  - (b) Past disciplinary record;
  - (c) Previous character;

- (d) Mental and/or physical health;
- (e) Personal circumstances;
- (f) Personal problems having a nexus with the unprofessional conduct.
- (3) Factors related to the disciplinary process:
  - (a) Admission of key facts;
  - (b) Full and free disclosure to the disciplining authority;
  - (c) Voluntary restitution or other remedial action;
  - (d) Bad faith obstruction of the investigation or discipline process or proceedings;
  - (e) False evidence, statements or deceptive practices during the investigation or discipline process or proceedings;
  - (f) Remorse or awareness that the conduct was wrong;
  - (g) Impact on the patient, client, or victim.
- (4) General factors:
  - (a) License holder's knowledge, intent, and degree of responsibility;
  - (b) Presence or pattern of other violations;
  - (c) Present moral fitness of the license holder;
  - (d) Potential for successful rehabilitation;
  - (e) Present competence to practice;
  - (f) Dishonest or selfish motives;
  - (g) Illegal conduct;
  - (h) Heinousness of the unprofessional conduct;
  - (i) Ill repute upon the profession;
  - (j) Isolated incident unlikely to reoccur.

[Statutory Authority: RCW 18.130.390. WSR 09-15-190, § 246-16-890, filed 7/22/09, effective 8/22/09.]

# **Old Business**

**New Business**

**SENATE BILL NO. 67**

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-SECOND LEGISLATURE - FIRST SESSION

BY THE SENATE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

Introduced: 2/3/21

Referred: Health & Social Services, Labor & Commerce

**A BILL**

**FOR AN ACT ENTITLED**

1   **"An Act relating to the licensure of nursing professionals; relating to a multistate nurse**  
2   **licensure compact; and providing for an effective date."**

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

4    \* **Section 1.** AS 08.02.010(a) is amended to read:

5           (a) An acupuncturist licensed under AS 08.06, an audiologist or speech-  
6           language pathologist licensed under AS 08.11, a behavior analyst licensed under  
7           AS 08.15, a person licensed in the state as a chiropractor under AS 08.20, a  
8           professional counselor licensed under AS 08.29, a dentist under AS 08.36, a dietitian  
9           or nutritionist licensed under AS 08.38, a massage therapist licensed under AS 08.61,  
10          a marital and family therapist licensed under AS 08.63, a medical practitioner or  
11          osteopath under AS 08.64, a direct-entry midwife certified under AS 08.65, a  
12          registered nurse licensed under AS 08.68 or AS 08.69, or advanced practice  
13          registered nurse under AS 08.68, an optometrist under AS 08.72, a licensed  
14          pharmacist under AS 08.80, a physical therapist or occupational therapist licensed



under AS 08.84, a psychologist under AS 08.86, or a clinical social worker licensed under AS 08.95, shall use as professional identification appropriate letters or a title after that person's name that represents the person's specific field of practice. The letters or title shall appear on all signs, stationery, or other advertising in which the person offers or displays personal professional services to the public. In addition, a person engaged in the practice of medicine or osteopathy as defined in AS 08.64.380, or a person engaged in any manner in the healing arts who diagnoses, treats, tests, or counsels other persons in relation to human health or disease and uses the letters "M.D." or the title "doctor" or "physician" or another title that tends to show that the person is willing or qualified to diagnose, treat, test, or counsel another person, shall clarify the letters or title by adding the appropriate specialist designation, if any, such as "dermatologist," "radiologist," "audiologist," "naturopath," or the like.

\* **Sec. 2.** AS 08.11.120(b) is amended to read:

(b) Notwithstanding the provisions of this chapter,

(1) a nurse licensed under AS 08.68 or AS 08.69 may perform hearing sensitivity evaluations;

(2) an individual licensed as a hearing aid dealer under AS 08.55 may deal in hearing aids;

(3) an individual holding a class A certificate issued by the Conference of Executives of American Schools of the Deaf may teach the hearing impaired;

(4) an individual may engage in the testing of hearing as part of a hearing conservation program that complies with the regulations of the Occupational Safety and Health Administration of the federal government if the individual is certified to do the testing by a state or federal agency acceptable to the Occupational Safety and Health Administration;

(5) an individual may perform hearing screening under AS 47.20.310 if authorized to do so under a protocol adopted under AS 47.20.310(e) by the Department of Health and Social Services.

\* **Sec. 3.** AS 08.68.100 is amended to read:

**Sec. 08.68.100. Duties and powers of board.** (a) The board shall

(1) adopt regulations necessary to implement this chapter and

1 **AS 08.69**, including regulations

2 (A) pertaining to practice as an advanced practice registered  
3 nurse, including requirements for an advanced practice registered nurse to  
4 practice as a certified registered nurse anesthetist, certified clinical nurse  
5 specialist, certified nurse practitioner, or certified nurse midwife; regulations  
6 for an advanced practice registered nurse who holds a valid federal Drug  
7 Enforcement Administration registration number must address training in pain  
8 management and opioid use and addiction;

9 (B) necessary to implement AS 08.68.331 — 08.68.336  
10 relating to certified nurse aides in order to protect the health, safety, and  
11 welfare of clients served by nurse aides;

12 (C) pertaining to retired nurse status; [AND]

13 (D) establishing criteria for approval of practical nurse  
14 education programs that are not accredited by a national nursing accrediting  
15 body;

16 (2) approve curricula and adopt standards for basic education programs  
17 that prepare persons for licensing under **AS 08.69 and this chapter** [AS 08.68.190];

18 (3) provide for surveys of the basic nursing education programs in the  
19 state at the times it considers necessary;

20 (4) approve education programs that meet the requirements of this  
21 chapter and of the board, and deny, revoke, or suspend approval of education  
22 programs for failure to meet the requirements;

23 (5) examine, license, and renew the licenses of [QUALIFIED]  
24 applicants **under this chapter and for the multistate licenses issued under**  
25 **AS 08.69**;

26 (6) prescribe requirements for competence before a former registered,  
27 advanced practice registered, or [LICENSED] practical nurse **licensed under this**  
28 **chapter** may resume the practice of nursing [UNDER THIS CHAPTER];

29 (7) define by regulation the qualifications and duties of the executive  
30 administrator and delegate authority to the executive administrator that is necessary to  
31 conduct board business **and to comply with AS 08.69 and this chapter**;

(8) develop reasonable and uniform standards for nursing practice;

(9) publish advisory opinions regarding whether nursing practice procedures or policies comply with acceptable standards of nursing practice as defined under this chapter;

(10) require applicants under **AS 08.69 and** this chapter to submit fingerprints and the fees required by the Department of Public Safety under AS 12.62.160 for criminal justice information and a national criminal history record check; the department shall submit the fingerprints and fees to the Department of Public Safety for a report of criminal justice information under AS 12.62 and a national criminal history record check under AS 12.62.400;

(11) require that a licensed advanced practice registered nurse who has a federal Drug Enforcement Administration registration number register with the controlled substance prescription database under AS 17.30.200(n);

**(12) appoint the executive director of the board of nursing to serve as the Interstate Commission Nurse Licensure Compact Administrator.**

(b) The board may

(1) conduct hearings upon charges of alleged violations of **AS 08.69**, this chapter, or regulations adopted under it;

(2) invoke, or request the department to invoke, disciplinary action against a **license issued under this chapter or a multistate license issued by the board consistent with the provisions of this chapter and AS 08.69** [LICENSEE];

(3) prescribe requirements for competence to continue practice.

\* **Sec. 4.** AS 08.68.140 is amended to read:

**Sec. 08.68.140. Applicability of Administrative Procedure Act.** Except as specified in AS 08.68.333(f) **and AS 08.69**, the board shall comply with AS 44.62 (Administrative Procedure Act).

\* **Sec. 5.** AS 08.68.160 is amended to read:

**Sec. 08.68.160. License required.** A person practicing or offering to practice **as a** registered [, ADVANCED PRACTICE REGISTERED,] or practical **nurse** [NURSING] in the state shall submit evidence of qualification to practice and shall be licensed under this chapter **or AS 08.69. A person practicing or offering to practice**

1 as an advanced practice registered nurse shall submit evidence of qualification to  
 2 practice and shall be licensed under this chapter.

3 \* Sec. 6. AS 08.68.170 is amended to read:

4 **Sec. 08.68.170. Qualifications of registered or practical nurse applicants.**

5 (a) An applicant for a license to practice registered nursing may obtain a license  
 6 under this chapter or a multistate license that meets the requirements of this  
 7 chapter and AS 08.69. An applicant for a license to practice registered nursing  
 8 under this chapter shall submit to the board, on forms and in the manner prescribed  
 9 by the board, written evidence, verified by oath, that the applicant has successfully  
 10 completed a registered nurse education program accredited by a national nursing  
 11 accrediting body and approved by the board. An applicant for a multistate license to  
 12 practice registered nursing shall, in addition to the requirements of this chapter,  
 13 meet the requirements of AS 08.69.

