

## Title 31

### PROFESSIONS

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#### Chapter 01

### ATTORNEYS AND PRACTITIONERS

#### Sections:

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#### **31.0101 Examination-Rules and regulations-Appointment of committees.**

The Chief Justice of the High Court of American Samoa has the power to:

- (1) examine, admit and reinstate attorneys and practitioners to practice law in American Samoa;
- (2) adopt reasonable rules and regulations to make effective the provisions of this chapter; and
- (3) appoint such committees as he deems necessary to effect the purposes of this chapter.

**History:**1962, PL 7-36, 1969, PL 11-54; 1970, PL 11-1 11.

#### **Case Notes:**

Chief Justice of the High Court has the ultimate authority to decide who may practice law in the Territory. A.S.C.A. § 31.0101(a). Siofele v. Hall, 12 A.S.R.2d 9 (1989).

#### **31.0102 Rules of professional conduct.**

The Chief Justice shall formulate rules of professional conduct and has the power to enforce the same. Such rules are binding on all persons admitted to practice before the court.

**History:**1962, PL 7-36; 1970, PL 11-111.

#### **31.0103 Disbarment, suspension, and reprimand.**

The Chief Justice has authority to disbar, suspend or reprimand any attorney or practitioner admitted to practice before the court.

**History:** 1970, PL 11-111.

**31.0104 Unauthorized practice of law- Penalty.**

(a) It is unlawful for any person, association, firm or corporation to engage in or attempt to engage in the practice of law, or to do, attempt to do or offer to do any act constituting the practice of law, except to the extent such person, firm or association is licensed or authorized by the Chief Justice. Nothing in this section authorizes licensing of a corporation to practice law.

(b) A person, association, firm or corporation who violates this section is guilty of a class A misdemeanor.

**History:** 1970, PL II-111, amd 1980, PL 16-90 § 84.

**Amendments:** 1980 Amended to conform with penalties provided for in Title 46, Criminal Justice.

**Case Notes:**

One who is not licensed to practice law but who attempts to represent another person in court, by taking a pro forma assignment of an interest in the subject matter giving rise to litigation and appearing as a pro se plaintiff, thereby engages in the unauthorized practice of law. A.S.C.A. § 31.0104. Parisi v. Parisi, 10 A.S.R.2d 106 (1989).

Attorney licensed in another jurisdiction, who in the course of providing legal services to a client took a pro forma assignment of a judgment belonging to the client and entered a court appearance in the guise of a pro se plaintiff without applying for admission pro hac vice, engaged in unauthorized practice of law. A.S.C.A. § 31.0104; H.C.R. 145. Parisi v. Parisi, 10 A.S.R.2d 106 (1989).

While "practice of law" is a general term, it is sufficiently definite that its employment in a criminal statute satisfies the demands of due process. A.S.C.A. § 31.0104. Pene v. American Samoa Government, 12 A.S.R.2d 43 (1989).

"Practice of law" includes legal representation of another in court or in settlement negotiations with opposing attorneys. A.S.C.A. § 31.0104. Pene v. American Samoa Government, 12 A.S.R.2d 43 (1989).

Evidence was sufficient to convict defendant of unauthorized practice of law where it was established that appellant filed a memorandum in a criminal case containing legal argument offered on behalf of the defendant. A.S.C.A. § 31.0104. Pene v. American Samoa Government, 12 A.S.R.2d 43 (1989).

Evidence was sufficient to convict defendant of unauthorized practice of law where appellant had written letters on behalf of a convicted prisoner stating that defendant was prepared to bring a civil action on behalf of the prisoner "pro se," and proposing a settlement which defendant termed "my personal offer and compromise." A.S.C.A. § 31.0104. Pene v. American Samoa Government, 12 A.S.R.2d 43 (1989).

**31.0110 Bar Association.**

There is created the American Samoa Bar Association. The purposes of the Bar Association shall be to improve administration of justice. All persons admitted to the practice of law on a regular basis before any division of the High Court of American Samoa shall be members of the Bar Association.

**History:** 1970, PL 11-111.

**Chapter 02**

**PUBLIC ACCOUNTANCY**

**Sections:**

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- 31.0202 Purpose.**
- 31.0203 Definitions.**
- 31.0204 Board-Members.**
- 31.0205 Board-Removal.**

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- 31.0224 Exceptions.**
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- 31.0233 Ownership of accountant's working papers.**

**31.0201 Short title.**

This chapter may be cited as the "Public Accountancy Law of 1978".

**History:** 1978, PL 15-75.

**31.0202 Purpose.**

It is the policy of this Territory, and the purpose of this chapter to promote the dependability of information which is used for guidance in financial transactions or for accounting for or assessing the status or performance of commercial and noncommercial enterprises, whether public or private. The public interest requires that persons attesting as experts in accountancy to the reliability or fairness of presentation of such information be qualified in fact to do so; that a public authority competent to prescribe and assess the qualifications of public accountants be established and continued; and that the attestation of financial information by persons professing special knowledge in accountancy be reserved to persons who demonstrate their ability and fitness to observe and apply the standards of the accounting profession.

**History:** 1978, PL 15-75.

**31.0203 Definitions.**

When used in this chapter:

(a) "Board" means the Territorial Board of Public Accountancy established in 31.0204.

(b) "State" includes any State, Territory, or Insular Possession of the United States, and the District of Columbia.

**History:** 1978, PL 15-75.

### **31.0204 Board-Members.**

There is a Board of Public Accountancy to be known as the Territorial Board of Public Accountancy, which consists of 3 members appointed by the Governor. All members of the Board must be citizens or nationals of the United States and residents of this territory. Two members thereof shall be Certified Public Accountants in active practice holding current certificates as such and current permits to practice public accountancy issued under this chapter. The remaining member shall be a public accountant in active practice holding current registration as such and current permits to practice public accountancy under this chapter.

**History:** 1978, PL 15-75; amd 1978, PL 15-94 § 1.

**Amendments:** 1978 Raised number of members which shall be certified public accountants from 1 to 2, and lowered number of members which shall be public accountants from 2 to 1.

### **31.0205 Board-Removal.**

The Governor shall remove or suspend any member of the Board for cause including any member thereof:

- (1) who ceases to engage in active practice as a Certified Public Accountant or as a public accountant, as the case may be; or
- (2) whose certificate of Certified Public Accountant or registration of public accountant, as the case may be, or whose permit to practice public accountancy
  - (A) has been cancelled, revoked or suspended;
  - (B) has expired without renewal; or
  - (C) has otherwise become invalid.

**History:** 1978, PL 15-75.

### **31.0206 Board-Organization.**

The Board shall elect annually a chairman and a secretary-treasurer from its members. The Board shall conduct its meetings and keep records of its proceedings.

**History:** 1978, PL 15-75.

### **31.0207 Board-Compensation and expenses.**

Members of the Board of Accountants may not receive any compensation for performance of the duties imposed upon them by this chapter.

**History:** 1978, PL 15-75.

### **31.0208 Board-Powers.**

The Board may:

- (1) conduct investigations and hearings, either upon complaint or on its own motion on any matter involving the conduct of Certified Public Accountants or public accountants or the violation of any of the provisions of this chapter; and
- (2) adopt, amend, and repeal rules with the approval of the Governor and issue decisions, orders, and declaratory rulings for the orderly conduct of its affairs and for the administration of this chapter including but not limited to rules governing professional qualifications, continuing education and professional conduct, and the affiliations of individuals, partnerships, and corporations, for the practice of public accountancy, as it deems appropriate to establish and

maintain high standards of competence and integrity in the practice of public accountancy.

**History:** 1978, PL 15-75.

**31.0209 Board-Annual report.**

The Board shall prepare and present an annual report to the Governor which shall include a statement of the Board's activities and its receipts and expenditures during the preceding year together with such recommendations as the Board shall determine to be appropriate.

**History:** 1978, PL 15-75.

**31.0210 Certificate-CPA-Issuance.**

(a) A Certificate of "Certified Public Accountant", upon application to the Board, must be issued to a person:

- (1) who has attained 18 years of age, or more;
- (2) who is of good moral character; and
- (3) who meets the educational and examination requirements provided in 31.0211 through 31.0216.

