

**ALASKA STATE LEGISLATURE**  
**SENATE HEALTH AND SOCIAL SERVICES STANDING COMMITTEE**

April 13, 2015

1:36 p.m.

**MEMBERS PRESENT**

Senator Bert Stedman, Chair  
Senator Cathy Giessel, Vice Chair  
Senator Bill Stoltze  
Senator Johnny Ellis

**MEMBERS ABSENT**

Senator Pete Kelly

**COMMITTEE CALENDAR**

SENATE BILL NO. 98

"An Act relating to diagnosis, treatment, and prescription of drugs without a physical examination."

- HEARD & HELD

HOUSE CONCURRENT RESOLUTION NO. 9

Proclaiming April 19, 2015, as Congenital Diaphragmatic Hernia Action Day.

- MOVED HCR 9 OUT OF COMMITTEE

SENATE BILL NO. 65

"An Act relating to juvenile justice proceedings; and amending Rule 21, Alaska Delinquency Rules of Procedure."

- SCHEDULED BUT NOT HEARD

**PREVIOUS COMMITTEE ACTION**

BILL: SB 98

SHORT TITLE: PRESCRIPTION WITHOUT PHYS. EXAM.

SPONSOR(S): SENATOR(S) MICCICHE

04/07/15	(S)	READ THE FIRST TIME - REFERRALS
04/07/15	(S)	HSS, L&C
04/13/15	(S)	HSS AT 1:30 PM BUTROVICH 205

BILL: HCR 9

SHORT TITLE: CONGENITAL DIAPHRAGM. HERNIA ACTION DAY  
SPONSOR(s): REPRESENTATIVE(s) MILLETT

03/16/15	(H)	READ THE FIRST TIME - REFERRALS
03/16/15	(H)	HSS
04/07/15	(H)	HSS AT 3:00 PM CAPITOL 106
04/07/15	(H)	Moved HCR 9 Out of Committee
04/07/15	(H)	MINUTE(HSS)
04/08/15	(H)	HSS RPT 5DP
04/08/15	(H)	DP: TARR, STUTES, TALERICO, FOSTER, SEATON
04/09/15	(H)	TRANSMITTED TO (S)
04/09/15	(H)	VERSION: HCR 9
04/10/15	(S)	READ THE FIRST TIME - REFERRALS
04/10/15	(S)	HSS
04/13/15	(S)	HSS AT 1:30 PM BUTROVICH 205

**WITNESS REGISTER**

SENATOR PETER MICCICHE  
Alaska State Legislature  
Juneau, Alaska  
**POSITION STATEMENT:** Sponsor of SB 98.

CHUCK KOPP, Staff  
Senator Peter Micciche  
Alaska State Legislature  
Juneau, Alaska  
**POSITION STATEMENT:** Presented information related to SB 98.

DR. MIKE HAUGEN, Executive Director  
Alaska State Medical Association  
Anchorage, Alaska  
**POSITION STATEMENT:** Testified in opposition to SB 98.

DR. HENRY DEPHILLIPS, Teladoc  
Dallas, Texas  
**POSITION STATEMENT:** Testified in support of SB 98.

DR. JOHN PAPPENHEIM, representing himself  
Juneau, Alaska  
**POSITION STATEMENT:** Testified in opposition to SB 98.

SHEELA TALLMAN  
Senior Manager of Legislative Policy  
Premera Blue Cross Blue Shield of Alaska  
Seattle, Washington

**POSITION STATEMENT:** Testified in support of SB 98.

CRIAG KESTRAN

Senior Account Executive Benefits Manager  
Alaska USA Insurance Brokers  
Anchorage, Alaska

**POSITION STATEMENT:** Testified in support of SB 98.

REBECCA LING, Director of Recovery Services  
Cook Inlet Tribal Council  
Anchorage, Alaska

**POSITION STATEMENT:** Testified in support of SB 98.

CAM CARLSON, Member  
Alaska State Medical Board  
Fairbanks, Alaska

**POSITION STATEMENT:** Testified in opposition to SB 98.

KATE BURKHARDT, Executive Director  
Alaska Mental Health Board and Advisory Board on Alcoholism and  
Drug Abuse

**POSITION STATEMENT:** Testified in support of SB 98.

GRACE ABBOTT, Staff  
Representative Charisse Millett  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Presented HCR 9 on behalf of the sponsor.