14 (b) An applicant for a license to practice practical nursing may obtain a  
 15 license under this chapter or a multistate license that meets the requirements of  
 16 this chapter and AS 08.69. An applicant for a multistate license to practice  
 17 registered nursing shall, in addition to the requirements of this chapter, meet the  
 18 requirements of AS 08.69. An applicant for a license to practice practical nursing  
 19 under this chapter shall submit to the board, on forms and in the manner prescribed  
 20 by the board, written evidence, verified by oath, that the applicant has successfully  
 21 completed

22 (1) a practical nurse education program accredited by a national  
 23 nursing accrediting body;

24 (2) a practical nurse education program that meets the criteria  
 25 established by the board under AS 08.68.100; or

26 (3) a registered nurse education program accredited by a national  
 27 nursing accrediting body and approved by the board and, if the applicant has failed the  
 28 registered nurse licensing examination, a practical nurse scope of practice course  
 29 approved by the board.

30 (c) An applicant for a license to practice advanced practice registered nursing  
 31 shall submit to the board, on forms and in the manner prescribed by the board, written

evidence, verified by oath, that the applicant

(1) is licensed as a registered nurse in the state or is practicing as a registered nurse with a multistate license under AS 08.69; and

(2) has successfully completed an advanced practice registered nurse education program that meets the criteria established by the board under AS 08.68.100.

\* **Sec. 7.** AS 08.68.190(b) is amended to read:

(b) If an applicant meets the qualifications set out in AS 08.68.170 for the license for which the applicant applied, the board shall issue a license under this chapter to practice in this state

(1) registered or practical nursing to an applicant who passes the licensing examination to practice registered or practical nursing; or

(2) advanced practice registered nursing to an applicant who passes the advanced practice registered nursing certification examination to practice advanced practice registered nursing.

\* **Sec. 8.** AS 08.68.190 is amended by adding a new subsection to read:

(c) If an applicant meets the qualifications set out in AS 08.68.170 and AS 08.69 for the license for which the applicant applied, the board shall issue a multistate license to practice registered or practical nursing to an applicant who passes the licensing examination to practice registered or practical nursing.

\* **Sec. 9.** AS 08.68.200 is amended to read:

**Sec. 08.68.200. License by endorsement.** (a) The board may issue a license by endorsement to practice in this state as a registered, advanced practice registered, or practical nurse, whichever is appropriate, to an applicant who has worked as a nurse within the past five years if the applicant is licensed as a registered, advanced practice registered, or practical nurse under the laws of another state 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.

(b) The board may issue a license by endorsement to practice in this state as a registered, advanced practice registered, or practical nurse, whichever is appropriate, to an applicant who has not worked as a nurse within the past five years if the

applicant meets the requirements of (a) of this section and

(1) meets the continuing competency requirements of the board; or

(2) completes a course of study approved by the board.

\* **Sec. 10.** AS 08.68.220 is amended to read:

**Sec. 08.68.220. Fees.** The Department of Commerce, Community, and Economic Development shall set fees under AS 08.01.065 for each of the following:

(1) registered nursing **licenses issued for multistate practice or practice in this state:**

(A) application;

(B) license by examination;

(C) license by endorsement;

(D) license renewal;

(E) temporary permit;

(2) practical nursing **licenses issued for multistate practice or practice in this state:**

(A) application;

(B) license by examination;

(C) license by endorsement;

(D) license renewal;

(E) temporary permit;

(3) advanced practice registered nursing **licenses issued for practice in this state:**

(A) application;

(B) license by certification examination;

(C) license by endorsement;

(D) license renewal;

(E) temporary permit.

\* **Sec. 11.** AS 08.68.230(a) is amended to read:

(a) A person **who holds a license** [LICENSED] to practice registered nursing in the state **or who holds a multistate license under AS 08.69** may use the title "registered nurse" and the abbreviation "R.N".

1 \* **Sec. 12.** AS 08.68.230(b) is amended to read:

2 (b) A person **who holds a license** [LICENSED] to practice practical nursing  
3 in the state **or who holds a multistate license under AS 08.69** may use the title  
4 "licensed practical nurse" and the abbreviation "L.P.N."

5 \* **Sec. 13.** AS 08.68.230(d) is amended to read:

6 (d) A person who holds a temporary permit to practice as a licensed practical  
7 nurse **in the state** shall use the title "Temporary Licensed Practical Nurse" and the  
8 abbreviation "TLPN."

9 \* **Sec. 14.** AS 08.68.251(a) is amended to read:

10 (a) A lapsed license **to practice in this state or a multistate license issued by**  
11 **the board under this chapter and AS 08.69** may be reinstated if it has not remained  
12 lapsed for more than five years by payment of the license fees for the current renewal  
13 period and the penalty fee. The board, by regulation, shall establish continuing  
14 competency and criminal background check requirements for reinstatement of a lapsed  
15 license.

16 \* **Sec. 15.** AS 08.68.270 is amended to read:

17 **Sec. 08.68.270. Grounds for denial, suspension, or revocation.** The board  
18 may deny, suspend, or revoke the license **issued by the board under this chapter or**  
19 **AS 08.69** of a person who

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

22 (2) has been convicted of a felony or other crime if the felony or other  
23 crime is substantially related to the qualifications, functions, or duties of the licensee;

24 (3) habitually abuses alcoholic beverages, or illegally uses controlled  
25 substances;

26 (4) has impersonated a registered, advanced practice registered, or  
27 practical nurse;

28 (5) has intentionally or negligently engaged in conduct that has  
29 resulted in a significant risk to the health or safety of a client or in injury to a client;

30 (6) practices or attempts to practice nursing while afflicted with  
31 physical or mental illness, deterioration, or disability that interferes with the

individual's performance of nursing functions;

(7) is guilty of unprofessional conduct as defined by regulations adopted by the board;

(8) has wilfully or repeatedly violated a provision of this chapter or regulations adopted under this chapter or AS 08.01;

(9) is professionally incompetent;

(10) 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 as provided in AS 09.55.535(a);

(11) has prescribed or dispensed an opioid in excess of the maximum dosage authorized under AS 08.68.705; or

(12) has procured, sold, prescribed, or dispensed drugs in violation of a law, regardless of whether there has been a criminal action or harm to the patient.

\* **Sec. 16.** AS 08.68.275(a) is amended to read:

(a) The board may take the following disciplinary actions singly or in combination, against any license granted by the board under this chapter or AS 08.69:

(1) permanently revoke a license or permit to practice;

(2) suspend a license for a stated period of time;

(3) censure a licensee;

(4) issue a letter of reprimand;

(5) impose limitations or conditions on the professional practice of a licensee;

(6) impose peer review;

(7) impose professional education requirements until a satisfactory degree of skill has been attained in those aspects of professional practice determined by the board to need improvement;

(8) impose probation and require the licensee to report regularly to the board upon matters involving the basis for the probation;

(9) accept a voluntary surrender of a license.

\* **Sec. 17.** AS 08.68.275(c) is amended to read:



(c) The board may summarily suspend a license that the board issued before final hearing or during the appeals process if the board finds that the licensee poses a clear and immediate danger to the public health and safety. A person whose license is suspended under this section is entitled to a hearing conducted by the office of administrative hearings (AS 44.64.010) within seven days after the effective date of the order. If, after a hearing, the board upholds the suspension, the licensee may appeal the suspension to a court of competent jurisdiction.

\* **Sec. 18.** AS 08.68.275(d) is amended to read:

(d) The board may reinstate a license that the board issued, that has been suspended or revoked if the board finds, after a hearing, that the applicant is able to practice with skill and safety.

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

(g) The board may take the following disciplinary actions singly or in combination, against any licensee who is practicing in this state under a multistate license issued by another state under AS 08.69:

- (1) suspend a license for a stated period of time;
- (2) censure a licensee;
- (3) issue a letter of reprimand;
- (4) impose limitations or conditions on the professional practice of a licensee;
- (5) impose peer review;
- (6) impose professional education requirements until a satisfactory degree of skill has been attained in those aspects of professional practice determined by the board to need improvement;
- (7) impose probation and require the licensee to report regularly to the board on matters involving the basis for the probation.

\* **Sec. 20.** AS 08.68.800(a) is amended to read:

- (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 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;

(4) the practice of nursing by an individual enrolled in an approved program or course of study approved by the board to satisfy the requirements of AS 08.68.251;

(5) the practice of nursing by a nurse licensed in another state **but not under a multistate license issued under AS 08.69,** who engages in nursing education or nursing consultation activities, if these activities and contact with clients do not exceed 20 working days within a licensing period; or

(6) the practice of nursing by a nurse licensed in another state **but not under a multistate license issued under AS 08.69,** whose employment responsibilities include transporting patients into, out of, or through this state; however, this exception is valid for a period not to exceed 48 hours for each transport.

\* **Sec. 21.** AS 08.68.805 is amended to read:

**Sec. 08.68.805. Delegation of nursing functions.** A registered, advanced practice registered, or practical nurse licensed under this chapter **or AS 08.69** may delegate nursing duties to other persons, including unlicensed assistive personnel, under regulations adopted by the board. A person to whom the nursing duties are delegated may perform the delegated duties without a license or certificate under this chapter if the person meets the applicable requirements established by the board.