(b) The Board shall maintain a list of all persons to whom those certificates are issued. The certificates are effective for a period not exceeding 2 years and shall be renewable biennially upon application to the Board.

**History:** 1978, PL 15-75.

**31.0211 Certificate-Educational requirements.**

A person applying for a certificate of certified public accountant:

- (1) before 1 January 1979, shall be required to have obtained a baccalaureate degree conferred by a college or university recognized by the Board; and
- (2) after 31 December 1988, shall be required to have obtained a baccalaureate degree conferred by a college or university recognized by the Board and shall be required to have completed not less than 30 semester hours of additional study at such a college or university, the educational program to have included an accounting concentration and those related subjects as the Board shall determine to be appropriate.

**History:** 1978, PL 15-75; amd 1978, PL 15-94 § 2.

**Amendment:** 1978 Subsection (b)(2): substituted 1988 for 1978.

**31.0212 Certificate-Exemption from educational requirements.**

A person who holds and has continued to hold a valid Certificate of Certified Public Accountant of another state for a period of not less than 10 years preceding the date of his application under 31.0210, and who is and continues to be in the active practice of public accountant in that other state for a period of not less than 5 years preceding the date of his application under 31.0210, if, upon examination of the credentials of that person, the Board is satisfied that he is as well qualified for the practice of public accountancy as if he met the applicable educational requirements specified in 31.0211 and any continuing education requirements established by regulation of the Board, is, upon application to the Board, exempt from the educational requirements specified in 31.0211 and any continuing education requirements established by regulation of the Board.

**History:** 1978, PL 15-75.

**31.0213 Certificate-Examination requirements.**

A person applying for a Certificate of Certified Public Accountant is required to have satisfactorily completed an examination in accounting, auditing, and other related subjects as the Board determines to be appropriate. The examination shall be held by the Board and shall take place as often as the Board determines to be desirable, but not less frequently than once each year.

**History:** 1978, PL 15-75.

**31.0214 Certificate-Admission to examination.**

- (a) A person shall, upon application to the Board, be admitted to the examination who:
- (1) has met the applicable educational requirements prescribed in 31.0211; or
  - (2) expects to meet the educational requirements within 120 days following the examination prescribed in 31.0213; or
  - (3) is exempted from the educational requirements by 31.0212.
- (b) In the case of an applicant admitted to the examination on the expectation that he will complete the educational requirements within 120 days, no Certificate of Certified Public Accountant may be issued, and no credit for the examination or any part of it may be given, unless the educational requirement is, in fact, completed within that time or within the time as the Board determines to be appropriate.

**History:** 1978, PL 15-75.

**31.0215 Certificate-Reexamination.**

The Board may by rule prescribe the terms and conditions under which an applicant who has taken the examination described in 31.0213, but who has not satisfactorily completed that examination, may be given credit for any part thereof he has satisfactorily completed. The Board may also provide by regulation for a reasonable waiting period of an applicant to apply to reexamination.

**History:** 1978, PL 15-75.

**31.0216 Certificate-Exemption from examination requirements.**

A person shall, upon application to the Board, be exempt from the examination requirements specified in 31.0213, who is the holder of:

- (1) a valid certificate of certified public accountant issued under the laws of another state; or
- (2) a valid certificate, license, or degree in a foreign country determined by the Board to be:
  - (A) a recognized qualification for the practice of public accountancy in that other country;
  - (B) comparable to a certificate of certified public accountant of this Territory; and
  - (C) issued to that person on the basis of an examination comparable to the examination described in 31.0213.

**History:** 1978, PL 15-75.

**31.0217 Certificate of public accountant- Issuance.**

- A person shall be issued a certificate of public accountant who:
- (1) has attained 18 years of age, or more;

- (2) is of good moral character; and
- (3) meets other requirements as the Board may from time to time prescribe by rule.

**History:** 1978, PL 15-94 § 3.

### **31.0218 Existing registrations.**

A person who, on 1 January 1978, holds registration of public accountant under the laws of this territory theretofore existing; or who holds a valid Certificate of Certified Public Accountant issued under the laws of another state; and who holds a registration to practice public accountancy under the laws of this territory theretofore existing, may not be required to register again under this chapter, but shall otherwise be subject to all the provisions of this chapter. Such previous registration must, for all purposes, be considered registration under this chapter and subject to the provisions of this chapter.

**History:** 1978, PL 15-75; amd 1978, PL 15-94 § 4.

**Amendments:** 1978 Substituted “Territory” for “State” at beginning of section, and added reference to persons holding a valid certificate of public accountant from another state and a registration to practice under the laws of American Samoa.

### **31.0219 Permits to practice.**

(1) A person must, upon application to the Board, be issued a permit to practice public accountancy in this Territory, who:

(A) is holding a current Certificate of Certified Public Accountant or a current registration as a public accountant;

(B) has had at least 1 year’s experience in any state of the United States with a person or firm in the practice of public accounting; and

(C) has complied with continuing education requirements established by regulation of the Board.

(2) The experience requirement set forth in subparagraph (1) (B) does not apply after 31 December 1978, or to any person who has met the educational requirements set forth in 31.0210 through 31.0216.

(3) The permit to practice shall be effective for a period not exceeding 2 years.

(1) A person shall, upon application to the Board, be issued a temporary practice permit who:

(A) has attained 18 years of age, or more;

(B) is of good moral character;

(C) holds a valid Certificate of Certified Public Accountant or a valid registration as a public accountant issued under the laws of another state, or who holds a valid certificate, license, or degree of a foreign country determined by the Board to be a recognized qualification for the practice of public accountancy in that country; and

(D) incidental to his practice in that other state, or country, desires to practice public accountancy in this Territory on a temporary basis.

(2) The permit shall be effective for a period not exceeding 3 months, and shall specify the nature and extent of the practice so permitted.

**History:** 1978, PL 15-75.

### **31.0220 Fees.**

(a) An applicant for admission to the examination described in 31.0213 shall pay a fee with the application for admission in the amount as the Board shall prescribe by rule. The Board may also prescribe by rule the terms and conditions upon which an applicant who is unable to attend

the examination may receive a credit in the amount of the fee paid toward a subsequent examination.

(b) An applicant for the issuance of a Certificate of Certified Public Accountant under 31.0210 or a Certificate of Public Accountant under 31.0217 shall pay a fee with the application in the amount as the Board shall prescribe by rule.

(c) An applicant for the renewal of a current Certificate of Certified Public Accountant under 31.0210 or for the renewal of a registration of public accountant under 31.0217 shall pay a fee of \$30 biennially in each odd-numbered year on or before 31 December. An applicant for the renewal of a Certificate of Certified Public Accountant or for the renewal of a registration of public accountant which is not current under the provisions of this chapter shall pay a fee with the application for renewal in an amount equal to twice the amount of the fees which the applicant would have paid had he timely renewed the certificate or registration since the date it was last current.

(d) An applicant for the issuance of a biennial permit to practice under 31.0210 or 31.0217 who is in the practice of public accountancy in his own name as a sole proprietor, or as a partner of a partnership in the practice of public accountancy, or as a shareholder of a corporation in the practice of public accountancy, shall pay a fee with the application in the amount of \$30. All other applicants for the issuance of a biennial permit to practice shall pay a fee of \$10.

(e) An applicant for the issuance of a temporary permit to practice under subsection (b) of 31.0219 shall pay a fee with the application in the amount of \$30.

**History:** 1978, PL 15-75; amd 1978, 15-94 § 5.

**Amendments:** 1978 Added references to documents held under 31.0217.

### **31.0221 Disciplinary action-Reinstatement.**

(a) The Board may:

(1) cancel, revoke, suspend for a period not exceeding 2 years, or refuse to renew any Certificate of Certified Public Accountant, registration of public accountant or permit to practice issued under this chapter; or it may

(2) censure a person holding any such certificate, registration or permit, for any 1 or a combination of the following causes:

(A) dishonesty, deceit, or fraud in obtaining any certificate, registration, or permit to practice issued under the provisions of this chapter;

(B) dishonesty, deceit, fraud, or gross negligence in the practice of public accountancy;

(C) violation of any of the provisions of 31.0222 through 31.0224 or of any rule of the Board relating to professional conduct.

