

HOUSE BILL NO. 325

IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-NINTH LEGISLATURE - SECOND SESSION

BY REPRESENTATIVE KELLER

Introduced: 2/22/16

Referred: Labor and Commerce, Judiciary

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to the free exercise of religion; relating to professional and**
2 **occupational licensing; and relating to appointment to public office or a position on a**
3 **board, commission, or committee."**

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

5 *** Section 1.** AS 08.01.075(a) is amended to read:

6 (a) **Subject to AS 08.01.078(a), a** [A] board may take the following
7 disciplinary actions, singly or in combination:

- 8 (1) permanently revoke a license;
- 9 (2) suspend a license for a specified period;
- 10 (3) censure or reprimand a licensee;
- 11 (4) impose limitations or conditions on the professional practice of a
12 licensee;
- 13 (5) require a licensee to submit to peer review;
- 14 (6) impose requirements for remedial professional education to correct

1 deficiencies in the education, training, and skill of the licensee;

2 (7) impose probation requiring a licensee to report regularly to the
3 board on matters related to the grounds for probation;

4 (8) impose a civil fine not to exceed \$5,000.

5 * **Sec. 2.** AS 08.01 is amended by adding a new section to read:

6 **Sec. 08.01.078. Free exercise of religion.** (a) Notwithstanding the powers and
7 duties granted to or required of the commissioner, the department, and a board by this
8 chapter, the commissioner, the department, and a board may not deny, revoke,
9 suspend, or place a limitation on a person's professional or occupational license,
10 certificate, or registration, or issue an order directing a person to stop an act or a
11 practice, because the person

12 (1) declines to provide or participate in providing a service that
13 violates the person's sincerely held religious belief;

14 (2) refuses to affirm a statement or oath that is contrary to the person's
15 sincerely held religious belief;

16 (3) expresses the person's sincerely held religious belief in any context;
17 in this paragraph, "context" includes a professional context as long as the services
18 provided otherwise meet the current standard of care or practice for the profession;

19 (4) provides a service in accordance with the person's sincerely held
20 religious belief;

21 (5) acts in accordance with the person's sincerely held religious belief
22 with regard to

23 (A) a client, customer, or employee of a business the person
24 owns or manages; or

25 (B) a decision the person makes in a financial matter.

26 (b) Conduct protected under (a) of this section is not professional misconduct
27 or malpractice, and the commissioner, the department, or a board may not impose
28 disciplinary sanctions for that conduct.

29 (c) In a criminal prosecution by the state or a municipality, it is not a defense
30 that the defendant acted in accordance with (a) of this section.

31 (d) This section does not apply to a person who engages in conduct that

1 violates the Constitution of the State of Alaska, the United States Constitution, 42
 2 U.S.C. 1395dd (Emergency Medical Treatment and Labor Act), or 42 U.S.C. 2000cc-
 3 1 (Religious Land Use and Institutionalized Persons Act of 2000).

4 * **Sec. 3.** AS 08.01.087(b) is amended to read:

5 (b) If it appears to the commissioner that a person has engaged in or is about
 6 to engage in an act or practice in violation of a provision of this chapter or a regulation
 7 adopted under it, or a provision of AS 43.70, or a provision of this title or regulation
 8 adopted under this title dealing with an occupation or board listed in AS 08.01.010, the
 9 commissioner may, if the commissioner considers it in the public interest, and after
 10 notification of a proposed order or action by telephone, telegraph, or facsimile to all
 11 board members, if a board regulates the act or practice involved, unless a majority of
 12 the members of the board object within 10 days,

13 (1) **subject to AS 08.01.078(a)**, issue an order directing the person to
 14 stop the act or practice; however, reasonable notice of and an opportunity for a hearing
 15 must first be given to the person, except that the commissioner may issue a temporary
 16 order before a hearing is held; a temporary order remains in effect until a final order
 17 affirming, modifying, or reversing the temporary order is issued or until 15 days after
 18 the person receives the notice and has not requested a hearing by that time; a
 19 temporary order becomes final if the person to whom the notice is addressed does not
 20 request a hearing within 15 days after receiving the notice; the office of administrative
 21 hearings (AS 44.64.010) shall conduct the hearing and shall issue a proposed decision
 22 within 10 days after the hearing; the commissioner shall issue a final order within five
 23 days after the proposed decision is issued;

24 (2) **subject to AS 08.01.078(a)**, bring an action in the superior court to
 25 enjoin the acts or practices and to enforce compliance with this chapter, a regulation
 26 adopted under it, an order issued under it, or with a provision of this title or regulation
 27 adopted under this title dealing with business licenses or an occupation or board listed
 28 in AS 08.01.010;

29 (3) examine or have examined the books and records of a person
 30 whose business activities require a business license or licensure by a board listed in
 31 AS 08.01.010, or whose occupation is listed in AS 08.01.010; the commissioner may

1 require the person to pay the reasonable costs of the examination; and

2 (4) issue subpoenas for the attendance of witnesses, and the production
3 of books, records, and other documents.

4 * **Sec. 4.** AS 18.80.255 is amended to read:

5 **Sec. 18.80.255. Unlawful practices by the state or its political subdivisions.**

6 It is unlawful for the state or any of its political subdivisions

7 (1) to refuse, withhold from, or deny to a person any local, state, or
8 federal funds, services, goods, facilities, advantages, or privileges because of race,
9 religion, sex, color, or national origin;

10 (2) to publish, circulate, issue, display, post, or mail a written or
11 printed communication, notice, or advertisement that states or implies that any local,
12 state, or federal funds, services, goods, facilities, advantages, or privileges of the
13 office or agency will be refused, withheld from, or denied to a physically or mentally
14 disabled person or a person of a certain race, religion, sex, color, or national origin or
15 that the patronage of a physically or mentally disabled person or a person belonging to
16 a particular race, creed, sex, color, or national origin is unwelcome, not desired, or
17 solicited; it is not unlawful to post notice that facilities to accommodate the physically
18 or mentally disabled are not available;

19 (3) to refuse or deny to a person any local, state, or federal funds,
20 services, goods, facilities, advantages, or privileges because of physical or mental
21 disability;

22 **(4) to deny a person an appointment to public office or a position**
23 **on a board, commission, or committee based on the person's exercise of religion.**