THE STATE of ALASKA
GOVERNOR BILL WALKER

Department of Health and Social Services

Senate Bill 79, version O

Sectional Analysis

Prepared by the Alaska Department of Health and Social Services

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HB 159, "An Act relating to the prescription of opioids; establishing the Voluntary Nonopioid Directive Act; relating to the controlled substance prescription database; relating to the practice of dentistry; relating to the practice of medicine; relating to the practice of podiatry; relating to the practice of osteopathy; relating to the practice of nursing; relating to the practice of optometry; relating to the practice of veterinary medicine; related to the duties of the Board of Pharmacy; and providing for an effective date."

Note: Sec. 1 – 26 *amend individual board statutes regarding: education requirements for initial licensure; continuing education requirements for licensure renewal; disciplinary authority of Board's pertaining to the maximum opioid prescription limit; sets a maximum opioid prescription limit of 7 days for the initial prescription (with exceptions); and defines opioids.*

Sec. 1: Amends the Board of Dental Examiners statutes by requiring the Board to adopt regulations for renewal of licensure to include a minimum of two hours of continuing education in pain management and opioid misuse and addiction in the previous two years preceding renewal, unless the licensee has demonstrated to the satisfaction of the Board that the licensee does not currently hold a valid federal Drug Enforcement Agency (DEA) registration number.

Sec. 2: Amends the Board of Dental Examiners statutes by requiring the Board to adopt regulations for licensure qualifications to include a minimum of two hours of education in pain management and opioid misuse and addiction in the two years preceding the application for a license, unless the applicant has demonstrated to

the satisfaction of the Board that the applicant does not currently hold a valid federal DEA registration number.

Sec. 3: Amends the Board of Dental Examiners statutes for disciplinary authority. It allows the Board to discipline, revoke, suspend, reprimand or censure a license of a dentist, if the Board finds a licensee has prescribed or dispensed an opioid in excess of the maximum dosage authorized under AS 08.36.355, or procured, sold, prescribed, or dispensed drugs in violation of a law, regardless of whether there has been a criminal action or patient harm.

Sec. 4: Adds a new section to the Board of Dental Examiners statutes limiting the dosage for an opioid prescription to a seven-day supply for an adult or minor. The dentist must discuss with the parent or guardian of a minor why the prescription is necessary and the risks associated with the opioid use. A dentist may issue a prescription for greater than a seven-day supply to an adult or minor patient if, in the professional judgement of the dentist, more than a seven day supply is necessary for; the chronic pain management, or a patient who is unable to access a practitioner within the time necessary for a refill of the seven-day supply because of a logistical or travel barrier. The dentist must document in the patient's medical record the condition requiring the excess of a seven-day supply, and indicate a non-opioid alternative was not appropriate to treat the condition. The section defines "adult" and "minor."

Sec. 5: Amends the Board of Dental Examiner statutes by adding a definition of an "opioid."

Sec. 6: Amends the Medical Board statutes for qualifications for physician assistants. The Board shall adopt regulations for physician assistant to include education on pain management and opioid use and addiction.

Sec. 7: Amends the Medical Board statutes for qualifications for physicians. The additional language requires physician applicants to receive education in pain management and opioid use and addiction prior to licensure, unless the applicant has demonstrated to the satisfaction of the Board that the applicant does not currently hold a valid federal DEA registration number.

Sec. 8: Amends the Medical Board statutes for qualifications for osteopaths. The additional language requires osteopath applicants to receive education in pain management and opioid use and addiction prior to licensure, unless the applicant has demonstrated to the satisfaction of the Board that the applicant does not currently hold a valid federal DEA registration number. The language in this section refers to the physician applicant qualifications in section 8, and duplication in (4) of the same statute.

Sec. 9: Amends the Medical Board statutes for qualifications for podiatrists. The additional language requires podiatry applicants to receive education in pain management and opioid use and addiction prior to licensure, unless the applicant has demonstrated to the satisfaction of the Board that the applicant does not currently hold a valid federal DEA registration number. The language in this section refers to the physician applicant qualifications in section 8, and duplication in (3) of the same statute.