(b) Upon application of any person against whom disciplinary action has been taken under the provisions of subsection (a) of this section, the Board may reinstate the person and reissue any certificate, registration, or permit to practice which was affected by the disciplinary action.

**History:** 1978, PL 15-75.

### **31.0222 Prohibited use of titles.**

(a) No person may assume or use the title or designation "Certified Public Accountant" or the abbreviation "CPA" or any other title, designation, words, letters, sign, card, or device likely to be confused with "Certified Public Accountant" or "CPA" or tending to indicate that the person is a Certified Public Accountant unless the person holds a current Certificate of Certified Public Accountant issued under this chapter and a current permit to practice as such issued under this

chapter.

(b) No partnership or corporation may assume or use the title or designation "Certified Public Accountant" or the abbreviation "CPA" or any other title, designation, words, letters, abbreviation, sign, card, or device likely to be confused with "Certified Public Accountant" or "CPA" or tending to indicate that the partnership or corporation is composed of Certified Public Accountants unless each of the partners of the partnership who are in the practice of public accountancy in this territory or each of the shareholders of the corporation who are in the practice of public accountancy in this territory holds a current Certificate of Certified Public Accountant issued under this chapter and a current permit to practice as such issued under this chapter.

(c) No person may assume or use the title or designation "Certified Public Accountant" or the abbreviation "CPA" or any other title, designation, words, letters, abbreviation, sign, card, or device likely to be confused with "certified public accountant" or "CPA", in conjunction with names indicating or implying that there is a partnership or corporation, or in conjunction with the designation "and Company" or "and Co." or a similar designation if, in any such case, there is in fact no bona fide partnership or corporation existing under the laws of this territory.

(d) No person may assume or use the title or designation "public accountant" or the abbreviation "PA" or any other title, designation, words, letters, sign, card, or device likely to be confused with "public accountant" or "PA" or tending to indicate that such person is a public accountant unless such person holds a current registration of public accountant issued under this chapter and a current permit to practice as such issued under this chapter.

(e) No partnership or corporation may assume or use the title or designation "Public Accountant" or the abbreviation "PA" or any other title, designation, words, letters, abbreviation, sign, card, or device likely to be confused with "Public Accountant" or "PA" or tending to indicate that the partnership or corporation is composed of Public Accountants unless each of the partners of the partnership who are in the practice of Public Accountancy in this Territory or each of the shareholders of the corporation who are in the practice of Public Accountancy in this Territory holds a current registration of Public Accountant issued under this chapter and a current permit to practice as such issued under this chapter.

(f) No person may assume or use the title or designation "Public Accountant" or the abbreviation "PA" or any other title, designation, words, letters, abbreviation, sign, card, or device likely to be confused with "Public Accountant" or "PA", in conjunction with names indicating or implying that there is a partnership or corporation, or in conjunction with the designation "and Company" or "and Co." or a similar designation if, in any such case, there is in fact no bona fide partnership or corporation existing under the laws of this territory.

**History:** 1978, PL 15-75.

### **31.0223 Prohibited acts-Special knowledge.**

(a) A person may not sign or affix his name or any trade assumed name used by him in his profession or business with any wording indicating, suggesting, or implying that he is an accountant or auditor, or with any wording indicating, suggesting, or implying that he has special knowledge in accounting or auditing, to any opinion or certificate attesting in any way to the reliability of any representation or estimate in regard to any person or organization embracing:

(1) financial information; or

(2) facts respecting compliance with conditions established by law or contract, including but not limited to statutes, ordinances, regulations, grants, loans, and appropriations unless that person holds a current certificate or registration and a current permit to practice issued under this chapter.

(b) A person may not sign or affix a partnership or corporate name with any wording in-

dicating, suggesting, or implying that it is a partnership or corporation composed of accountants or auditors or persons having special knowledge of accounting or auditing, to any opinion or certificate attesting in any way to the reliability of any representation or estimate in regard to any person or organization embracing:

(1) financial information; or

(2) facts respecting compliance with conditions established by law or contract, including but not limited to statutes, ordinances, regulations, grants, loans, and appropriations unless each of the partners of the partnership who are in the practice of public accountancy in this Territory or each of the shareholders of the corporation who are in the practice of public accountancy in this territory holds a current certificate of certified public accountant or a current registration of public accountant issued under this chapter and a current permit to practice issued under this chapter.

**History:** 1978, PL 15-75.

### **31.0224 Exceptions.**

Nothing contained in this chapter prohibits any person:

(1) who holds a current Certificate of Certified Public Accountant issued under this chapter from assuming and using the title and designation "Certified Public Accountant" or "CPA" provided, that if that person does not also hold a current permit to practice issued under this chapter, he shall clearly indicate in assuming and using the title that he does not hold himself out to be in the practice of public accountancy;

(2) who holds a current Registration of Public Accountant issued under this chapter from assuming and using the title and designation "Public Account" or "PA"; provided, that if that person does not also hold a current permit to practice issued under this chapter, he shall clearly indicate in assuming and using the title that he does not hold himself out to be in the practice of public accountancy;

(3) who holds a temporary practice permit issued under this chapter from using the title and designation under which he is generally known in the state or country from which he received his certificate, registration, license, or degree for the practice of public accountancy;

(4) who is not a Certified Public Accountant or Public Accountant from serving as an employee of, or an assistant to, a Certified Public Accountant or Public Accountant; provided, that employee or assistant works under the control and supervision of a person who holds a current Certificate of Certified Public Accountant or a current Registration of Public Accountant and a current permit to practice as such issued under this chapter; and provided further, that the employee or assistant does not issue any statement or report over his name except the office reports to his employer as are customary, and that the employee or assistant is not in any manner held out to the public as a certified public accountant or public accountant;

(5) who is an officer, employee, partner, or principal of any organization from signing or affixing his name to any statement or report in reference to the affairs of that organization; provided, that in so signing or affixing his name he shall clearly indicate that he is an officer, employee, partner or principal of the organization, and the position, title or office which he holds therein;

(6) who is a public employee from the performance of his duties as such;

(7) who is an attorney at law from engaging in practice as such.

**History:** 1978, PL 15-75.

### **31.0230 Injunctions.**

Whenever the Board has reason to believe that any person has engaged, or is about to engage, in any act or practice which constitutes, or will constitute, a violation of 31.0222 through 31.0224, the Board may certify the facts underlying that belief to the Attorney General of this Territory, who shall make application to the appropriate court for an order enjoining that act or practice, an injunction, restraining order or any other order as may be appropriate shall be granted by the court without bond.

**History:** 1978, PL 15-75.

### **31.0231 Criminal penalties.**

Any person who violates any provision of 31.0222 through 31.0224 is guilty of a class B misdemeanor. Whenever the Board has reason to believe that any person is liable to punishment under this section, it may certify the facts underlying that belief to the Attorney General who shall cause appropriate proceedings to be brought.

**History:** 1978, PL 15-75, amd 1980, PL 16-90 § 88.

**Amendments:** 1980 Amended to conform with penalties provided for in Title 46, criminal Justice.

### **31.0232 Evidence of practice.**

The display or uttering by a person of a card, sign, advertisement, or other printed, engraved or written instrument or device bearing a person's name in conjunction with the words "Certified Public Accountant" or any abbreviation thereof, of the words "Public Accountant" or any abbreviation thereof, is prima facie evidence in any action brought under 31.0230 or 31.0231 that the person whose name is so displayed caused or procured the display or uttering of such card, advertisement or other printed, engraved or written instrument or device and that such person is holding himself out to be a Certified Public Accountant or Public Accountant holding a current permit to practice issued under 31.0219. In any such action, evidence of the commission of a single act prohibited in 31.0222 through 31.0224 is sufficient to justify an injunction or a conviction without evidence of a general course of conduct.