\* **Sec. 22.** AS 08.68.850(1) is amended to read:

(1) "advanced practice registered nurse" means a [REGISTERED] nurse **who holds a license** [LICENSED] to practice **registered nursing in this state under this chapter or AS 08.69 and** [IN THE STATE] who, because of specialized education and experience, is **licensed by the board** [CERTIFIED] to perform acts of medical diagnosis and the prescription and dispensing of medical, therapeutic, or corrective measures under regulations adopted by the board;

\* **Sec. 23.** AS 08 is amended by adding a new chapter to read:

**Chapter 69. Multistate Nurse Licensure Compact.**

**Sec. 08.69.010. Compact enacted.** The Multistate Nurse Licensure Compact as contained in this section is enacted into law and entered into on behalf of the state with all other states and jurisdictions legally joining it in a form substantially as follows:

**ARTICLE I**

**Findings and Declaration of Purpose**

(a) The legislature finds that:

(1) The health and safety of the public are affected by the degree of compliance with and the effectiveness of enforcement activities related to state nurse licensure laws;

(2) Violations of nurse licensure and other laws regulating the practice of nursing may result in injury or harm to the public;

(3) The expanded mobility of nurses and the use of advanced communication technologies as part of our nation's health care delivery system require greater coordination and cooperation among states in the areas of nurse licensure and regulation;

(4) New practice modalities and technology make compliance with individual state nurse licensure laws difficult and complex;

(5) The current system of duplicative licensure for nurses practicing in multiple states is cumbersome and redundant for both nurses and states; and

(6) Uniformity of nurse licensure requirements throughout the states promotes public safety and public health benefits.

(b) The general purposes of this Compact are to:

(1) Facilitate the states' responsibility to protect the public's health and safety;

(2) Ensure and encourage the cooperation of party states in the areas of nurse licensure and regulation;

(3) Facilitate the exchange of information between party states in the areas of nurse regulation, investigation and adverse actions;

(4) Promote compliance with the laws governing the practice of

1 nursing in each jurisdiction;

2 (5) Invest all party states with the authority to hold a nurse accountable  
3 for meeting all state practice laws in the state in which the patient is located at the time  
4 care is rendered through the mutual recognition of party state licenses;

5 (6) Decrease redundancies in the consideration and issuance of nurse  
6 licenses; and

7 (7) Provide opportunities for interstate practice by nurses who meet  
8 uniform licensure requirements.

## 9 ARTICLE II

### 10 Definitions

11 As used in this compact, unless the context clearly requires a different construction,

12 (1) "Adverse action" means any administrative, civil, equitable or  
13 criminal action permitted by a state's laws which is imposed by a licensing board or  
14 other authority against a nurse, including actions against an individual's license or  
15 multistate licensure privilege such as revocation, suspension, probation, monitoring of  
16 the licensee, limitation on the licensee's practice, or any other encumbrance on  
17 licensure affecting a nurse's authorization to practice, including issuance of a cease  
18 and desist action.

19 (2) "Alternative program" means a non-disciplinary monitoring  
20 program approved by a licensing board.

21 (3) "Coordinated licensure information system" means an integrated  
22 process for collecting, storing and sharing information on nurse licensure and  
23 enforcement activities related to nurse licensure laws that is administered by a  
24 nonprofit organization composed of and controlled by licensing boards.

25 (4) "Current significant investigative information" means:

26 (A) Investigative information that a licensing board, after a  
27 preliminary inquiry that includes notification and an opportunity for the nurse  
28 to respond, if required by state law, has reason to believe is not groundless and,  
29 if proved true, would indicate more than a minor infraction; or

30 (B) Investigative information that indicates that the nurse  
31 represents an immediate threat to public health and safety regardless of

1 whether the nurse has been notified and had an opportunity to respond.

2 (5) "Encumbrance" means a revocation or suspension of, or any  
3 limitation on, the full and unrestricted practice of nursing imposed by a licensing  
4 board.

5 (6) "Home state" means the party state which is the nurse's primary  
6 state of residence.

7 (7) "Licensing board" means a party state's regulatory body  
8 responsible for issuing nurse licenses.

9 (8) "Multistate license" means a license to practice as a registered or a  
10 licensed practical/vocational nurse (LPN/VN) issued by a home state licensing board  
11 that authorizes the licensed nurse to practice in all party states under a multistate  
12 licensure privilege.

13 (9) "Multistate licensure privilege" means a legal authorization  
14 associated with a multistate license permitting the practice of nursing as either a  
15 registered nurse (RN) or LPN/VN in a remote state.

16 (10) "Nurse" means RN or LPN/VN, as those terms are defined by  
17 each party state's practice laws.

18 (11) "Party state" means any state that has adopted this Compact.

19 (12) "Remote state" means a party state, other than the home state.

20 (13) "Single-state license" means a nurse license issued by a party state  
21 that authorizes practice only within the issuing state and does not include a multistate  
22 licensure privilege to practice in any other party state.

23 (14) "State" means a state, territory or possession of the United States  
24 and the District of Columbia.

25 (15) "State practice laws" means a party state's laws, rules and  
26 regulations that govern the practice of nursing, define the scope of nursing practice,  
27 and create the methods and grounds for imposing discipline. "State practice laws" do  
28 not include requirements necessary to obtain and retain a license, except for  
29 qualifications or requirements of the home state.

### 30 ARTICLE III

#### 31 General Provisions and Jurisdiction

1 (a) A multistate license to practice registered or licensed practical/vocational  
 2 nursing issued by a home state to a resident in that state will be recognized by each  
 3 party state as authorizing a nurse to practice as a registered nurse (RN) or as a licensed  
 4 practical/vocational nurse (LPN/VN), under a multistate licensure privilege, in each  
 5 party state.

6 (b) A state must implement procedures for considering the criminal history  
 7 records of applicants for initial multistate license or licensure by endorsement. Such  
 8 procedures shall include the submission of fingerprints or other biometric-based  
 9 information by applicants for the purpose of obtaining an applicant's criminal history  
 10 record information from the Federal Bureau of Investigation and the agency  
 11 responsible for retaining that state's criminal records.

12 (c) Each party state shall require the following for an applicant to obtain or  
 13 retain a multistate license in the home state:

14 (1) Meets the home state's qualifications for licensure or renewal of  
 15 licensure, as well as, all other applicable state laws;

16 (2) Has graduated or is eligible to graduate from a licensing board-  
 17 approved RN or LPN/VN prelicensure education program; or has graduated from a  
 18 foreign RN or LPN/VN prelicensure education program that (a) has been approved by  
 19 the authorized accrediting body in the applicable country and (b) has been verified by  
 20 an independent credentials review agency to be comparable to a licensing board-  
 21 approved prelicensure education program;

22 (3) Has, if a graduate of a foreign prelicensure education program not  
 23 taught in English or if English is not the individual's native language, successfully  
 24 passed an English proficiency examination that includes the components of reading,  
 25 speaking, writing and listening;

26 (4) Has successfully passed an NCLEX-RN or NCLEX-PN  
 27 Examination or recognized predecessor, as applicable;

28 (5) Is eligible for or holds an active, unencumbered license;

29 (6) Has submitted, in connection with an application for initial  
 30 licensure or licensure by endorsement, fingerprints or other biometric data for the  
 31 purpose of obtaining criminal history record information from the Federal Bureau of

1 Investigation and the agency responsible for retaining that state's criminal records;

2 (7) Has not been convicted or found guilty, or has entered into an  
3 agreed disposition, of a felony offense under applicable state or federal criminal law;

4 (8) Has not been convicted or found guilty, or has entered into an  
5 agreed disposition, of a misdemeanor offense related to the practice of nursing as  
6 determined on a case-by-case basis;

7 (9) Is not currently enrolled in an alternative program;

8 (10) Is subject to self-disclosure requirements regarding current  
9 participation in an alternative program; and

10 (11) Has a valid United States Social Security number.

11 (d) All party states shall be authorized, in accordance with existing state due  
12 process law, to take adverse action against a nurse's multistate licensure privilege such  
13 as revocation, suspension, probation or any other action that affects a nurse's  
14 authorization to practice under a multistate licensure privilege, including cease and  
15 desist actions. If a party state takes such action, it shall promptly notify the  
16 administrator of the coordinated licensure information system. The administrator of  
17 the coordinated licensure information system shall promptly notify the home state of  
18 any such actions by remote states.

19 (e) A nurse practicing in a party state must comply with the state practice laws  
20 of the state in which the client is located at the time service is provided. The practice  
21 of nursing is not limited to patient care, but shall include all nursing practice as  
22 defined by the state practice laws of the party state in which the client is located. The  
23 practice of nursing in a party state under a multistate licensure privilege will subject a  
24 nurse to the jurisdiction of the licensing board, the courts and the laws of the party  
25 state in which the client is located at the time service is provided.

26 (f) Individuals not residing in a party state shall continue to be able to apply  
27 for a party state's single-state license as provided under the laws of each party state.  
28 However, the single-state license granted to these individuals will not be recognized as  
29 granting the privilege to practice nursing in any other party state. Nothing in this  
30 Compact shall affect the requirements established by a party state for the issuance of a  
31 single-state license.