Sec. 10: Amends the Medical Board statutes for qualifications for foreign graduates. The additional language requires foreign graduate applicants to receive education in pain management and opioid use and addiction prior to licensure, unless the applicant has demonstrated to the satisfaction of the Board that the applicant does not currently hold a valid federal DEA registration number. The language in this section refers to the physician applicant qualifications in section 8, and duplication in (a)(2)(B) of the same statute.

Sec. 11: Amends the Medical Board statutes for License by credentials. The amendment includes the addition of qualifications for licensure of osteopath applicants.

Sec. 12: Amends the Medical Board statutes by adding a new subsection for qualifications for licensure by credentials for physicians, osteopaths and podiatrists by requiring the Board to adopt regulations for applicants to include requiring the applicant to demonstrate professional competence in pain management and addiction disorders. The professional competence may include professional experience or professional instruction as proof of professional competence.

Sec. 13: Amends the Medical Board statutes for continuing education requirements for renewal of a license. A licensee of medicine, osteopathy, and podiatry must receive no less than two hours of education in pain management and opioid misuse and addiction for every 40 hours of instruction received, unless the licensee demonstrates to the satisfaction of the Board that the licensee's practice does not include pain management and opioid treatment or prescribing. An applicant for renewal may not be exempted from the requirement to receive at least two hours of instruction on pain management and opioid misuse and addiction, unless the person has demonstrated to the satisfaction of the Board that the person does not currently hold a valid federal DEA registration number.

Sec. 14: Amends Medical Board disciplinary authority. The Board may impose a disciplinary sanction if the Board finds that a licensee has prescribed or dispensed an opioid in excess of the maximum dosage.

Sec. 15: Adds a new section to the Medical Board statutes limiting the dosage for an opioid prescription to a seven-day supply for an adult or minor. The licensee must discuss with the parent or guardian of a minor why the prescription is necessary

and the risks associated with the opioid use. A licensee may issue a prescription for greater than a seven-day supply to an adult or minor patient if, in the professional judgement of the licensee, more than a seven-day supply is necessary for; an acute medical condition, chronic pain management, pain associated with cancer, pain experienced while the patient is in palliative care, a patient who is unable to access a practitioner within the time necessary for a refill of the seven day supply because of a logistical or travel barrier, or treatment of a patient's substance abuse or opioid dependence. The licensee must document in the patient's medical record the medical condition requiring the excess of a seven-day supply, and indicate a non-opioid alternative was not appropriate to treat the medical condition, or the substance abuse or opioid dependence. The section defines "adult," "emancipated minor," and "minor."

Sec. 16: Amends Medical Board statute for prescription of drugs without a physical examination. It adds the Board may not impose disciplinary sanctions on a physician for prescribing, dispensing, or administering a controlled substance if the requirements in the new section AS 08.64.363, under Sec. 12 of this document, are met.

Sec. 17: Amends Medical Board statute by adding and defining "opioid" to include the opium and opiate substances and opium and opiate derivatives listed in AS 11.71.140.

Sec. 18: Amends the Board of Nursing to provide authority to adopt regulation to comply with new continuing education requirements.

Sec. 19: Amends the Board of Nursing statute by giving the Board the authority to deny, suspend, or revoke the license of a person who: prescribed or dispensed an opioid in excess of the maximum dosage authorized under AS 08.68.705; or has procured, sold, prescribed, or dispensed drugs in violation of a law, regardless of whether there has been a criminal action or patient harm.

Sec. 20: Amends the Board of Nursing statute to include enforcement authority for failure to meet regarding enforcement actions for continuing competency requirements. A license may not be renewed unless the advanced practice registered nurse has completed a minimum of two hours of education in pain management and opioid misuse and addiction within the two years preceding renewal of the license, unless the licensee has demonstrated to the satisfaction of the Board that the licensee does not currently hold a valid federal DEA registration number.