**History:** 1978, PL 15-75.

### **31.0233 Ownership of accountant's working papers.**

All statements, records, schedules, working papers, and memoranda made by a Certified Public Accountant or Public Accountant incident to or in the course of professional service to clients by that accountant, except reports submitted by a Certified Public Accountant or Public Accountant to a client, shall be and remain the property of the accountant in the absence of an express agreement between the accountant and the client to the contrary. No statement, record, schedule, working paper, or memorandum shall be sold, transferred or bequeathed, without the consent of the client or his personal representative or assignee, to anyone other than 1 or more surviving partners or new partners of that account or to his corporation.

**History:** 1978, PL 15-75.

## **Chapters 03-04**

**(RESERVED)**

## Chapter 05

### CONTRACTORS

#### Sections:

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- 31.0521** Exceptions to chapter.

#### **31.0501** Definitions.

When used in this chapter:

- (a) "Administrator" means the Contractors' License administrator.
- (b) "Board" means the Contractors' License Board of American Samoa.
- (c) "Contractor" means any person, firm, copartnership, corporation, association, or other organization, or any combination of any thereof, who for a fixed sum, price fee, percentage or other compensation other than wages, undertakes with another for the construction, alteration, repair, addition to, or improvement of any building, highway, road, excavation, or other structure, project, development or improvement, other than personality, or any part thereof. The term includes anyone who builds more than 1 structure on his own property during any 1 year for the purpose of sale and also any subcontractor, but does not include anyone who merely furnished materials or supplies without making the same into that which is to be constructed or using the same in the performance of the work of the contractor. The term also includes any person who by advertising, or otherwise, holds himself out as a contractor, but does not include persons regularly engaged as maintenance personnel to do casual, isolated, or incidental repairs.

**History:** 1969, PL 11-38.

#### **31.0502** Contractors license Board-Terms-Vacancy.

(a) There is established the Contractors' License Board of American Samoa, consisting of a chairman and 4 members, each to be nominated by the Governor and confirmed by concurrent resolution of the Senate and the House of Representatives.

(b) The chairman and members shall serve for terms of 4 years, except that the Governor shall designate 2 members of the original Board who shall serve for 2 years.

(c) If a vacancy on the Board occurs while the Legislature is not in session, the Governor may appoint an interim chairman or member to serve only until the adjournment of the next regular or special session of the Legislature.

**History:** 1969, PL 11-38.

### **31.0503 Contractors' license Board-Powers.**

The Board has power, subject to the provisions of this chapter, to:

(1) promulgate any regulations necessary for the maintenance of professional competence and ethical standards among contractors;

(2) prescribe by regulation the qualifications, requirements and limitations for the classes of contractors provided for in this chapter;

(3) upon review of action by the Administrator, issue or renew, limit, modify, suspend or revoke any license provided for in this chapter;

(4) hold hearings, compel the attendance and testimony of witnesses, order the production of documents and other tangible evidence, administer oaths, and cite for contempt.

**History:** 1969, PL 11-38.

### **31.0504 Contractors' License Administrator-Established.**

There is established the position of Contractors' License Administrator. The Administrator shall be a staff member of the Department of Public Works and designated by the Governor.

**History:** 1969, PL 11-38.

### **31.0505 Contractors' license administrator- Powers.**

The Administrator has power, subject to the provisions of this chapter, to:

(1) investigate the qualifications and business operations of applicants for licenses under this chapter or of any licensee, and use any examination designed to test the qualifications and competence of applicants or licensees;

(2) issue, renew, refuse to issue, or renew, limit, modify, suspend, or revoke any license provided for in this chapter;

(3) prescribe forms and examinations to be used in the administration of this chapter and establish fees for licenses provided for in this chapter;

(4) recommend regulations to the Board and make any other recommendations to the Board concerning the administration of this chapter.

**History:** 1969, PL 11-38.

### **31.0506 License-Required-Penalty for violation.**

No person, firm, copartnership, corporation, association, or combination thereof may engage in the business or act in the capacity of a contractor without having a contractor's license issued by the Board or the Administrator. Any person who violates this section shall be fined not more than \$1,000, or imprisoned for not more than 6 months, or both.

**History:** 1969, PL 11-38.

**31.0507 License-Classification.**

There shall be the following 3 classifications of contractors' licenses:

- (1) general engineering contractor's license;
- (2) general building contractor's license;
- (3) specialty contractor's license.

**History:** 1969, PL 11-38.

**31.0508 General engineering contractor's license.**

A general engineering contractor's license shall authorize the licensee to engage principally in the contracting business in connection with fixed works for irrigation, drainage, water power, water supply, flood control, inland waterways, harbors, railroads, highways, tunnels, airports, airways, sewers, and bridges.

**History:** 1969, PL 11-38.

**31.0509 General building contractor's license.**

A general building contractor's license shall authorize the licensee to engage principally in the building or superintendence of the building of any structure for support, shelter, and enclosure of persons, animals, chattels, or movable property of any kind. A licensee shall be competent in at least 3 unrelated and generally recognized building trades, all of which shall be specified in the license.

**History:** 1969, PL 11-38.

**31.0510 Specialty contractor's license.**

A specialty contractor's license may be issued authorizing the licensee to engage in contracting for one or more unrelated and generally recognized building trades for which he is competent, each of which shall be specified in the license. A specialty contractor's license may also be issued authorizing the licensee to engage in contracting for the building of specific types of structures or fixtures for which he is competent, each of which shall be specified in the license.

**History:** 1969, PL 11-38.

**31.0511 License application-Contents- Issuance or refusal.**

(a) Applications for new licenses must be filed with the Administrator, who shall investigate the qualifications of the applicant.

(b) The applicant is required to show sufficient experience, financial responsibility, and a general knowledge of the building, safety, and health laws of American Samoa and of rudimentary principles of the contracting business. In addition, the applicant is required to show substantial compliance with any other relevant qualifications or requirements in this chapter or any regulations promulgated hereunder.

(c) Within 30 days after an application has been filed, the administrator shall issue the license applied for, issue a modified or limited license, or refuse to issue a license.

**History:** 1969, PL 11-38.

**31.0512 Right to license or renewal.**

An applicant or licensee is entitled to the license or renewal applied for if the applicant or licensee substantially complies with the relevant qualifications and requirements in this chapter and any regulations promulgated under this chapter, and if the applicant or licensee has not engaged in any of the grounds for refusal, revocation, suspension, modification, or limitation of license in 31.0513.

**History:** 1969, PL 11-38.

**31.0513 Grounds for refusal, revocation, suspension, modification, or limitation of license.**

(a) A license may be refused, revoked, suspended, modified, or limited for any 1 or combination of the following grounds:

- (1) abandonment of any contract without legal excuse;
- (2) diversion of funds or property received under agreement for the prosecution or completion of a specific contract, or for a specific purpose in the prosecution or completion of any contract, and the application or use thereof for any other contract, obligation, or purpose;
- (3) fraudulent departure from or disregard of plans or specifications in any material respect without consent of the owner; or any fraudulent act which substantially injures another;
- (4) willful and deliberate violation of any applicable building code requirement or safety law;
- (5) failure to substantially comply with any qualification or requirement in this chapter or in any regulation promulgated under this chapter.

(b) On his own motion, or on the complaint of any person, the Administrator may, after investigation, modify, limit, suspend, or revoke any license issued under this chapter for any 1 or combination of the grounds in (a) of this section.

**History:** 1969, PL 11-38.

**31.0514 Expiration and renewal of license.**

- (a) All licenses issued under this chapter expire on 31 December of each year.
- (b) When an application for renewal has been filed with the Administrator, he shall, within 30 days thereafter, either renew the license, with or without modification, or refuse to renew the license.
- (c) If an application for renewal is filed prior to the expiration of a license, the license remains valid after expiration until it is finally renewed, modified, limited, or refused by the Administrator or, in case a hearing is requested, by the Board.
- (d) If an application for renewal is not filed within 6 months after expiration of a license, the licensee is required to apply for a new license.