1 (g) Any nurse holding a home state multistate license, on the effective date of  
 2 this Compact, may retain and renew the multistate license issued by the nurse's then-  
 3 current home state, provided that:

4 (1) A nurse, who changes primary state of residence after this  
 5 Compact's effective date, must meet all applicable Article III.c. requirements to obtain  
 6 a multistate license from a new home state.

7 (2) A nurse who fails to satisfy the multistate licensure requirements in  
 8 Article III.c. due to a disqualifying event occurring after this Compact's effective date  
 9 shall be ineligible to retain or renew a multistate license, and the nurse's multistate  
 10 license shall be revoked or deactivated in accordance with applicable rules adopted by  
 11 the Interstate Commission of Nurse Licensure Compact Administrators  
 12 ("Commission").

#### 13 ARTICLE IV

##### 14 Applications for Licensure in a Party State

15 (a) Upon application for a multistate license, the licensing board in the issuing  
 16 party state shall ascertain, through the coordinated licensure information system,  
 17 whether the applicant has ever held, or is the holder of, a license issued by any other  
 18 state, whether there are any encumbrances on any license or multistate licensure  
 19 privilege held by the applicant, whether any adverse action has been taken against any  
 20 license or multistate licensure privilege held by the applicant and whether the  
 21 applicant is currently participating in an alternative program.

22 (b) A nurse may hold a multistate license, issued by the home state, in only  
 23 one party state at a time.

24 (c) If a nurse changes primary state of residence by moving between two party  
 25 states, the nurse must apply for licensure in the new home state, and the multistate  
 26 license issued by the prior home state will be deactivated in accordance with  
 27 applicable rules adopted by the Commission.

28 (1) The nurse may apply for licensure in advance of a change in  
 29 primary state of residence.

30 (2) A multistate license shall not be issued by the new home state until  
 31 the nurse provides satisfactory evidence of a change in primary state of residence to



1 the new home state and satisfies all applicable requirements to obtain a multistate  
2 license from the new home state.

3 (d) If a nurse changes primary state of residence by moving from a party state  
4 to a non-party state, the multistate license issued by the prior home state will convert  
5 to a single-state license, valid only in the former home state.

## 6 ARTICLE V

### 7 Additional Authorities Invested in Party State Licensing Boards

8 (a) In addition to the other powers conferred by state law, a licensing board  
9 shall have the authority to:

10 (1) Take adverse action against a nurse's multistate licensure privilege  
11 to practice within that party state.

12 (A) Only the home state shall have the power to take adverse  
13 action against a nurse's license issued by the home state.

14 (B) For purposes of taking adverse action, the home state  
15 licensing board shall give the same priority and effect to reported conduct  
16 received from a remote state as it would if such conduct had occurred within  
17 the home state. In so doing, the home state shall apply its own state laws to  
18 determine appropriate action.

19 (2) Issue cease and desist orders or impose an encumbrance on a  
20 nurse's authority to practice within that party state.

21 (3) Complete any pending investigations of a nurse who changes  
22 primary state of residence during the course of such investigations. The licensing  
23 board shall also have the authority to take appropriate action(s) and shall promptly  
24 report the conclusions of such investigations to the administrator of the coordinated  
25 licensure information system. The administrator of the coordinated licensure  
26 information system shall promptly notify the new home state of any such actions.

27 (4) Issue subpoenas for both hearings and investigations that require  
28 the attendance and testimony of witnesses, as well as, the production of evidence.  
29 Subpoenas issued by a licensing board in a party state for the attendance and  
30 testimony of witnesses or the production of evidence from another party state shall be  
31 enforced in the latter state by any court of competent jurisdiction, according to the

1 practice and procedure of that court applicable to subpoenas issued in proceedings  
 2 pending before it. The issuing authority shall pay any witness fees, travel expenses,  
 3 mileage and other fees required by the service statutes of the state in which the  
 4 witnesses or evidence are located.

5 (5) Obtain and submit, for each nurse licensure applicant, fingerprint  
 6 or other biometric-based information to the Federal Bureau of Investigation for  
 7 criminal background checks, receive the results of the Federal Bureau of Investigation  
 8 record search on criminal background checks and use the results in making licensure  
 9 decisions.

10 (6) If otherwise permitted by state law, recover from the affected nurse  
 11 the costs of investigations and disposition of cases resulting from any adverse action  
 12 taken against that nurse.

13 (7) Take adverse action based on the factual findings of the remote  
 14 state, provided that the licensing board follows its own procedures for taking such  
 15 adverse action.

16 (b) If adverse action is taken by the home state against a nurse's multistate  
 17 license, the nurse's multistate licensure privilege to practice in all other party states  
 18 shall be deactivated until all encumbrances have been removed from the multistate  
 19 license. All home state disciplinary orders that impose adverse action against a nurse's  
 20 multistate license shall include a statement that the nurse's multistate licensure  
 21 privilege is deactivated in all party states during the pendency of the order. Nothing in  
 22 this Compact shall override a party state's decision that participation in an alternative  
 23 program may be used in lieu of adverse action. The home state licensing board shall  
 24 deactivate the multistate licensure privilege under the multistate license of any nurse  
 25 for the duration of the nurse's participation in an alternative program.

## 26 ARTICLE VI

### 27 Coordinated Licensure Information System and Exchange of Information

28 (a) All party states shall participate in a coordinated licensure information  
 29 system of all licensed registered nurses (RNs) and licensed practical/vocational nurses  
 30 (LPNs/VNs). This system will include information on the licensure and disciplinary  
 31 history of each nurse, as submitted by party states, to assist in the coordination of

1 nurse licensure and enforcement efforts.

2 (b) The Commission, in consultation with the administrator of the coordinated  
3 licensure information system, shall formulate necessary and proper procedures for the  
4 identification, collection and exchange of information under this Compact.

5 (c) All licensing boards shall promptly report to the coordinated licensure  
6 information system any adverse action, any current significant investigative  
7 information, denials of applications (with the reasons for such denials) and nurse  
8 participation in alternative programs known to the licensing board regardless of  
9 whether such participation is deemed nonpublic or confidential under state law.

10 (d) Current significant investigative information and participation in nonpublic  
11 or confidential alternative programs shall be transmitted through the coordinated  
12 licensure information system only to party state licensing boards.

13 (e) Notwithstanding any other provision of law, all party state licensing boards  
14 contributing information to the coordinated licensure information system may  
15 designate information that may not be shared with non-party states or disclosed to  
16 other entities or individuals without the express permission of the contributing state.

17 (f) Any personally identifiable information obtained from the coordinated  
18 licensure information system by a party state licensing board shall not be shared with  
19 non-party states or disclosed to other entities or individuals except to the extent  
20 permitted by the laws of the party state contributing the information.

21 (g) Any information contributed to the coordinated licensure information  
22 system that is subsequently required to be expunged by the laws of the party state  
23 contributing that information shall also be expunged from the coordinated licensure  
24 information system.

25 (h) The Compact administrator of each party state shall furnish a uniform data  
26 set to the Compact administrator of each other party state, which shall include, at a  
27 minimum:

- 28 (1) Identifying information;
- 29 (2) Licensure data;
- 30 (3) Information related to alternative program participation; and
- 31 (4) Other information that may facilitate the administration of this

1 Compact, as determined by Commission rules.

2 (i) The Compact administrator of a party state shall provide all investigative  
3 documents and information requested by another party state.

#### 4 ARTICLE VII

##### 5 Establishment of the Interstate Commission of Nurse Licensure Compact Administrators

6 (a) The party states hereby create and establish a joint public entity known as  
7 the Interstate Commission of Nurse Licensure Compact Administrators.

8 (1) The Commission is an instrumentality of the party states.

9 (2) Venue is proper, and judicial proceedings by or against the  
10 Commission shall be brought solely and exclusively, in a court of competent  
11 jurisdiction where the principal office of the Commission is located. The Commission  
12 may waive venue and jurisdictional defenses to the extent it adopts or consents to  
13 participate in alternative dispute resolution proceedings.

14 (3) Nothing in this Compact shall be construed to be a waiver of  
15 sovereign immunity.

##### 16 (b) Membership, Voting and Meetings

17 (1) Each party state shall have and be limited to one administrator. The  
18 head of the state licensing board or designee shall be the administrator of this Compact  
19 for each party state. Any administrator may be removed or suspended from office as  
20 provided by the law of the state from which the Administrator is appointed. Any  
21 vacancy occurring in the Commission shall be filled in accordance with the laws of the  
22 party state in which the vacancy exists.

23 (2) Each administrator shall be entitled to one (1) vote with regard to  
24 the promulgation of rules and creation of bylaws and shall otherwise have an  
25 opportunity to participate in the business and affairs of the Commission. An  
26 administrator shall vote in person or by such other means as provided in the bylaws.  
27 The bylaws may provide for an administrator's participation in meetings by telephone  
28 or other means of communication.