TODD MEARS, representing himself  
Anchorage, Alaska

**POSITION STATEMENT:** Testified in support of HCR 9.

DAWN WILLIAMSON, Member  
Cherubs  
Wake Forrest, North Carolina

**POSITION STATEMENT:** Testified in support of HCR 9.

#### **ACTION NARRATIVE**

[1:36:45 PM](#)

**CHAIR BERT STEDMAN** called the Senate Health and Social Services Standing Committee meeting to order at 1:36 p.m. Present at the call to order were Senators Stoltze, Giessel, and Chair Stedman.

#### **SB 98-PRESCRIPTION WITHOUT PHYS. EXAM.**

[1:37:38 PM](#)

CHAIR STEDMAN announced the consideration of SB 98.

SENATOR PETER MICCICHE, Alaska State Legislature, sponsor of SB 98, explained that the bill will drive down the cost of health care in Alaska, improve health care access for rural residents, and prohibit unprofessional conduct claims against a physician who is licensed in Alaska, but out of state at the time of prescribing a prescription drug.

He related that in 2014 the legislature passed HB 281 by a near-unanimous vote to allow physicians to prescribe a prescription drug to a person without conducting a physical examination, within certain parameters. A prescription drug could not be a controlled substance, unless the health care provider was present with the patient to assist the physician with examination, diagnosis, and treatment.

He said HB 281 required the physician to be located in the state. For example, a physician in Ketchikan could conduct a remote diagnosis and prescribe a drug in any community in Alaska. Alaska is the only state that does not allow stateside physicians to practice telemedicine across state lines, so the pool of physicians that can provide this service is greatly diminished.

SENATOR MICCICHE stated that SB 98 addresses the lack of physicians available to do remote consults by removing the "physical, in-state presence" requirement. The physicians would still require an Alaska medical license. He pointed out that telemedicine services average less than one-third of the cost of an in-person office visit and less than one-tenth the cost of an ER visit.

He said what some physicians are concerned about is already allowed in Alaska. There is remote prescription of medication occurring now with no in-person visits required as per HB 281 from last year. The only difference is that a physician may now be out of Alaska to do so. From the patient's perspective, there is zero difference. The Alaska State Medical Board has been issuing Alaska Medical Licenses to stateside physicians for decades. The Department of Health and Social Services (DHSS) has been using stateside physicians for years to deliver health care via telemedicine to Alaskans at a far more reasonable rate and it has worked out very well.

He noted a report by the Federation of State Medical Boards of the United States, a national non-profit organization that represents 70 state medical and osteopathic boards on model policy for the appropriate use of telemedicine technologies and the practice of medicine. The report concludes that the physician/patient relationship is clearly established when a physician agrees to undertake diagnosis and treatment of the patient, and the patient agrees to be treated, whether or not there has been a personal encounter between the physician and the patient.

SENATOR MICCICHE summarized that SB 98 does five things: it clarifies that the legislature's intent is to support telemedicine in Alaska, prevents the Alaska Medical Board from blocking telemedicine to private sector insurance programs, ensures the patient controls their medical records, including their psychiatric records, removes the requirement that the physician must be physically located in Alaska, maintains the requirement that the physician is licensed in Alaska, and it provides substantive cost savings to individuals in public programs.

He said both AETNA and Premera Blue Cross Blue Shield of America support the bill. State employees currently have this benefit. He shared a personal story of how the benefit might help his family.

[1:42:52 PM](#)

CHUCK KOPP, Staff, Senator Peter Micciche, Alaska State Legislature, presented information related to SB 98. He related that Section 1 prohibits the State Medical Board from imposing discipline on a physician licensed in the state for rendering a diagnosis or providing a treatment without a physical examination, if the physician or another physician or licensed health care provider's practice is available for follow-up care, and the physician requests that the patient consents to release copies of records of the encounter to the primary care physician, and, if the patient does consent, the physician sends for the records.

He said Section 2 is a conforming amendment - on page 1, lines 9-14 are deleted and on page 2, line 1 is deleted. It is a stylistic drafting change recommended by Legislative Legal.

[1:44:01 PM](#)

CHAIR STEDMAN noted the arrival of Senator Ellis.

SENATOR GIESSEL asked about removing the physical presence of the prescribing clinician in Section 2. She maintained that something significant happens; it removes the provision that the subscriber must be in Alaska. She also asked, in Section 2, lines 14 and 15, who the "appropriate licensed health care provider" is.

MR. KOPP answered the first question noting that the "physician is located in the state" is deleted in Section 1. To the second question, he explained that the "licensed health care provider" is taken from current law that deals with prescription of drugs without physical examination. The law is currently worded that an appropriated licensed health care provider is to be present with the physician to assist with the exam, diagnosis, and treatment if a controlled substance is involved. He said he would have to look up the definition of "licensed health care provider."