**History:** 1969, PL 11-38.

**31.0515 Right to copy of adverse decision by administrator.**

Any applicant or licensee whose license is refused, revoked, suspended, modified, or limited by the Administrator, or who is otherwise adversely affected by any action by the Administrator, is entitled to a written copy of the Administrator's decision setting forth the facts and reasons on which the refusal, revocation, suspension, modification, limitation, or other adverse action is based. The decision must also advise the applicant or licensee of his right to a hearing before the

Board as provided in this chapter.

**History:** 1969, PL 11-38.

**31.0516 Right to hearings before Board-Request-Decision.**

(a) Any applicant or licensee adversely affected by an action by the Administrator is entitled to a hearing before the Board if he files a written request for a hearing within 10 days after receiving a copy of the Administrator's decision.

(b) A request for a hearing must state which specific findings of fact and reasons of the Administrator are contested, and the hearing must be confined to the issues raised by the request.

(c) If no timely request is filed, the Administrator's decision is final and effective and the case may not thereafter be heard by the Board or reviewed by the High Court.

(d) After a hearing has been held, the Board shall dispose of the case on the basis of the evidence adduced.

**History:** 1969, PL 11-38.

**31.0517 Right to copy of adverse decision by Board.**

(a) Any applicant or licensee whose license is modified, limited, refused, suspended, or revoked by the Board, or who is otherwise adversely affected by any action by the Board, is entitled to a written copy of the Board's decision setting forth the facts and reasons on which the modification, limitation, refusal, suspension, revocation, or other adverse action is based.

(b) The decision must also contain a summary of the evidence on which the Board's findings of fact are based.

(c) The Board's decision, together with the decision of the administrator and any application or other papers filed by the applicant or licensee, constitute the record of proceedings before the Board. The Board may, in its discretion, include in the record any other material properly received at the hearing.

**History:** 1969, PL 11-38.

**31.0518 Petition to appellate division of High Court.**

(a) Any applicant or licensee aggrieved by a decision of the Board may petition the appellate division of the High Court of American Samoa to review the decision. A copy of the petition must be served on the Board.

(b) Within 30 days after service of the petition, the Board must file the record of proceedings with the court. The review by the court is confined to the record. Upon request by any party, the court must receive briefs and hear oral argument. On motion of any party, the court may, in its discretion, receive any evidence necessary to supplement the record.

(c) A petition for review may be filed not later than 10 days after a copy of the Board's decision has been served on the applicant or licensee.

(d) The filing of a petition does not stay the action of the Board, but the Board may grant or the court may order a stay on appropriate terms.

**History:** 1969, PL 11-38.

**31.0519 Attorney General to serve as counsel.**

(a) The Attorney General serves as legal counsel to the administrator. In such capacity he may not counsel or advise the Board or any member of the Board.

(b) After the Board has reached a decision in a case, the Attorney General shall serve as counsel to the Board in any judicial review of that decision.

**History:** 1969, PL 11-38.

### **31.0520 Liability of administrator and Board.**

(a) The Administrator, the members of the Board, and employees and agents of the Administrator or the Board, acting in good faith and without malice in the discharge of their duties under this chapter, may not be personally liable, and are relieved of all personal liability, for any damage which may accrue to persons or property as a result of any act required by, or by reason of any act or omission in, the discharge of such duties.

(b) Any suit brought against a person relieved of liability under this section because of an act or omission from which he is relieved of liability under this section shall be defended by the Attorney General.

**History:** 1969, PL 11-38.

### **31.0521 Exceptions to chapter.**

This chapter does not apply to:

(1) authorized representatives of the Government of the United States or the Government of American Samoa, or of any political subdivision or political or municipal corporation of either government;

(2) officers of a court acting in their official capacity;

(3) regulated public utilities performing construction work incidental to their business;

(4) persons building structures for their own use.

**History:** 1969, PL 11-38.

## **Chapter 06**

### **PROFESSIONAL SURVEYORS**

#### **Sections:**

**31.0601 Board-Established-Membership-Term-Quorum.**

**31.0602 Board-Powers and duties.**

**31.0603 Regulations.**

**31.0604 Schedule of fees.**

**31.0605 Disposition of fees.**

**31.0606 Unauthorized practices.**

**31.0607 Violation-Penalty.**

### **31.0601 Board-Established-Membership-Term-Quorum.**

(a) The Board of Registration for Professional Surveyors is created. The Board membership shall consist of the Director of Public Works who shall serve as chairman, and 4 members appointed by the Governor with the approval of the Senate.

(b) The term of the appointed members shall be 3 years. No member may be reappointed to the Board for 2 years after the expiration of his term.

(c) If possible, the members appointed by the Governor should be familiar with land surveying either by profession, related occupations or a demonstrated interest in land surveying.

(d) Three members of the Board shall constitute a quorum and a majority vote of those present is sufficient to decide any issue.

(e) No member of the Board who is an employee of the government may offer to perform land surveying services for pay except as may be specifically approved by the Board in each instance.

**History:** 1963, PL 8-12; amd 1974, PL 12-57; amd 1979, PL 16-17 § 2.

**Amendments:** 1974 Amended section generally.  
1979 deleted Attorney General as ex officio member.

### **31.0602 Board-Powers and duties.**

The Board shall:

- (1) qualify all persons who shall practice the profession of land surveying;
- (2) receive applications for certificates of registration and issue such certificates to those who meet its qualifications;
- (3) maintain a list of certified professional surveyors;
- (4) upon the presentation of information justifying the action, revoke certifications where such action is considered by it to be appropriate;
- (5) perform any actions necessary in carrying out its functions.

**History:** 1963, PL 8-12.

### **31.0603 Regulations.**

The Board shall, from time to time, prescribe and publish such regulations as may be necessary to carry out its functions and responsibilities in accordance with this chapter.

**History:** 1963, PL 8-12.

### **31.0604 Schedule of fees.**

The following schedule of fees is established:

- (1) with an application for a certificate of registration, \$2;
- (2) for issuance of a certificate of registration, \$25;
- (3) for a duplicate of a certificate of registration, \$10;
- (4) for annual renewal of certificate of registration, \$2;
- (5) for a temporary permit, \$10;
- (6) for issuance of a renewal certificate of registration, in the event of a delinquency of not more than 1 year in annual renewal, \$2.

**History:** 1963, PL 8-12.

### **31.0605 Disposition of fees.**

All fees collected pursuant to this chapter shall be deposited in a special fund which shall be available for the payment of any expenses incurred in the administration of this chapter. Any sums in excess of those necessary to pay such expenses shall be dispensed as otherwise provided by law.

**History:** 1963, PL 8-12.

### **31.0606 Unauthorized practices.**

Persons may not practice the profession of land surveying unless those persons are certified by the Board in accordance with the provisions of this chapter.

**History:** 1977, PL 15-51 § 1.

**31.0607 Violation-Penalty.**

A violation of provisions of this chapter, or rules adopted under it by the Board is a class A misdemeanor.

**History:** 1977, PL 15-51 § 2; amd 1980, PL I6-90 § 89.

**Amendments:** 1980 Amended so conform with penalties provided for in Title 46, Criminal Justice.

## **Chapter 07**

### **TRADESMEN**

**Sections:**

- 31.0701 Definitions.**
- 31.0702 Board-Members-Quorum and vote.**
- 31.0703 Board-Meetings-Office.**
- 31.0704 Board-Powers.**
- 31.0705 Persons and trades covered by chapter.**
- 31.0706 Certificates.**
- 31.0706.1 Budget.**
- 31.0707 Fees.**
- 31.0708 Refusal, revocation, suspension, modification, and limitation of certificates.**
- 31.0709 Administrative and judicial procedure.**
- 31.0710 Unlawful to practice without certificate.**
- 31.0711 Unlawful to employ uncertified tradesman.**
- 31.0712 Violation-Penalty.**

**31.0701 Definitions.**

When used in this chapter:

- (a) "Board" means the Board of Tradesmen Examiners of American Samoa.
- (b) "Person" includes any person, firm, copartnership, corporation, association, or other organization or any combination thereof.

