

CS FOR SENATE BILL NO. 98(L&C)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-NINTH LEGISLATURE - SECOND SESSION

BY THE SENATE LABOR AND COMMERCE COMMITTEE

Offered: 3/4/16

Referred: Finance

Sponsor(s): SENATOR MICCICHE

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to diagnosis, treatment, and prescription of drugs without a physical**
2 **examination by a physician; relating to the delivery of services by a licensed professional**
3 **counselor, marriage and family therapist, psychologist, psychological associate, and**
4 **social worker by audio, video, or data communications; relating to the duties of the**
5 **Department of Commerce, Community, and Economic Development; establishing a**
6 **telemedicine business registry; and relating to the duties of the State Medical Board."**

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

8 * **Section 1.** AS 08.29.400 is amended by adding a new subsection to read:

9 (b) The board may not impose disciplinary sanctions on a licensee for the
10 evaluation, diagnosis, or treatment of a person through audio, video, or data
11 communications when physically separated from the person if

12 (1) the licensee or another licensed health care provider is available to
13 provide follow-up care; and

1 (2) the licensee requests that the person consent to sending a copy of
 2 all records of the encounter to a primary care provider if the licensee is not the
 3 person's primary care provider and, if the person consents, the licensee sends the
 4 records to the person's primary care provider.

5 * **Sec. 2.** AS 08.63.210 is amended by adding new subsections to read:

6 (c) The board may not impose disciplinary sanctions on a licensee for the
 7 evaluation, diagnosis, supervision, or treatment of a person through audio, video, or
 8 data communications when physically separated from the person if

9 (1) the licensee or another licensed health care provider is available to
 10 provide follow-up care;

11 (2) the licensee requests that the person consent to sending a copy of
 12 all records of the encounter to a primary care provider if the licensee is not the
 13 person's primary care provider and, if the person consents, the licensee sends the
 14 records to the person's primary care provider; and

15 (3) the licensee meets the requirements established by the board in
 16 regulation.

17 (d) The board shall adopt regulations restricting the evaluation, diagnosis,
 18 supervision, and treatment of a person as authorized under (c) of this section by
 19 establishing standards of care, including standards for training, confidentiality,
 20 supervision, practice, and related issues.

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

22 **Sec. 08.64.101. Duties.** The board shall

23 (1) examine and issue licenses to applicants;

24 (2) develop written guidelines to ensure that licensing requirements are
 25 not unreasonably burdensome and the issuance of licenses is not unreasonably
 26 withheld or delayed;

27 (3) after a hearing, impose disciplinary sanctions on persons who
 28 violate this chapter or the regulations or orders of the board;

29 (4) adopt regulations ensuring that renewal of licenses is contingent **on**
 30 [UPON] proof of continued competency on the part of the licensee; and

31 (5) under regulations adopted by the board, contract with private

1 professional organizations to establish an impaired medical professionals program to
 2 identify, confront, evaluate, and treat persons licensed under this chapter who abuse
 3 alcohol, other drugs, or other substances or are mentally ill or cognitively impaired;

4 **(6) adopt regulations establishing standards of care for a physician**
 5 **who is rendering a diagnosis, providing treatment, or prescribing, dispensing, or**
 6 **administering a prescription drug to a person without conducting a physical**
 7 **examination under AS 08.64.364; the regulations must include a nationally**
 8 **recognized model policy for standards of care of a patient who is at a different**
 9 **location than the physician.**

10 * **Sec. 4.** AS 08.64.364(a) is amended to read:

11 (a) The board may not impose disciplinary sanctions on a physician for
 12 **rendering a diagnosis, providing treatment, or** prescribing, dispensing, or
 13 administering a prescription drug **that is not a controlled substance** to a person
 14 without conducting a physical examination if

15 (1) [THE PRESCRIPTION DRUG IS

16 (A) NOT A CONTROLLED SUBSTANCE; OR

17 (B) A CONTROLLED SUBSTANCE AND IS PRESCRIBED,
 18 DISPENSED, OR ADMINISTERED BY A PHYSICIAN WHEN AN
 19 APPROPRIATE LICENSED HEALTH CARE PROVIDER IS PRESENT
 20 WITH THE PATIENT TO ASSIST THE PHYSICIAN WITH
 21 EXAMINATION, DIAGNOSIS, AND TREATMENT;

22 (2) THE PHYSICIAN IS LOCATED IN THIS STATE AND] the
 23 physician or another licensed health care provider or physician in the physician's
 24 group practice is available to provide follow-up care; and

25 **(2) the physician requests that** [(3)] the person **consent**
 26 [CONSENTS] to sending a copy of all records of the encounter to the person's primary
 27 care provider if the prescribing physician is not the person's primary care provider,
 28 and, **if the patient consents,** the physician sends the records to the person's primary
 29 care provider.

30 * **Sec. 5.** AS 08.64.364 is amended by adding new subsections to read:

31 (c) The board may not impose disciplinary sanctions on a physician for

1 prescribing, dispensing, or administering a prescription drug that is a controlled
 2 substance if the requirements under (a) of this section are met and the physician
 3 prescribes, dispenses, or administers the controlled substance when an appropriate
 4 licensed health care provider is present with the patient to assist the physician with
 5 examination, diagnosis, and treatment.

6 (d) Notwithstanding (b) and (c) of this section, a physician may not

7 (1) prescribe an abortion-inducing drug; or

8 (2) prescribe, dispense, or administer a prescription drug in response to
 9 an Internet questionnaire or electronic mail message to a person with whom the
 10 physician does not have a prior physician-patient relationship.

11 * **Sec. 6.** AS 08.86.204 is amended by adding a new subsection to read:

12 (c) The board may not impose disciplinary sanctions on a licensee for the
 13 evaluation, diagnosis, or treatment of a person through audio, video, or data
 14 communications when physically separated from the person if

15 (1) the licensee or another licensed health care provider is available to
 16 provide follow-up care; and

17 (2) the licensee requests that the person consent to sending a copy of
 18 all records of the encounter to a primary care provider if the licensee is not the
 19 person's primary care provider and, if the person consents, the licensee sends the
 20 records to the person's primary care provider.

21 * **Sec. 7.** AS 08.95.050 is amended by adding a new subsection to read:

22 (b) The board may not impose disciplinary sanctions on a licensee for the
 23 evaluation, diagnosis, or treatment of a person through audio, video, or data
 24 communications when physically separated from the person if

25 (1) the licensee or another licensed health care provider is available to
 26 provide follow-up care; and

27 (2) the licensee requests that the person consent to sending a copy of
 28 all records of the encounter to a primary care provider if the licensee is not the
 29 person's primary care provider and, if the person consents, the licensee sends the
 30 records to the person's primary care provider.

31 * **Sec. 8.** AS 44.33 is amended by adding a new section to read:

1 **Article 5A. Telemedicine Business Registry.**

2 **Sec. 44.33.381. Telemedicine business registry.** (a) The department shall
3 adopt regulations for establishing and maintaining a registry of businesses performing
4 telemedicine services in the state.

5 (b) The department shall maintain the registry of businesses performing
6 telemedicine services in the state. The registry must include the name, address, and
7 contact information of businesses performing telemedicine services in the state.

8 (c) In this section,

9 (1) "department" means the Department of Commerce, Community,
10 and Economic Development;

11 (2) "telemedicine services" means the delivery of health care services
12 using the transfer of medical data through audio, visual, or data communications that
13 are performed over two or more locations by a provider who is physically separated
14 from the recipient of the health care services.