29 (3) The Commission shall meet at least once during each calendar  
30 year. Additional meetings shall be held as set forth in the bylaws or rules of the  
31 commission.

1                   (4) All meetings shall be open to the public, and public notice of  
2 meetings shall be given in the same manner as required under the rulemaking  
3 provisions in Article VIII.

4                   (5) The Commission may convene in a closed, nonpublic meeting if  
5 the Commission must discuss:

6                               (A) Noncompliance of a party state with its obligations under  
7 this Compact;

8                               (B) The employment, compensation, discipline or other  
9 personnel matters, practices or procedures related to specific employees or  
10 other matters related to the Commission's internal personnel practices and  
11 procedures;

12                              (C) Current, threatened or reasonably anticipated litigation;

13                              (D) Negotiation of contracts for the purchase or sale of goods,  
14 services or real estate;

15                              (E) Accusing any person of a crime or formally censuring any  
16 person;

17                              (F) Disclosure of trade secrets or commercial or financial  
18 information that is privileged or confidential;

19                              (G) Disclosure of information of a personal nature where  
20 disclosure would constitute a clearly unwarranted invasion of personal privacy;

21                              (H) Disclosure of investigatory records compiled for law  
22 enforcement purposes;

23                              (I) Disclosure of information related to any reports prepared by  
24 or on behalf of the Commission for the purpose of investigation of compliance  
25 with this Compact; or

26                              (J) Matters specifically exempted from disclosure by federal or  
27 state statute.

28                   (6) If a meeting, or portion of a meeting, is closed pursuant to this  
29 provision, the Commission's legal counsel or designee shall certify that the meeting  
30 may be closed and shall reference each relevant exempting provision. The  
31 Commission shall keep minutes that fully and clearly describe all matters discussed in

1 a meeting and shall provide a full and accurate summary of actions taken, and the  
 2 reasons therefor, including a description of the views expressed. All documents  
 3 considered in connection with an action shall be identified in such minutes. All  
 4 minutes and documents of a closed meeting shall remain under seal, subject to release  
 5 by a majority vote of the Commission or order of a court of competent jurisdiction.

6 (c) The Commission shall, by a majority vote of the administrators, prescribe  
 7 bylaws or rules to govern its conduct as may be necessary or appropriate to carry out  
 8 the purposes and exercise the powers of this Compact, including but not limited to:

9 (1) Establishing the fiscal year of the Commission;

10 (2) Providing reasonable standards and procedures:

11 (A) For the establishment and meetings of other committees;

12 and

13 (B) Governing any general or specific delegation of any  
 14 authority or function of the Commission;

15 (3) Providing reasonable procedures for calling and conducting  
 16 meetings of the Commission, ensuring reasonable advance notice of all meetings and  
 17 providing an opportunity for attendance of such meetings by interested parties, with  
 18 enumerated exceptions designed to protect the public's interest, the privacy of  
 19 individuals, and proprietary information, including trade secrets. The Commission  
 20 may meet in closed session only after a majority of the administrators vote to close a  
 21 meeting in whole or in part. As soon as practicable, the Commission must make public  
 22 a copy of the vote to close the meeting revealing the vote of each administrator, with  
 23 no proxy votes allowed;

24 (4) Establishing the titles, duties and authority and reasonable  
 25 procedures for the election of the officers of the Commission;

26 (5) Providing reasonable standards and procedures for the  
 27 establishment of the personnel policies and programs of the Commission.  
 28 Notwithstanding any civil service or other similar laws of any party state, the bylaws  
 29 shall exclusively govern the personnel policies and programs of the Commission; and

30 (6) Providing a mechanism for winding up the operations of the  
 31 Commission and the equitable disposition of any surplus funds that may exist after the

1 termination of this Compact after the payment or reserving of all of its debts and  
2 obligations;

3 (d) The Commission shall publish its bylaws and rules, and any amendments  
4 thereto, in a convenient form on the website of the Commission.

5 (e) The Commission shall maintain its financial records in accordance with the  
6 bylaws.

7 (f) The Commission shall meet and take such actions as are consistent with the  
8 provisions of this Compact and the bylaws.

9 (g) The Commission shall have the following powers:

10 (1) To promulgate uniform rules to facilitate and coordinate  
11 implementation and administration of this Compact. The rules shall have the force and  
12 effect of law and shall be binding in all party states;

13 (2) To bring and prosecute legal proceedings or actions in the name of  
14 the Commission, provided that the standing of any licensing board to sue or be sued  
15 under applicable law shall not be affected;

16 (3) To purchase and maintain insurance and bonds;

17 (4) To borrow, accept or contract for services of personnel, including,  
18 but not limited to, employees of a party state or nonprofit organizations;

19 (5) To cooperate with other organizations that administer state  
20 compacts related to the regulation of nursing, including but not limited to sharing  
21 administrative or staff expenses, office space or other resources;

22 (6) To hire employees, elect or appoint officers, fix compensation,  
23 define duties, grant such individuals appropriate authority to carry out the purposes of  
24 this Compact, and to establish the Commission's personnel policies and programs  
25 relating to conflicts of interest, qualifications of personnel and other related personnel  
26 matters;

27 (7) To accept any and all appropriate donations, grants and gifts of  
28 money, equipment, supplies, materials and services, and to receive, utilize and dispose  
29 of the same; provided that at all times the Commission shall avoid any appearance of  
30 impropriety or conflict of interest;

31 (8) To lease, purchase, accept appropriate gifts or donations of, or

1 otherwise to own, hold, improve or use, any property, whether real, personal or mixed;  
 2 provided that at all times the Commission shall avoid any appearance of impropriety;

3 (9) To sell, convey, mortgage, pledge, lease, exchange, abandon or  
 4 otherwise dispose of any property, whether real, personal or mixed;

5 (10) To establish a budget and make expenditures;

6 (11) To borrow money;

7 (12) To appoint committees, including advisory committees comprised  
 8 of administrators, state nursing regulators, state legislators or their representatives, and  
 9 consumer representatives, and other such interested persons;

10 (13) To provide and receive information from, and to cooperate with,  
 11 law enforcement agencies;

12 (14) To adopt and use an official seal; and

13 (15) To perform such other functions as may be necessary or  
 14 appropriate to achieve the purposes of this Compact consistent with the state  
 15 regulation of nurse licensure and practice.

16 (h) Financing of the Commission

17 (1) The Commission shall pay, or provide for the payment of, the  
 18 reasonable expenses of its establishment, organization and ongoing activities.

19 (2) The Commission may also levy on and collect an annual  
 20 assessment from each party state to cover the cost of its operations, activities and staff  
 21 in its annual budget as approved each year. The aggregate annual assessment amount,  
 22 if any, shall be allocated based upon a formula to be determined by the Commission,  
 23 which shall promulgate a rule that is binding upon all party states.

24 (3) The Commission shall not incur obligations of any kind prior to  
 25 securing the funds adequate to meet the same; nor shall the Commission pledge the  
 26 credit of any of the party states, except by, and with the authority of, such party state.

27 (4) The Commission shall keep accurate accounts of all receipts and  
 28 disbursements. The receipts and disbursements of the Commission shall be subject to  
 29 the audit and accounting procedures established under its bylaws. However, all  
 30 receipts and disbursements of funds handled by the Commission shall be audited  
 31 yearly by a certified or licensed public accountant, and the report of the audit shall be



1 included in and become part of the annual report of the Commission.

2 (i) Qualified Immunity, Defense and Indemnification

3 (1) The administrators, officers, executive director, employees and  
4 representatives of the Commission shall be immune from suit and liability, either  
5 personally or in their official capacity, for any claim for damage to or loss of property  
6 or personal injury or other civil liability caused by or arising out of any actual or  
7 alleged act, error or omission that occurred, or that the person against whom the claim  
8 is made had a reasonable basis for believing occurred, within the scope of  
9 Commission employment, duties or responsibilities; provided that nothing in this  
10 paragraph shall be construed to protect any such person from suit or liability for any  
11 damage, loss, injury or liability caused by the intentional, willful or wanton  
12 misconduct of that person.

13 (2) The Commission shall defend any administrator, officer, executive  
14 director, employee or representative of the Commission in any civil action seeking to  
15 impose liability arising out of any actual or alleged act, error or omission that occurred  
16 within the scope of Commission employment, duties or responsibilities, or that the  
17 person against whom the claim is made had a reasonable basis for believing occurred  
18 within the scope of Commission employment, duties or responsibilities; provided that  
19 nothing herein shall be construed to prohibit that person from retaining his or her own  
20 counsel; and provided further that the actual or alleged act, error or omission did not  
21 result from that person's intentional, willful or wanton misconduct.

22 (3) The Commission shall indemnify and hold harmless any  
23 administrator, officer, executive director, employee or representative of the  
24 Commission for the amount of any settlement or judgment obtained against that  
25 person arising out of any actual or alleged act, error or omission that occurred within  
26 the scope of Commission employment, duties or responsibilities, or that such person  
27 had a reasonable basis for believing occurred within the scope of Commission  
28 employment, duties or responsibilities, provided that the actual or alleged act, error or  
29 omission did not result from the intentional, willful or wanton misconduct of that  
30 person.