**History:** 1971, PL 12-21 § 2.

**31.0702 Board-Members-Quorum and vote.**

(a) There is established the Board of Tradesmen Examiners of American Samoa, consisting of a chairman and 4 members, each to be appointed by the Governor of American Samoa for a 2-year term. Members must be chosen from both the public and private sectors of the community.

(b) All members of the Board serve without compensation.

(c) At least 3 members of the Board are necessary to constitute a quorum for the transaction of business, and a majority vote of those present is sufficient to decide any issue.

**History:** 1971, PL, 12-21 § 3.

### **31.0703 Board-Meetings-Office.**

(a) The Board must meet at least 4 times each calendar year in permanent office space provided by the government for the purpose of transacting business, and such required meetings must be held during the months of January, April, July, and October. A full-time office secretary shall staff the office.

(b) Special meetings of the Board may be called by the Board secretary upon written request of 2 members.

(c) The Board secretary shall give each member of the Board 5 days written notice of the time and place of all meetings request of 2 members.

(d) The Board secretary shall give each member of the Board 5 days written notice of the time and place of all meetings.

**History:** 1971, PL 12-21 § 4; amd 1987, PL 20-20 § 1.

**Amendments:** 1987 Added language to provide for permanent office space and a full-time Board secretary.

### **31.0704 Board-Powers.**

The Board shall have power, subject to the provisions of this chapter, to:

(1) promulgate all rules necessary for the maintenance of professional competence and ethical standards among tradesmen;

(2) prescribe by rule, qualifications, requirements and limitations for tradesmen as provided in this chapter;

(3) issue, renew, refuse, limit, modify, suspend, or revoke any certificate provided for in this chapter;

(4) hold hearings, compel the attendance and testimony of witnesses, order the production of documents and other tangible evidence, administer oaths and cite for contempt.

**History:** 1971, PL 12-21 § 5.

### **31.0705 Persons and trades covered by chapter.**

(a) This chapter shall pertain to all individuals desiring to obtain certificates as carpenters, plumbers, painters, electricians, masons, millwrights, welders, tinsmiths, tile setters, cabinetmakers, radio/tv repairmen, refrigeration air conditioning repairmen, draftsmen, auto mechanics, sheet-metal men and such other trades as the Board may, by rule or regulation, from time to time determine should be within the purview of this chapter. This chapter applies to those tradesmen who wish to perform services for hire on an hourly, daily or other basis, including a contractual agreement, but does not apply to laborers working under the supervision of qualified tradesmen or tradesmen contractors.

(b) All specialty contractors or general contractors shall perform only services as are permitted by the certificates of the tradesmen in their employ.

(c) This chapter shall apply to tradesmen in the employ of the government of American Samoa.

**History:** 1971, PL, 12-21 § 6.

### **31.0706 Certificates.**

All certificates issued pursuant to this chapter must bear the date of issue, expire on 31 December next following the date of issue, and may be renewed from year to year.

**History:** 1971, PL, 12-21 § 7.

### **31.0706.1 Budget.**

Each year the Board shall submit to the budget office for inclusion in the annual budget act its annual budget for its office expenses, rental fees, salary, supplies and material.

**History:** 1987, PL, 20-20 § 2.

### **31.0707 Fees.**

The Board shall set reasonable fees for applications, examinations, certificates, duplicate certificates and renewals, in amounts not to exceed the cost of preparing, administering, and issuing the documents.

**History:** 1971, PL 12-21 § 8.

### **31.0708 Refusal, revocation, suspension, modification, and limitation of certificates.**

A certificate provided for in this chapter may be refused, revoked, suspended, modified, or limited for any one or combination of the following grounds:

(1) conviction of a crime in connection with the trade practiced by tradesmen licensed under this chapter; the record of conviction or certified copy thereof by the clerk of the court or judge in whose court the conviction is obtained shall be conclusive evidence of the conviction;

(2) willful and deliberate violation of applicable law or duly promulgated rules and regulations of the Board concerning practice of a trade;

(3) fraud or misrepresentation in obtaining a certificate under this chapter;

(4) aiding and abetting the practice of any trade by any person not authorized to practice the trade under the provisions of this chapter;

(5) negligence or incompetence demonstrated in the practice of a trade or occupation subject to the provisions of this chapter.

**History:** 1971, PL, 12-21 § 9.

### **31.0709 Administrative and judicial procedure.**

All procedures and proceedings of the Board, and judicial review thereof, must be in accordance with the provisions of the Administrative Procedures Act set forth in 4.1001 et seq.

**History:** 1971, PL 12-21 § 10.

### **31.0710 Unlawful to practice without certificate.**

It is unlawful for any person to practice as a tradesman in American Samoa without a certificate, or to advertise or put out any sign, card, or other device which indicates to the public that he is a certified tradesman or that he is qualified to engage in the practice of the trades enumerated in this chapter unless he is duly certified as such under the terms of this chapter.

**History:** 1971, PL 12-21 § 12.

### **31.0711 Unlawful to employ uncertified tradesman.**

It is unlawful for any person to willfully and knowingly employ another person as a tradesman unless the other person is certified as a tradesman under the provisions of this chapter.

**History:** 1971, PL 12-21 § 12.

### **31.0712 Violation-Penalty.**

(a) Any person who is convicted of any violation of this chapter, or any rule duly promul-

gated under this chapter, is guilty of a class C misdemeanor.

(b) Each day of violation of this chapter shall constitute a separate offense.

**History:** 1971, PL 12-21 § 12; amd 1980, PL 16-90 § 85.

**Amendments:** 1980 Amended so conform with penalties provided for in Title 46, Criminal Justice.

## **Chapters 08-09**

**(RESERVED)**

## **Chapter 10**

### **HEALTH SERVICES**

#### **Sections:**

- 31.1001 License required.**
- 31.1002 Health Services Regulatory Board-Created-Purpose.**
- 31.1003 Health Services Regulatory Board-Composition-Quorum and vote-Terms.**
- 31.1004 Health Services Regulatory Board-Committees.**
- 31.1005 Health Services Regulatory Board-Powers and duties.**
- 31.1006 Administrative and judicial procedure.**
- 31.1007 Licenses-Record.**
- 31.1008 Licenses-Duration.**
- 31.1009 Licenses-Refusal, revocation, suspension, modification and limitation.**
- 31.1010 Violation-Penalty.**
- 31.1011 Violation-Single act sufficient evidence.**

#### **31.1001 License required.**

No person may practice medicine or dentistry, or give treatment for the prevention of disease, unless that person is licensed in accordance with the provisions of this chapter.

**History:** 1972, PL 12-61.

#### **31.1002 Health Services Regulatory Board- Created-Purpose.**

(a) There is created a Health Services Regulatory Board, referred to in this chapter as the Board.

(b) The purpose of the Board shall be to regulate health services in American Samoa.

(c) Health services include any practice of medicine, dentistry, or nursing, including treating the sick or injured or treatment in the prevention of diseases and all training and education therefor.

**History:** 1972, PL 12-61; amd 1978, PL 15-106 § 2.

**Amendments:** 1978 Subsection (a): added "hereinafter referred to as the Board", subsection Cc): added reference to nursing.

#### **31.1003 Health Services Regulatory Board-Composition-Quorum and votes-Term.**

(a) The Board is composed of the Director of Health, who shall act as chairman, and, in addition, the Governor shall appoint to the Board 1 physician, the public health officer, the Director

of Nursing Services, a medical officer, a dentist, a licensed practical nurse, and a representative from the American Samoa Community College nursing program. At least 50% of the Board, excluding the chairman, must be American Samoans.

(b) The presence of 4/5 of all members of the Board is necessary to constitute a quorum for the transaction of any business, and a majority vote of those present is necessary to determine any issue.

(c) Appointments made by the Governor may not exceed 3 years and must be staggered in order to insure continuity of the Board.