Sec. 21: Adds a new section to article 6 of the Nursing Board statutes limiting the dosage for an opioid prescription to a seven-day supply for an adult or minor. The advance practice registered nurse must discuss with the parent or guardian of a minor why the prescription is necessary and the risks associated with the opioid use. An

advanced practice registered nurse may issue a prescription for greater than a seven-day supply to an adult or minor patient if, in the professional judgement of the advanced practice registered nurse, more than a seven-day supply is necessary for: an acute medical condition, chronic pain management, pain associated with cancer, pain experienced while the patient is in palliative care, or a patient who is unable to access a practitioner within the time necessary for a refill of the seven-day supply because of a logistical or travel barrier. The advanced practice registered nurse must document in the patient's medical record the condition requiring the excess of a seven-day supply, and indicate a non-opioid alternative was not appropriate to treat the condition. The section defines "adult," "emancipated minor," and "minor."

Sec. 22: Amends Nursing Board statute by adding and defining "opioid" to include opium and opiate substances and opium and opiate derivatives listed in AS 11.71.140.

Sec 23: Amends the Board of Optometry to require the Board to adopt regulations for advanced practice registered nurses to include education on pain management and opioid use and addiction.

Sec. 24: Amends the Board of Optometry statute for qualifications for licensure by credentials. The applicant must have received education in pain management and opioid misuse and addiction adequate for the practice of optometry and may include professional experience or professional education, unless the applicant has demonstrated to the satisfaction of the Board that the applicant does not currently hold a valid federal DEA registration number.

Sec. 25: Amends the Board of Optometry statute for continuing education requirements for renewal of a license. The optometrist must complete a minimum of two hours of education in pain management and opioid misuse and addiction in the four years preceding renewal, unless the applicant has demonstrated to the satisfaction of the Board that the applicant does not currently hold a valid federal DEA registration number.

Sec. 26: Amends the Board of Optometry disciplinary authority. The Board may impose disciplinary sanctions on an optometrist who has procured, sold, prescribed, or dispensed drugs in violation of a law, regardless of whether there has been a criminal action or patient harm.

Sec. 27: Amends powers and duties of the Board of Pharmacy, 08.80.030(b)(13). The current law that takes effect July 17, 2017, will require pharmacists with a DEA Registration number, to register with the controlled substance prescription database (also known as the PDMP). Pharmacists do not obtain DEA registration numbers, only pharmacies. Therefore, this section removes the DEA Registration number requirement. ***(Sec. 27** is a technical fix.)*

Sec. 28: Amends the Board of Pharmacy statutes to add a new section to allow the pharmacist filling a prescription for a schedule II or III controlled substance, to dispense a lesser quantity than prescribed at the request of the individual for whom the prescription is written.

Note: Sec. 29-30 – *Relate to the Board of Veterinary Examiners: education requirements and disciplinary authority; pertaining to the maximum opioid prescription limit.*

Sec. 29: Amends the Board of Veterinary Examiners statute under Powers and Duties of the Board. The Board shall require a licensee who has a federal DEA registration number to register with the controlled substance prescription database under AS 17.30.200(o). The section requires the Board to identify resources and develop educational materials to assist licensees in identifying an animal owner who may be at risk for abusing or misusing an opioid.

Sec 30: The Board may deny, suspend, or revoke the license of a person who: prescribed or dispensed an opioid in excess of the maximum dosage authorized under AS 08.68.705; or has procured, sold, prescribed, or dispensed drugs in violation of a law, regardless of whether there has been a criminal action.

Sec. 31: (*This section is the Voluntary Non-Opioid Directive)* The section allows an individual to execute a voluntary non-opioid directive in a format prescribed by the Department of Health and Social Services. The section further provides that a licensed healthcare providers, hospitals, and employees, and pharmacists are exempt from licensing board discipline, civil and criminal liability for failure to administer, prescribe, or dispense an opioid to an individual who has executed a voluntary non-opioid directive. The directive does not limit a healthcare provider or pharmacist from prescribing, dispensing, or administering an opioid overdose drug or an opioid for the treatment of substance abuse or opioid dependence.

Note: Sec. 32-41 – *Changes relating to the Prescription Drug Monitoring Program (PDMP); updating the definition of opioid; and prescriber "report cards."*

Sec. 32: Amends AS 17.300.200(a) to exclude certain facilities from the requirements of the controlled substance prescription database (also known as the PDMP). This section references a section "u" of the PDMP (see section 41) where by correctional facilities are exempt from the PDMP except when prescribing opioids to an inmate at the time of the inmate's release as in patient pharmacies and emergency rooms are exempt if they are only prescribing less than a 24-hour supply of opioids. (See also section 41).