31 ARTICLE VIII

## Rulemaking

(a) The Commission shall exercise its rulemaking powers pursuant to the criteria set forth in this Article and the rules adopted thereunder. Rules and amendments shall become binding as of the date specified in each rule or amendment and shall have the same force and effect as provisions of this Compact.

(b) Rules or amendments to the rules shall be adopted at a regular or special meeting of the Commission.

(c) Prior to promulgation and adoption of a final rule or rules by the Commission, and at least sixty (60) days in advance of the meeting at which the rule will be considered and voted upon, the Commission shall file a notice of proposed rulemaking:

(1) On the website of the Commission; and

(2) On the website of each licensing board or the publication in which each state would otherwise publish proposed rules.

(d) The notice of proposed rulemaking shall include:

(1) The proposed time, date and location of the meeting in which the rule will be considered and voted upon;

(2) The text of the proposed rule or amendment, and the reason for the proposed rule;

(3) A request for comments on the proposed rule from any interested person; and

(4) The manner in which interested persons may submit notice to the Commission of their intention to attend the public hearing and any written comments.

(e) Prior to adoption of a proposed rule, the Commission shall allow persons to submit written data, facts, opinions and arguments, which shall be made available to the public.

(f) The Commission shall grant an opportunity for a public hearing before it adopts a rule or amendment.

(g) The Commission shall publish the place, time and date of the scheduled public hearing.

(1) Hearings shall be conducted in a manner providing each person

1 who wishes to comment a fair and reasonable opportunity to comment orally or in  
2 writing. All hearings will be recorded, and a copy will be made available upon request.

3 (2) Nothing in this section shall be construed as requiring a separate  
4 hearing on each rule. Rules may be grouped for the convenience of the Commission at  
5 hearings required by this section.

6 (h) If no one appears at the public hearing, the Commission may proceed with  
7 promulgation of the proposed rule.

8 (i) Following the scheduled hearing date, or by the close of business on the  
9 scheduled hearing date if the hearing was not held, the Commission shall consider all  
10 written and oral comments received.

11 (j) The Commission shall, by majority vote of all administrators, take final  
12 action on the proposed rule and shall determine the effective date of the rule, if any,  
13 based on the rulemaking record and the full text of the rule.

14 (k) Upon determination that an emergency exists, the Commission may  
15 consider and adopt an emergency rule without prior notice, opportunity for comment  
16 or hearing, provided that the usual rulemaking procedures provided in this Compact  
17 and in this section shall be retroactively applied to the rule as soon as reasonably  
18 possible, in no event later than ninety (90) days after the effective date of the rule. For  
19 the purposes of this provision, an emergency rule is one that must be adopted  
20 immediately in order to:

- 21 (1) Meet an imminent threat to public health, safety or welfare;  
22 (2) Prevent a loss of Commission or party state funds; or  
23 (3) Meet a deadline for the promulgation of an administrative rule that  
24 is required by federal law or rule.

25 (l) The Commission may direct revisions to a previously adopted rule or  
26 amendment for purposes of correcting typographical errors, errors in format, errors in  
27 consistency or grammatical errors. Public notice of any revisions shall be posted on  
28 the website of the Commission. The revision shall be subject to challenge by any  
29 person for a period of thirty (30) days after posting. The revision may be challenged  
30 only on grounds that the revision results in a material change to a rule. A challenge  
31 shall be made in writing, and delivered to the Commission, prior to the end of the

notice period. If no challenge is made, the revision will take effect without further action. If the revision is challenged, the revision may not take effect without the approval of the Commission.

## ARTICLE IX

### Oversight, Dispute Resolution and Enforcement

#### (a) Oversight

(1) Each party state shall enforce this Compact and take all actions necessary and appropriate to effectuate this Compact's purposes and intent.

(2) The Commission shall be entitled to receive service of process in any proceeding that may affect the powers, responsibilities or actions of the Commission, and shall have standing to intervene in such a proceeding for all purposes. Failure to provide service of process in such proceeding to the Commission shall render a judgment or order void as to the Commission, this Compact or promulgated rules.

#### (b) Default, Technical Assistance and Termination

(1) If the Commission determines that a party state has defaulted in the performance of its obligations or responsibilities under this Compact or the promulgated rules, the Commission shall:

(A) Provide written notice to the defaulting state and other party states of the nature of the default, the proposed means of curing the default or any other action to be taken by the Commission; and

(B) Provide remedial training and specific technical assistance regarding the default.

(2) If a state in default fails to cure the default, the defaulting state's membership in this Compact may be terminated upon an affirmative vote of a majority of the administrators, and all rights, privileges and benefits conferred by this Compact may be terminated on the effective date of termination. A cure of the default does not relieve the offending state of obligations or liabilities incurred during the period of default.

(3) Termination of membership in this Compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to

1 suspend or terminate shall be given by the Commission to the governor of the  
2 defaulting state and to the executive officer of the defaulting state's licensing board  
3 and each of the party states.

4 (4) A state whose membership in this Compact has been terminated is  
5 responsible for all assessments, obligations and liabilities incurred through the  
6 effective date of termination, including obligations that extend beyond the effective  
7 date of termination.

8 (5) The Commission shall not bear any costs related to a state that is  
9 found to be in default or whose membership in this Compact has been terminated  
10 unless agreed upon in writing between the Commission and the defaulting state.

11 (6) The defaulting state may appeal the action of the Commission by  
12 petitioning the U.S. District Court for the District of Columbia or the federal district in  
13 which the Commission has its principal offices. The prevailing party shall be awarded  
14 all costs of such litigation, including reasonable attorneys' fees.

15 (c) Dispute Resolution

16 (1) Upon request by a party state, the Commission shall attempt to  
17 resolve disputes related to the Compact that arise among party states and between  
18 party and non-party states.

19 (2) The Commission shall promulgate a rule providing for both  
20 mediation and binding dispute resolution for disputes, as appropriate.

21 (3) In the event the Commission cannot resolve disputes among party  
22 states arising under this Compact:

23 (A) The party states may submit the issues in dispute to an  
24 arbitration panel, which will be comprised of individuals appointed by the  
25 Compact administrator in each of the affected party states and an individual  
26 mutually agreed upon by the Compact administrators of all the party states  
27 involved in the dispute.

28 (B) The decision of a majority of the arbitrators shall be final  
29 and binding.

30 (d) Enforcement

31 (1) The Commission, in the reasonable exercise of its discretion, shall

1 enforce the provisions and rules of this Compact.

2 (2) By majority vote, the Commission may initiate legal action in the  
3 U.S. District Court for the District of Columbia or the federal district in which the  
4 Commission has its principal offices against a party state that is in default to enforce  
5 compliance with the provisions of this Compact and its promulgated rules and bylaws.  
6 The relief sought may include both injunctive relief and damages. In the event judicial  
7 enforcement is necessary, the prevailing party shall be awarded all costs of such  
8 litigation, including reasonable attorneys' fees.

9 (3) The remedies herein shall not be the exclusive remedies of the  
10 Commission. The Commission may pursue any other remedies available under federal  
11 or state law.

## 12 ARTICLE X

### 13 Effective Date, Withdrawal and Amendment

14 (a) This Compact shall become effective and binding on the earlier of the date  
15 of legislative enactment of this Compact into law by no less than twenty-six (26) states  
16 or December 31, 2018. All party states to this Compact, that also were parties to the  
17 prior Nurse Licensure Compact, superseded by this Compact, ("Prior Compact"), shall  
18 be deemed to have withdrawn from said Prior Compact within six (6) months after the  
19 effective date of this Compact.

20 (b) Each party state to this Compact shall continue to recognize a nurse's  
21 multistate licensure privilege to practice in that party state issued under the Prior  
22 Compact until such party state has withdrawn from the Prior Compact.

23 (c) Any party state may withdraw from this Compact by enacting a statute  
24 repealing the same. A party state's withdrawal shall not take effect until six (6) months  
25 after enactment of the repealing statute.

26 (d) A party state's withdrawal or termination shall not affect the continuing  
27 requirement of the withdrawing or terminated state's licensing board to report adverse  
28 actions and significant investigations occurring prior to the effective date of such  
29 withdrawal or termination.

30 (e) Nothing contained in this Compact shall be construed to invalidate or  
31 prevent any nurse licensure agreement or other cooperative arrangement between a

1 party state and a non-party state that is made in accordance with the other provisions  
2 of this Compact.

3 (f) This Compact may be amended by the party states. No amendment to this  
4 Compact shall become effective and binding upon the party states unless and until it is  
5 enacted into the laws of all party states.

6 (g) Representatives of non-party states to this Compact shall be invited to  
7 participate in the activities of the Commission, on a nonvoting basis, prior to the  
8 adoption of this Compact by all states.