**History:** 1972, PL 12-61; amd 1978, PL 15-106 § 3.

**Amendments:** 1978 Subsection (i): changed composition of Board.

### **31.1004 Health Services Regulatory Board-Committees.**

The Board may carry out its functions through the use of committees, which shall specialize in particular areas of health services, such as nursing, medicine and pharmacy; provided, that those powers and duties exclusively reserved for exercise by the Board may be exercised only by the Board.

**History:** 1972, PL 12-61.

### **31.1005 Health Services Regulatory Board-Powers and duties.**

(a) The exclusive powers and duties of the Board are to:

(1) require committees to establish licensing regulations necessary for the maintenance of professional competence and ethical standards among persons involved in the particular area of health services in which the committee has expertise;

(2) issue or renew, refuse, limit, modify, suspend, or revoke any license issued by the Board;

(3) appoint committee members, provided that 1 member of the Board shall serve on each committee;

(4) upon matters referred by committees or any Board member, hold hearings, compel the attendance and testimony of witnesses; order production of documents and other tangible evidence and administer oaths;

(5) administer or cause to be administered examinations required by committees for licensing;

(6) set fees for examinations and licensing reasonably related to the cost thereof;

(7) adopt regulations promulgated by committees which pertain to a committee's area of expertise and do not conflict with other regulations adopted by the Board.

(b) All powers and duties relating to the purpose of the Board not expressly reserved to the Board may be exercised by committees, or in the absence of a functioning committee, by the Board; provided, that where the Board and a committee are in disagreement on a particular matter the decision of the Board shall prevail.

**History:** 1972, PL 12-61.

### **31.1006 Administrative and judicial procedure.**

All proceedings respecting the promulgation of rules and the refusal, suspension, revocation, or modification of a license issued by the Board, and judicial review thereof, must be in accordance with the provisions of the Administrative Procedures Act set forth in 4.1001 et seq.

**History:** 1972, PL 12-61.

### **31.1007 Licenses-Record.**

The Board shall maintain a record of all licenses issued which shall include the date of issuance, date of any revocation, suspension, or modification and the reason therefor.

**History:** 1972, PL 12-61.

**31.1008 Licenses-Duration.**

All licenses issued by the Board shall be of unlimited duration unless otherwise limited, revoked, or suspended by the Board pursuant to this chapter or the regulations of the Board.

**History:** 1972, PL 12-61.

**31.1009 Licenses-Refusal, revocation, suspension, modification and limitation.**

A license may be refused, revoked, suspended, modified, or limited for any 1 or combination of the following grounds:

(1) conviction of felony or misdemeanor involving moral turpitude; a copy of the record of conviction, certified to by the clerk of the court entering the conviction, shall be conclusive evidence;

(2) habitual or excessive use of intoxicants or drugs;

(3) fraud or misrepresentation in applying for or procuring a license to practice in American Samoa or in any hearings before the Board;

(4) making false or misleading statements regarding one's skill or the efficacy or value of the medicine, treatment or remedy prescribed or administered by one or at one's direction in the treatment of any disease or other condition of the human body or mind;

(5) aiding or abetting the practice of an unlicensed person in the field of health services;

(6) mental illness as evidenced by an adjudication or by voluntary commitment to an institution for treatment of mental illness, or as determined by an examination conducted by an impartial psychiatrist retained by the Board;

(7) gross negligence in the practice of a profession or occupation licensed by the Board;

(8) the suspension or revocation by another state of a license for a profession or occupation licensed by the health services regulatory Board of American Samoa; a certified copy of the suspension or revocation of the state making such suspension or revocation is conclusive evidence thereof;

(9) unprofessional or dishonorable conduct in light of the standards of the profession or occupation licensed.

**History:** 1972, PL 12-61.

**31.1010 Violation-Penalty.**

Violation of any provision of this chapter or duly promulgated rules and regulations of the health services regulatory Board relating thereto is a class A misdemeanor.

**History:** 1972, PL 12-61, amd 1980, PL 16-90 § 86.

**Amendments:** 1980 Amended to conform with penalties provided for in Title 46, criminal Justice.

**31.1011 Violation-Single act sufficient evidence.**

In any prosecution under 31.1010, or any decision made by the Board relative to licensing, it shall be sufficient to sustain such conviction or decision to show a single violative act of conduct, and it shall not be necessary to show a general course of such conduct.

History: 1972, PL 12-61.

## Chapters 11-14

(RESERVED)

## Chapter 15

### BEAUTY CULTURE

#### Sections:

- 31.1501** Short title.
- 31.1502** Definitions.
- 31.1502.1** Board-Appointment.
- 31.1502.2** Board-Powers and duties.
- 31.1502.3** Licensing-Requirement.
- 31.1503** Licensing.
- 31.1504** Licensure of operators.
- 31.1505** Licensure of beauty salons.
- 31.1506** (Repealed).
- 31.1507** Grounds for refusal, revocation, or suspension of certificate.
- 31.1508** Right to hearing-Procedure.
- 31.1509** Investigation of violations.
- 31.1510** Prosecution of violations.
- 31.1511** Violation-Penalty.

#### **31.1501** Short title.

This chapter will be known as the “Beauty Culture Act of 1983.”

History: 1973, PL 13-5; amd 1983, PL 18-5 § 1.

Amendments: 1983 Title amended to include the year.

#### **31.1502** Definitions.

As used in this chapter unless the context clearly requires otherwise:

(a) “Beauty shop or salon” means any premises upon or within which is practiced either of the classified occupations.

(b) “Board” means the American Samoa Board of Cosmetology.

(c) “Classified occupations” means the occupation of hairdresser and cosmetician.

(d) “Cosmetician” means any operator or person who, with hands or mechanical or electrical apparatus or appliances, or by use of cosmetic preparations, antiseptics, tonics, lotions, or creams, engages for compensation in any one or any combination of the following practices: massaging, cleansing, stimulating, manipulating, exercising, beautifying, or doing similar work upon the scalp, the face, neck, arms, bust, or upper part of the body, or manicuring the nails, or removing of superfluous hair, by the use of electricity or otherwise, about the body of any person.

(e) “Hairdresser” means any person who for compensation engages in any one or any combination of the following practices: arranging, dressing, curling, waving, cleansing, cutting, singeing, bleaching, coloring, or similar work upon the hair of another person.

(f) "Operator" means a hairdresser or cosmetician.

(g) "Apprentice cosmetician" means any person who, working under the supervision of a U.S. licensed cosmetician, and who, with hands or mechanical or electrical apparatus or appliances, or by use of cosmetic preparations, antiseptics, tonics, lotions, or creams, engages for compensation in any one or any combination of the following practices; massaging, cleansing, stimulating, manipulating, exercising, beautifying, or doing similar work upon the scalp, the face, neck, arms, or upper part of the body, or manicuring the removing of superfluous hair.

(h) "Apprentice hairdresser" means any person who, working under the supervision of a U.S. licensed hairdresser, and who for compensation engages in any one or any combination of the following practices: arranging, dressing, curling, waving, cleansing, cutting, bleaching, coloring, or similar work upon the hair of another person.

(i) "Applicant" means any person who files an application to obtain an apprentice hairdresser or apprentice cosmetician's or cosmetician or operator's license.

(j) "U.S." refers to the United States or any state or territory of the United States.

**History:** 1973, PL 13-5; amd 1983, PL 18-5 § 2; amd 2006, PL 29-17.

**Amendments:** 1983 Section amended generally.

### **31.1502.1 Board-Appointment.**

There is established an American Samoa Board of Cosmetology consisting of 5 members appointed by the Governor for staggered, 3 years terms. At least 2 members must be operators licensed to practice in the Territory. The Board elects a chairman from its members and meets quarterly or more frequently at the call of the chairman. The Office of Economic Development and Planning provides administrative and staff services for the Board. The Department of Legal Affairs provides legal assistance to the Board.