Sec. 33: Amends AS 17.300.200(a) to exclude correctional facilities from the requirements of the controlled substance prescription database except when prescribing opioids to

an inmate at the time of the inmate's release. ***Note:*** *This is required due to the delayed effective dates from SB 74 and this bill.*

Sec. 34: Amends AS 17.30.200(b) as amended by sec. 23, ch. 25, SLA 2016 by substituting "weekly" with "daily." The change will require the pharmacist-in-charge of a pharmacy, and each practitioner who dispenses a schedule II, III, or IV controlled substance, to submit the information to the controlled substance prescription database daily instead of weekly. (***Note****: This is required due to the delayed effective dates from SB 74 and this bill*).

Sec. 35: Amends AS 17.30.200(d) as amended ch. 25, SLA 2016 to clarify that to clarify that information contained in the PDMP can be shared with federal, state and local law enforcement that have a valid search warrant or court order.

Sec. 36: Amends AS 17.30.200(e) as amended by ch. 25, SLA 2016 to clarify that a pharmacist, the individual filling a prescription, is required to submit information into the database. It is the responsibility of the practitioner, the individual writing the prescription, to review the database.

Sec. 37: Amends AS 17.30.200(p) as amended by ch. 25, SLA 2016 to require the Board of Pharmacy shall promptly notify the Board of Veterinary Examiners when a practitioner registers with the database under (o) of the section.

Sec. 38: Amends AS 17.30.200(q) as amended by, ch. 25, SLA 2016 is amended by allowing the Board of Pharmacy to provide unsolicited notification to the practitioner's licensing board if a patient has received one or more prescriptions for controlled substances in quantities or with a frequency inconsistent with generally recognized standards of safe practice. The unsolicited notification to a practitioner's licensing board under the section must also be provided to the practitioner, is considered confidential, may not disclose confidential information under the section, and may be in a summary form sufficient to provide notice of the basis for the unsolicited notification.

Sec. 39: Amends AS 17.30.200(r) as amended by ch. 25, SLA 2016 to provide guidance so to when the Board must update the requirement that pharmacists and prescribers must comply with the database on a daily basis rather than a weekly basis.

Sec. 40: Amends AS 17.30.200(n) as amended by ch 25, SLA 2016 to update the definition of opioid to include the opium and opiate substances and opium and opiate derivatives listed in AS 11.71.140.

Sec. 41: Adds a new section (t) to AS 17.30.200, giving the Board of Pharmacy the authority to issue periodic unsolicited "report cards" with non-identifiable information comparing the practitioner's opioid prescribing practices with others in the same

occupation. (information is confidential) . Also adds a new section (u) to AS 47.17.200, giving the Board of Pharmacy the ability to exempt in-patient pharmacies and emergency rooms from the review and submission requirement of the PDMP when they are dispensing no more than a 24 hour supply of opioids upon discharge.

Sec. 42: Amends AS 18.05.040 to give authority for the Commissioner of Health & Social Services shall adopt regulations consistent with existing law for implementation of AS 13.55, Voluntary Nonopioid Directive Act.

Sec. 43: Repeals various sections from ch. 25, SLA 2016 related to the July 2018 effective dates for the PDMP in SB 74.

Sec. 44: Provides transitional authority for the Department of Commerce and Economic Development to draft regulations to implement changes to the PDMP prior to the effective date of certain sections. This is a technical fix.

Note: Sec. 45-53 – *refer to Effective Dates*

Sec. 45, 46, 47, 48, 49, 50: Relate to the various changes to the PDMP related to the effective dates under SB 74. This is necessary because the changes to the PDMP under SB 74 are not in effect until July 18, 2017.

Sec. 51: These are the new effective dates from the PDMP (July 1, 2018).

Sec. 52: The advance directive sections of the bill (sections 1 and 4) take effect on July 1, 2019.

Sec. 53: All other provisions of the bill, take effect immediately.