## 9 ARTICLE XI

### 10 Construction and Severability

11 This Compact shall be liberally construed so as to effectuate the purposes  
12 thereof. The provisions of this Compact shall be severable, and if any phrase, clause,  
13 sentence or provision of this Compact is declared to be contrary to the constitution of  
14 any party state or of the United States, or if the applicability thereof to any  
15 government, agency, person or circumstance is held invalid, the validity of the  
16 remainder of this Compact and the applicability thereof to any government, agency,  
17 person or circumstance shall not be affected thereby. If this Compact shall be held to  
18 be contrary to the constitution of any party state, this Compact shall remain in full  
19 force and effect as to the remaining party states and in full force and effect as to the  
20 party state affected as to all severable matters.

21 \* **Sec. 24.** AS 09.55.560(2) is amended to read:

22 (2) "health care provider" means an acupuncturist licensed under  
23 AS 08.06; an audiologist or speech-language pathologist licensed under AS 08.11; a  
24 chiropractor licensed under AS 08.20; a dental hygienist licensed under AS 08.32; a  
25 dentist licensed under AS 08.36; a nurse licensed under AS 08.68 or AS 08.69; a  
26 dispensing optician licensed under AS 08.71; a naturopath licensed under AS 08.45;  
27 an optometrist licensed under AS 08.72; a pharmacist licensed under AS 08.80; a  
28 physical therapist or occupational therapist licensed under AS 08.84; a physician or  
29 physician assistant licensed under AS 08.64; a podiatrist; a psychologist and a  
30 psychological associate licensed under AS 08.86; a hospital as defined in  
31 AS 47.32.900, including a governmentally owned or operated hospital; an employee

1 of a health care provider acting within the course and scope of employment; an  
 2 ambulatory surgical facility and other organizations whose primary purpose is the  
 3 delivery of health care, including a health maintenance organization, individual  
 4 practice association, integrated delivery system, preferred provider organization or  
 5 arrangement, and a physical hospital organization;

6 \* **Sec. 25.** AS 09.65.095(c)(1) is amended to read:

7 (1) "health care provider" means a nurse licensed under AS 08.68 **or**  
 8 **AS 08.69**, a physician licensed under AS 08.64, and a person certified by a hospital as  
 9 competent to take blood samples;

10 \* **Sec. 26.** AS 12.62.400(a) is amended to read:

11 (a) To obtain a national criminal history record check for determining a  
 12 person's qualifications for a license, permit, registration, employment, or position, a  
 13 person shall submit the person's fingerprints to the department with the fee established  
 14 by AS 12.62.160. The department may submit the fingerprints to the Federal Bureau  
 15 of Investigation to obtain a national criminal history record check of the person for the  
 16 purpose of evaluating a person's qualifications for

17 (1) a license or conditional contractor's permit to manufacture, sell,  
 18 offer for sale, possess for sale or barter, traffic in, or barter an alcoholic beverage  
 19 under AS 04.11;

20 (2) licensure as a mortgage lender, a mortgage broker, or a mortgage  
 21 loan originator under AS 06.60;

22 (3) admission to the Alaska Bar Association under AS 08.08;

23 (4) licensure as a collection agency operator under AS 08.24;

24 (5) a certificate of fitness to handle explosives under AS 08.52;

25 (6) licensure as a massage therapist under AS 08.61;

26 (7) licensure to practice nursing **under AS 08.68 or AS 08.69**, or  
 27 certification as a nurse aide under AS 08.68;

28 (8) certification as a real estate appraiser under as 08.87;

29 (9) a position involving supervisory or disciplinary power over a minor  
 30 or dependent adult for which criminal justice information may be released under  
 31 AS 12.62.160(b)(9);



- 1 (10) a teacher certificate under AS 14.20;
- 2 (11) a registration or license to operate a marijuana establishment
- 3 under AS 17.38;
- 4 (12) admittance to a police training program under AS 18.65.230 or for
- 5 certification as a police officer under AS 18.65.240 if that person's prospective
- 6 employer does not have access to a criminal justice information system;
- 7 (13) licensure as a security guard under AS 18.65.400 — 18.65.490;
- 8 (14) a concealed handgun permit under AS 18.65.700 — 18.65.790;
- 9 (15) licensure as an insurance producer, managing general agent,
- 10 reinsurance intermediary broker, reinsurance intermediary manager, surplus lines
- 11 broker, or independent adjuster under AS 21.27;
- 12 (16) serving and executing process issued by a court by a person
- 13 designated under AS 22.20.130;
- 14 (17) a school bus driver license under AS 28.15.046;
- 15 (18) licensure as an operator or an instructor for a commercial driver
- 16 training school under AS 28.17;
- 17 (19) registration as a broker-dealer, agent, investment adviser
- 18 representative, or investment adviser under AS 45.56.300 — 45.56.350;
- 19 (20) licensure, license renewal, certification, certification renewal, or
- 20 payment from the Department of Health and Social Services of an individual and an
- 21 entity subject to the requirements for a criminal history check under AS 47.05.310,
- 22 including
  - 23 (A) a public home care provider described in AS 47.05.017;
  - 24 (B) a provider of home and community-based waiver services
  - 25 financed under AS 47.07.030(c);
  - 26 (C) a case manager to coordinate community mental health
  - 27 services under AS 47.30.530;
  - 28 (D) an entity listed in AS 47.32.010(b), including an owner,
  - 29 officer, director, member, partner, employee, volunteer, or contractor of an
  - 30 entity; or
  - 31 (E) an individual or entity not described in (A) — (D) of this

paragraph that is required by statute or regulation to be licensed or certified by the Department of Health and Social Services or that is eligible to receive payments, in whole or in part, from the Department of Health and Social Services to provide for the health, safety, and welfare of persons who are served by the programs administered by the Department of Health and Social Services.

\* **Sec. 27.** AS 18.20.095(e)(2) is amended to read:

(2) "licensed staff member" means a person who is employed by the hospital to provide direct patient care and who is licensed or certified in the state as a physician or physician assistant under AS 08.64, direct-entry midwife under AS 08.65, nurse under AS 08.68 or AS 08.69, or nurse aide under AS 08.68, or physical therapist or occupational therapist under AS 08.84;

\* **Sec. 28.** AS 18.20.499(3) is amended to read:

(3) "nurse" means an individual licensed to practice registered nursing or practical nursing under AS 08.68 or AS 08.69 who provides nursing services through direct patient care or clinical services and includes a nurse manager when delivering in-hospital patient care;

\* **Sec. 29.** AS 18.23.070(3) is amended to read:

(3) "health care provider" means an acupuncturist licensed under AS 08.06; a chiropractor licensed under AS 08.20; a dental hygienist licensed under AS 08.32; a dentist licensed under AS 08.36; a nurse licensed under AS 08.68 or AS 08.69; a dispensing optician licensed under AS 08.71; an optometrist licensed under AS 08.72; a pharmacist licensed under AS 08.80; a physical therapist or occupational therapist licensed under AS 08.84; a physician licensed under AS 08.64; a podiatrist; a psychologist and a psychological associate licensed under AS 08.86; a hospital as defined in AS 47.32.900, including a governmentally owned or operated hospital; and an employee of a health care provider acting within the course and scope of employment;

\* **Sec. 30.** AS 47.07.045(b) is amended to read:

(b) Before the department may terminate payment for services provided under (a) of this section

1 (1) the recipient must have had an annual assessment to determine  
2 whether the recipient continues to meet the standards under (a) of this section;

3 (2) the annual assessment must have been reviewed by an independent  
4 qualified health care professional under contract with the department; for purposes of  
5 this paragraph, "independent qualified health care professional" means,

6 (A) for a waiver based on intellectual or developmental  
7 disability, a person who is qualified under 42 C.F.R. 483.430 as a qualified  
8 intellectual disability professional;

9 (B) for other allowable waivers, a registered **nurse licensed**  
10 **under AS 08.68 or AS 08.69,** or advanced practice registered nurse licensed  
11 under AS 08.68 who is qualified to assess children with complex medical  
12 conditions, older Alaskans, and adults with physical disabilities for medical  
13 assistance waivers; and

14 (3) the annual assessment must find that the recipient's condition has  
15 materially improved since the previous assessment; for purposes of this paragraph,  
16 "materially improved" means that a recipient who has previously qualified for a  
17 waiver for

18 (A) a child with complex medical conditions, no longer needs  
19 technical assistance for a life-threatening condition, and is expected to be  
20 placed in a skilled nursing facility for less than 30 days each year;

21 (B) intellectual or developmental disability, no longer needs the  
22 level of care provided by an intermediate care facility for persons with  
23 intellectual and developmental disabilities either because the qualifying  
24 diagnosis has changed or the recipient is able to demonstrate the ability to  
25 function in a home setting without the need for waiver services; or

26 (C) an older Alaskan or adult with a physical disability, no  
27 longer has a functional limitation or cognitive impairment that would result in  
28 the need for nursing home placement, and is able to demonstrate the ability to  
29 function in a home setting without the need for waiver services.

30 \* **Sec. 31.** AS 47.33.020(d) is amended to read:

31 (d) An assisted living home may provide intermittent nursing services to a

resident who does not require 24-hour nursing services and supervision. Intermittent nursing services may be provided only by a nurse licensed under AS 08.68 or AS 08.69, or by a person to whom a nursing task has been delegated under (e) of this section.