**History:** 1983, PL 18-5 § 3; amd 1983, PL 18-14 § 1.

**Amendments:** 1983 Amended to increase number of Board members from 3 to 5.

### **31.1502.2 Board-Powers and duties.**

(a) The Board shall:

(1) adopt administrative rules pursuant to 4.1001 et seq. to implement this chapter; and

(2) periodically recommend to the Legislature changes in this chapter to reflect the new developments in the practice of operators; and

(3) provide for written examinations as required by this chapter; and

(4) establish reasonable license fees and deposit those fees in the general fund.

(b) The Board may:

(1) provide by rule for the continuing education of persons licensed under this chapter.

**History:** 1983, PL 18-5 § 4.

### **31.1502.3 Licensing-Requirement.**

(a) A person may not practice a classified occupation without a license issued in accordance with this chapter.

(b) A person may not maintain a beauty shop or salon without a license issued in accordance with this chapter.

**History:** 1983, PL 18-14 § 2.

### **31.1503 Licensing.**

(a) The Board shall issue a license for an operator or apprentice hairdresser or apprentice cosmetician to each person who furnishes the required certification that is a U.S. license or the certification is equivalent to a U.S. license, pays the proper fee, and meets all of the other requirements of this chapter.

(b) The certificate shall state specifically the occupation for which the person is licensed, be signed by the chairman of the Board, and be posted above the station of each person licensed.

(c) The Board shall establish reasonable license fees, not to exceed \$25 a year, for operators, apprentice hairdresser, and apprentice cosmeticians.

(d) Licenses issued under this section expire each December 31st, but may be renewed upon application to and approval by the Board.

**History:** 1973, PL 13-5; amd 1983, PL 18-5 § 5; amd 2006, PL, 29-17.

**Amendments:** 1983 Added subsections (c) and (d) and changed “certificate” to “license” and “office of the Governor” to “Board.”

### **31.1504 Licensure of operators.**

The Board shall determine the sufficiency of the preliminary qualifications of applicants for licensure. The following qualifications are sufficient:

(a) An operator may be licensed as a hairdresser and cosmetician provided the person is of good moral character; and

(1) is currently licensed to practice hairdressing and cosmetology in any state of the United States and has practiced as an operator for 3 out of the 5 years immediately preceding the application for licensure; or

(2) is licensed under paragraphs (1) and has successfully completed a Board approved refresher course at an accredited school within one year preceding application to the Board.

(3) Any amendment to this section shall not apply to or effect licenses issued prior to the effective date of any amendment or to the renewal of said licenses.

(b) A person may be licensed as an apprentice hairdresser or apprentice cosmetician if the Board determines an applicant has satisfied the following:

(1) a completed current application;

(2) a valid current license or certification from the United States or any country whose licensing standards are equivalent to that of the United States;

(3) a letter by a licensed operator of a salon, confirming the operator will sponsor the applicant, that the applicant person has been offered employment by a licensed operator, and the applicant will be working under the supervision of the operator; and

(4) two reference letters from residents of the Territory stating that applicant is of good moral character.

(c) The Board may conditionally license persons as operators who substantially comply with the qualifications under subsection (a).

**History:** 1973, PL 13-5; amd 1983, PL 18-5 § 6, amd 1999, PL 26-8; amd 2006, PL 29-17.

**Amendments:** 1983 Subsection (c) deleted and “registration” changed to “licensure” and “Office of the Governor” changed to “Board.”

### **31.1505 Licensure of beauty salons.**

(a) A license for a beauty salon may be secured by filing an application with the Board and fulfilling the following requirements:

(1) that the salon meets the standards of sanitation required by the rules of the Department of Health, as certified by the Director of Medical Services;

(2) that there is a Board licensed operator working full time in the salon; and  
(3) that it is adequately equipped for the practices in which it engages as certified by the Board.

(b) All licenses for salons expire on 31 December next following the date of issue, but may be renewed on the date of expiration.

(c) The annual license fee for salons is \$25.

**History:** 1973, PL 13-5; amd 1983, PL 18-5 § 7.

**Amendments:** 1983 Subsection (c) added and “certificate” changed to “license” and “Office of the Governor” changed to “Board.”

### **31.1506 Teaching by operators.**

Repealed by PL 18-5 § 13.

### **31.1507 Grounds for refusal, revocation, or suspension of certificate.**

(a) The Board may refuse to grant, renew, reinstate, or restore any license required under this chapter, whether covering the licensure of an operator or beauty salon, apprentice hairdresser, or apprentice cosmetician, for any cause which could be grounds for revocation of a license under this section. The Board may, nevertheless, renew, reinstate, or restore any license when it determines that action is just and may be done consistently with the accomplishment of the purposes of this chapter.

(b) The Board may revoke or suspend any license, whether operator or beauty salon for any of the following causes:

(1) professional misconduct, gross carelessness, or manifest incapacity;

(2) conviction of a crime involving moral turpitude;

(3) violation of any of the provisions of this chapter or the rules promulgated pursuant thereto or any other law which applies to him in the occupation covered by the license;

(4) making any false representation or promise, through advertising or otherwise, or in any manner dealing fraudulently or dishonestly in the occupation covered by the license;

(5) habitual intemperance in use of alcoholic beverages or addiction to the use of narcotic drugs;

(6) failing to display the license as provided in this chapter.

**History:** 1973, PL 13-5; amd 1983, PL 18-5 § 8; amd 2006, PL 29-17.

**Amendments:** 1983 Amended to delete former paragraph (6) and to change “certificate” to “license” and “Office of the Governor” to “Board.”

### **31.1508 Right to hearing-Procedure.**

(a) In every case where it is proposed to refuse to grant, renew, reinstate, or restore a license or to revoke or suspend the exercise of one for any of the causes enumerated in 31.1507, the person affected by that action must be given notice and opportunity for hearing in conformity with 4.1001 et seq.

(b) At the hearing the Board has the power to administer oaths, compel the attendance of witnesses and the production of documentary evidence, examine witnesses and make decisions regarding evidence offered.

(c) In the event any person disobeys any order of the Board, or of any subpoena issued by the Board, or the refusal of any witness to testify to any matter regarding which he may lawfully be questioned, the Board may apply to the High Court of American Samoa, which shall compel obedience as in the case of disobedience of the requirements of a subpoena issued by the High

Court of American Samoa, or a refusal to testify therein; provided, however, that such order was not arbitrary, capricious or unreasonable.

**History:** 1973, PL 13-5, amd 1983, PL 18-5 § 9.

**Case Notes:**

Because in most cases licensing will be a straightforward process, quasi-judicial evidentiary hearing in all licensing proceedings would needlessly increase government expenditures and such hearings are required only where the proposed action on a license application will be final. Am. Sam. Const. Art. I § 2., A.S.C.A. § 31.1508. *Ferstle v. American Samoa Government*, 7 A.S.R.2d 26 (1988).

**Amendments:** 1983 Amended to change “Office of the Governor” to “Board.”

**31.1509 Investigation of violations.**

- (a) The Board may investigate any violation or suspected violation of this chapter.
- (b) The Board may administer oaths in connection with the investigation.

**History:** 1973, PL 13-5, amd 1983, PL 18-5 § 10.

**Amendments:** 1983 Amended to change “Office of the Governor” to “Board.”

**31.1510 Prosecution of violations.**

The Board shall assist in the prosecution of persons charged with violations of this chapter.

**History:** 1973, PL 13-5; amd 1983, PL 18-5 § 11.

**Amendments:** 1983 Amended to change “Office of the Governor” to “Board.”

**31.1511 Violation-Penalty.**

(a) In addition to provisions contained in this chapter relating to powers of the Board, any person who practices any of the occupations, maintains a beauty salon, or acts in any capacity wherein a license is required, without a license as provided in this chapter, commits a crime punishable as a class B misdemeanor.

- (b) Each day of violation shall be construed a separate offense.

**History:** 1973, PL 13-5; amd 1980, PL 16-90 § 87; amd 1983, PL 18-5 § 12.

**Amendments:** 1980 Amended to conform with penalties provided for in Title 46, Criminal Justice. 1983 Amended to change “certificate” to “license” and “Office of the Governor” to “Board.”