[1:46:22 PM](#)

CHAIR STEDMAN said it is the first hearing on SB 98 and he would be setting the bill aside, providing ample time for the sponsor to get back to committee questions and concerns.

SENATOR GIESSEL said she needs to confirm that pharmacies in Alaska fill prescriptions from out-of-state prescribers. She asked who the sponsor would call late at night using telemedicine.

SENATOR MICCICHE said it would be a Teledoc person within the state.

SENATOR GIESSEL said Arizona uses a statewide nurse call line, not necessarily a physician employed by Teledoc.

[1:48:19 PM](#)

SENATOR STOLTZE asked for clarification of Teledoc.

SENATOR MICCICHE recalled that in the new Teledoc plan the idea was that there would be an M.D. on the end of the line. He opined that in many cases, calls could be handled by a nurse, nurse practitioner, or other health care provider.

SENATOR STOLTZE asked if it creates a new billing opportunity for doctors.

SENATOR MICCICHE thought the effort nationally was to reduce the cost of office visits by allowing calls, and a Teledoc physician can manage phone calls for less cost.

SENATOR STOLTZE repeated the question.

SENATOR MICCICHE said insurance companies look at it as savings.

1:51:40 PM

CHAIR STEDMAN opened public testimony.

DR. MIKE HAUGEN, Executive Director, Alaska State Medical Association (ASMA), testified in opposition to SB 98. He maintained that ASMA had concerns last year about HB 281 expanding the use of telemedicine by allowing a physician to prescribe medication via telemedicine without conducting a physical exam and without establishing a physician/patient relationship. He said that ASMA took a neutral position on HB 281, providing there were safeguards put in place. He maintained that SB 98 removes one of the primary safeguards - that the physician be located in Alaska. He said the Alaska State Medical Board is currently working on guidelines for telemedicine. He requested that the bill be held until those regulations are in place.

1:54:37 PM

SENATOR GIESSEL asked whether there is a provision for billing for phone consultations.

DR. HAUGEN said he did not know.

DR. HENRY DEPHILLIPS, Teladoc, testified in support of SB 98. He said the legislative intent in Alaska, considering the passage of HB 281, is to allow telemedicine in the state. This bill has a major provision, removing the requirement that the physician or licensed practitioner practicing telemedicine be physically present in the state. He said Alaska is the only state that requires the physician to be present in the state.

He noted the mismatch between the need for services in Alaska and the number of physicians available. He thought it was interesting that the Alaska State Medical Board seems to want to allow physicians in the state to practice telemedicine, but not those licensed in Alaska, but living elsewhere. The compensation for physicians in Alaska is three times that in other states. He suggested that telemedicine costs in Alaska would have to be

tripled to be effective. He concluded that it makes more sense to allow out-of-state practitioners to practice telemedicine.

[1:58:22 PM](#)

SENATOR GIESSEL asked Dr. DePhillips if he agrees with the controlled substance provision in the bill.

DR. DEPHILLIPS said the Teledoc program is in 48 states and does not allow the prescribing of DEA controlled substances under any scenario. He noted prisons in Alaska as an exception.

[2:00:11 PM](#)

DR. JOHN PAPPENHEIM, representing himself, testified in opposition to SB 98. He said he is a psychiatrist and opined that while telemedicine and tele-psychiatry, when done appropriately, can provide safe and effective treatment while improving access to health care providers, SB 98 in its current form does not do that. He requested waiting for the State Medical Board to write telemedication regulations.

[2:01:30 PM](#)

SHEELA TALLMAN, Senior Manager of Legislative Policy, Premera Blue Cross Blue Shield of Alaska, testified in support of SB 98. She stated that telemedicine can reduce health care costs. She said this year Premera launched a virtual care benefit that enabled all members to access health-related services and information via a variety of telecommunication channels. She noted growing interest for those services. SB 98 will promote the use of telemedicine in Alaska.

SENATOR STOLTZE asked if other states have expanded telemedicine to outside the borders of the U.S.

MS. TALLMAN said they have been successful in other states, but she did not know about other countries.

SENATOR GIESSEL said Medicaid currently does not pay for providers outside Alaska. She asked if it does in other states.

MS. TALLMAN said yes.

[2:04:27 PM](#)

CRIAG KESTRAN, Senior Account Executive Benefits Manager, Alaska USA Insurance Brokers, testified in support of SB 98. He related that due to the doctor shortage, telemedicine is in name only. Telemedicine removes the barriers to entering the Alaska market

and makes quality health care available. It will provide for low-cost, high-quality health care.