\* **Sec. 32.** AS 47.33.020(e) is amended to read:

(e) A person who is on the staff of an assisted living home and who is not a nurse licensed under AS 08.68 or AS 08.69 may perform a nursing task in that home if

(1) the authority to perform that nursing task is delegated to that person by a nurse licensed under AS 08.68 or AS 08.69; and

(2) that nursing task is specified in regulations adopted by the Board of Nursing as a task that may be delegated.

\* **Sec. 33.** AS 47.33.020(f) is amended to read:

(f) A resident who needs skilled nursing care may, with the consent of the assisted living home, arrange for that care to be provided in the home by a nurse licensed under AS 08.68 or AS 08.69 if that arrangement does not interfere with the services provided to other residents.

\* **Sec. 34.** AS 47.33.020(g) is amended to read:

(g) As part of a plan to avoid transfer of a resident from the home for medical reasons, the home may provide, through the services of a nurse who is licensed under AS 08.68 or AS 08.69, 24-hour skilled nursing care to the resident for not more than 45 consecutive days.

\* **Sec. 35.** AS 47.33.020(h) is amended to read:

(h) If a resident has received 24-hour skilled nursing care for the 45-day limit set by (g) of this section, the resident or the resident's representative may elect to have the resident remain in the home without continuation of 24-hour skilled nursing care if the home agrees to retain the resident after

(1) the home and either the resident or the resident's representative have consulted with the resident's physician;

(2) the home and either the resident or the resident's representative have discussed the consequences and risks involved in the election to remain in the

1 home; and

2 (3) the portion of the resident's assisted living plan that relates to  
 3 health-related services has been revised to provide for the resident's health-related  
 4 needs without the use of 24-hour skilled nursing care, and the revised plan has been  
 5 reviewed by a registered nurse licensed under AS 08.68 or AS 08.69, or advanced  
 6 practice registered nurse licensed under AS 08.68, or by the resident's attending  
 7 physician.

8 \* **Sec. 36.** AS 47.33.230(c) is amended to read:

9 (c) If the assisted living home provides or arranges for the provision of health-  
 10 related services to a resident, the home shall ensure that a

11 (1) registered nurse licensed under AS 08.68 or AS 08.69, or  
 12 advanced practice registered nurse licensed under AS 08.68 reviews the portion of an  
 13 assisted living plan that describes how the resident's need for health-related services  
 14 will be met; and

15 (2) physician's statement about the resident is included in the plan.

16 \* **Sec. 37.** The uncoded law of the State of Alaska is amended by adding a new section to  
 17 read:

18 TRANSITION: REGULATIONS. The Department of Commerce, Community, and  
 19 Economic Development may adopt regulations necessary to implement the changes made by  
 20 this Act. The regulations take effect under AS 44.62 (Administrative Procedure Act), but not  
 21 before the effective date of the law implemented by the regulation.

22 \* **Sec. 38.** Section 37 of this Act takes effect immediately under AS 01.10.070(c).

23 \* **Sec. 39.** Except as provided in sec. 38 of this Act, this Act takes effect January 1, 2022.

**From:** [REDACTED]  
**To:** [Board of Dental Examiners \(CED sponsored\)](#)  
**Cc:** [REDACTED]  
**Subject:** Dental Scope of Practice & Sleep Apnea Concerns  
**Date:** Friday, March 5, 2021 11:08:44 AM  
**Attachments:** [image001.png](#)  
[Dental Scope of Practice Final Joint Letter.pdf](#)

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Attached for your review is a letter requiring your immediate attention. The American Academy of Sleep Medicine, American Thoracic Society, American Academy of Neurology, and American Academy of Otolaryngology – Head and Neck Surgery would like to express our concerns regarding a recently published position statement issued by the American Academy of Dental Sleep Medicine on the use of home sleep apnea tests (HSATs) by dentists. Please see the attached letter outlining our concerns; we urge you to adopt language clarifying the scope of practice for dentists in your state in relation to the use of HSAT.

Contact Eric Albrecht, AASM Advocacy Program Manager, at [ealbrecht@aasm.org](mailto:ealbrecht@aasm.org) with any questions regarding this.

**Kannan Ramar, MD**  
*AASM President*

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March 5, 2021

Dear Dental Board:

On behalf of the undersigned organizations, we are writing to express our concerns regarding a recently published position issued by the American Academy of Dental Sleep Medicine (AADSM). This statement encourages the use of home sleep apnea tests by dentists for the diagnosis of obstructive sleep apnea (OSA). We argue that ordering, administering, and interpreting home sleep apnea tests is outside the scope of practice for dentists, and herein are requesting that your board protect both patients and dentists in your state by adopting a policy to clarify this fact.

The AADSM [position](#) states that it is within the scope of practice for dentists to identify patients who are at risk for OSA and then order or administer diagnostic home sleep apnea tests. Furthermore, since most state dental boards have no policy addressing this issue, the AADSM position indicates that this “silence” gives dentists tacit permission to provide this medical service, which is a dangerous interpretation. This position statement is in direct conflict with [that](#) of the American Academy of Sleep Medicine (AASM) and a [policy](#) of the American Medical Association (AMA), both of which emphasize that a home sleep apnea test is a medical assessment that must be ordered by a medical provider and, moreover, must be reviewed and interpreted by a physician who is either board-certified in sleep medicine or overseen by a board-certified sleep medicine physician. The AADSM position also is not supported by the [policy statement](#) of the American Dental Association (ADA) or by a [white paper](#) from the American Association of Orthodontists (AAO).

An evidence-based AASM [clinical practice guideline](#) indicates that the decision to order a home sleep apnea test should be made by a medical provider only after reviewing the patient's medical history and conducting a face-to-face examination. The medical evaluation should include a thorough sleep history and a physical examination of the respiratory, cardiovascular, and neurologic systems. The sleep history is important because many patients have more than one sleep disorder or present with atypical sleep apnea symptoms. The medical provider also should identify chronic diseases and conditions that are associated with increased risk for OSA, such as obesity, hypertension, stroke, and congestive heart failure. An evaluation by a medical provider also is necessary to rule out conditions that place the patient at increased risk of central sleep apnea and other forms of non-obstructive sleep-disordered breathing, which typical home sleep apnea tests are insufficient to detect. While dentists can use questionnaires and examine the oral structures to screen patients for symptoms of OSA, they are untrained in conducting the comprehensive medical evaluation needed to assess OSA risk.

Based on this medical evaluation, the medical provider can determine if diagnostic testing is indicated to confirm a clinical suspicion of OSA. The selection of the appropriate diagnostic test — either in-lab polysomnography or a home sleep apnea test — is critical. Because a home sleep apnea test is less sensitive than polysomnography, it is more likely to produce false negative results when ordered inappropriately. The resulting misdiagnosis can lead to significant harm for the patient. Because dentists lack the required medical education and training needed to order, administer, and interpret diagnostic tests for OSA, implementing the AADSM position could jeopardize the quality of patient care.

In addition, the AADSM position does not align with the current national and local coverage determination policies of the Centers for Medicare & Medicaid Services (CMS) and the policies of private insurers for reimbursement of home sleep apnea tests and oral appliances for OSA.



These medical insurance policies also require a comprehensive clinical evaluation by a medical provider to determine that the test or treatment is reasonable and necessary. Patients will have to pay full price for the uncovered services provided by a dentist, dramatically increasing their out-of-pocket costs.

It is for the aforementioned reasons that our organizations urge your board to adopt a policy clarifying that ordering and administering a home sleep apnea test is outside the scope of practice for dentists in your state. We encourage you to use as a model the [policy adopted](#) by the Georgia Board of Dentistry, “Prescribing and Fabrication of Sleep Apnea Appliances”:

*Depending upon the diagnosis of the type and severity, one possible treatment option for obstructive apnea is the use of oral appliances. The design, fitting and use of oral appliances and the maintenance of oral health related to the appliance falls within the scope of practice of dentistry. The continuing evaluation of a person’s sleep apnea, the effect of the oral appliance on the apnea, and the need for, and type of, alternative treatment do not fall within the scope of dentistry. Therefore, the prescribing of sleep apnea appliance does not fall within the scope of the practice of dentistry. It is the position of the Board that a dentist may not order a sleep study. Home sleep studies should only be ordered and interpreted by a licensed physician. Therefore, only under the orders of a physician should a dentist fabricate a sleep apnea appliance for the designated patient and conduct only those tasks permitted under O.C.G.A. Title 43, Chapter 11. (adopted 04/01/16)*

We thank you for your consideration of our concerns. For any additional information or to discuss this issue, please contact AASM Executive Director Steve Van Hout at (630) 737-9700.

Sincerely,

Kannan Ramar, MD, FAASM  
American Academy of Sleep Medicine  
President

Carol R. Bradford, MD, MS  
American Academy of Otolaryngology-Head  
and Neck Surgery  
President

James C. Stevens, MD, FAAN  
American Academy of Neurology  
President

Juan C. Celedón, MD, DrPH, ATSF  
American Thoracic Society  
President

# Task List

**Adjourn**