

Konrad Jackson

From: Rep. Kurt Olson
Sent: Thursday, March 10, 2011 11:30 PM
To: Konrad Jackson
Subject: FW: Additional ASMA Testimony - HB122
Attachments: Code of Medical Ethics.pdf

From: ASMA [asma@asmadocs.org]
Sent: Thursday, March 10, 2011 4:24 PM
To: Rep. Kurt Olson
Cc: Rep. Craig Johnson; Rep. Dan Saddler; Rep. Steve Thompson; Rep. Lindsey Holmes; Rep. Bob Miller; Representative Mike Chenault (Representative Mike Chinault@legis.state.ak.us)
Subject: Re: Additional ASMA Testimony - HB122

Chair Olson;

Here is the additional written ASMA testimony that I referred to during yesterday's hearing on HB122 that I offered to send in lieu of providing oral testimony due to the time constraints.

On Page 3, Sec 08.45.005 creates the duties for the new board proposed. In 08.45.005 (5), the board is granted authority to define "physician-patient relationship" for the purpose of Sec. 08.45.045(5) (which created the new scope of practice for naturopaths to prescribe, give vaccinations, provide hormones , and to provide medical devices).

Other activities described in Sec. 08.45.045 would also be provided in the environment of the "physician-patient relationship" (eg. physical examinations, administer therapies, school physicals, etc.). This raises the issue of why the "physician- patient relationship" do not pertain to those activities. Does it mean "physician-patient relationship" is not required to perform those activities other than those in Sec. 08.45.045 (5)?

Research of current Alaska Statutes shows they do not contain a definition of "physician-patient relationship" . In my experience and that of ASMA's, out-side general counsel, Roger Holmes, the physician-patient relationship comes up in the realm of physician medical liability claims. In general, Alaska's courts have indicated that, in-effect, it is the patient who determines when a physician patient relationship exists.

It appears that the State Medical Board does not have the direct authority to establish such a definition, but we have not researched other boards that govern the other medical care providers.

It would seem that this delegation to a particular board is unprecedented and this would be an issue that needs to be addressed on more universal scale by the Legislature. The definition of what constitutes a relationship between a medical care provider and a patient is very complex. As a testament to the complexity, I've attached the pertinent pages of the American Medical Association Code of Medical Ethics 2010-2011 Edition. This includes the Principles of Medical Ethics VIII pages lxxi-lxxv; and Opinions on the Patient- Physician Relationship 10.01-10.05, Pages 367 through 384.

ASMA, not knowing the intent of defining the term "physician-patient relationship" in HB122, urges that, due to the complexity of this issue and the more universal interest in this

issue, HB122 not include language to delegate that authority to the naturopathic board. ASMA recommends that this issue be explored and addressed outside of HB122.

This is the approach that has been taken in addressing issues that pertain to civil malpractice actions brought against "health care providers" that includes all types of licensed medical care providers. (Please see AS 09.55.540 and AS 09.55.556 for examples of such issues that pertain to "standard of care" and "informed consent".)

Please let me know should you have any questions.

Sincerely

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Executive Director

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