[2:06:04 PM](#)

REBECCA LING, Director of Recovery Services, Cook Inlet Tribal Council, testified in support of SB 98. She spoke of the success of tele-psychiatry service for behavioral health issues provided by physicians outside the state, but licensed in Alaska. She said the services have been provided by the University of Colorado for seven years. She described how the process works. She spoke of the reluctance of patients to sign releases to share records with primary care physicians, which is required by law. She said Recovery Services does not prescribe medications other than basic medications. She said SB 98 would benefit their participants.

[2:08:23 PM](#)

CAM CARLSON, Public Member, Alaska State Medical Board, testified in opposition to SB 98. She said the previous bill, SB 281, did not assure that there would be a health care provider involved, nor did it provide an adequate standard of patient care. She maintained that the doctors calling from out of state are in it for the money.

[2:10:25 PM](#)

KATE BURKHARDT, Executive Director, Alaska Mental Health Board and Advisory Board on Alcoholism and Drug Abuse, testified in support of SB 98. She said she had concerns about out-of-state physicians and the sharing of patient records as contained in SB 281. She spoke about the use of telemedicine in the community behavior health system. She gave examples of who provides psychiatric services and the way the system is designed. She said a physician's relationship is created at the outset. She testified in favor of removing the provision that the physician must be inside the state. She also liked the consent request section in SB 98 because Section 2 alleviates their concerns.

[2:13:50 PM](#)

CHAIR STEDMAN closed public testimony.

MR. KOPP thanked the committee for hearing the bill.

CHAIR STEDMAN commented that they will work on the bill to rectify concerns.

CHAIR STEDMAN held SB 98 in committee.

**HCR 9-CONGENITAL DIAPHRAGM. HERNIA ACTION DAY**

[2:15:07 PM](#)

CHAIR STEDMAN announced the consideration of HCR 9.

[2:15:29 PM](#)

GRACE ABBOTT, Staff, Representative Charisse Millett, Alaska State Legislature, presented HCR 9 on behalf of the sponsor. She said the resolution proclaims April 19, 2015, as Congenital Diaphragmatic Hernia (CDH) Action Day. She read from the sponsor statement:

The diaphragm is formed in the first trimester of pregnancy and controls the lungs' ability to inhale and exhale. Congenital diaphragmatic hernias (CDH) occur when the diaphragm fails to form or to close totally and an opening allows abdominal organs into the chest cavity. This inhibits lung growth. CDH has a mortality rate of roughly 50%, and occurs in approximately 1 in every 2,500 births (1,600 cases in the U.S. each year). Of the 50% that do survive, most will endure long hospital stays, feeding issues, asthma and other problems. A few of the survivors suffer from severe long-term medical issues. The cause of CDH is not yet known.

CDH occurs as frequently as Spina Bifida and Cystic Fibrosis, yet there is comparatively very little research being done and virtually no media coverage. House Concurrent Resolution 9 aims to raise awareness of this condition, provide support and for victims and their families, and encourage the research needed to establish the cause and possible prevention by proclaiming April 19th, 2015 as a CDH Day of Action. CDH Days of Action for 2015 have been proclaimed in 14 states and 9 towns, including Anchorage.

She noted that the idea for the resolution was brought to the sponsor by a friend who lost their child to CDH. The sponsor hopes that the resolution will build support in communities for families that suffer from this disease and push the research community toward finding a cure.

[2:17:48 PM](#)

CHAIR STEDMAN opened public testimony.

TODD MEARS, representing himself, testified in support of HCR 9. He spoke as a father of a baby who died due to CDH. He said little was known about CDH. He said the bill is very important to him.

[2:19:46 PM](#)

DAWN WILLIAMSON, Cherubs, testified in support of HCR 9. She said the goal of the resolution is to raise awareness of CDH and to promote research. She shared statistics related to CDH. She said she has lost a child to CDH.

[2:21:49 PM](#)

CHAIR STEDMAN closed public testimony.

SENATOR STOLTZE noted that it is a sobering topic.

SENATOR ELLIS moved to report HCR 9 from committee with individual recommendations. There being no objection, the motion carried.

CHAIR STEDMAN noted the committee is taking special action to move the bill due to the magnitude of the issue.

[2:24:26 PM](#)

There being nothing further to come before the committee, Chair Stedman adjourned the Senate Health and Social Services Standing Committee at 2:24 p.m.