

CS FOR SENATE BILL NO. 89(2d L&C)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-FOURTH LEGISLATURE - SECOND SESSION

BY THE SENATE LABOR AND COMMERCE COMMITTEE

Offered:
Referred:

Sponsor(s): SENATORS TOBIN, Gray-Jackson, Giessel, Hughes

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to physician assistants; relating to collaborative agreements between
2 physicians and physician assistants; relating to the practice of medicine; relating to
3 health care providers; and relating to provisions regarding physician assistants in
4 contracts between certain health care providers and health care insurers."

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

6 * **Section 1.** AS 08.64.010 is amended to read:

7 **Sec. 08.64.010. Creation and membership of State Medical Board.** The
8 governor shall appoint a board of medical examiners, to be known as the State
9 Medical Board, consisting of five physicians licensed in the state and residing in as
10 many separate geographical areas of the state as possible, one physician assistant
11 licensed in the state [UNDER AS 08.64.107], and two persons with no direct
12 financial interest in the health care industry.

13 * **Sec. 2.** AS 08.64.107 is repealed and reenacted to read:

14 **Sec. 08.64.107. Scope of practice of physician assistants; collaborative**

1 **agreements.** (a) A physician assistant may provide any medical service for which the
2 physician assistant is qualified to provide by education, training, and experience and
3 competent to perform, including

4 (1) obtaining a patient's comprehensive health history and performing
5 a physical examination;

6 (2) evaluating, diagnosing, managing, and providing medical
7 treatment;

8 (3) ordering and evaluating a diagnostic study or therapeutic
9 procedure;

10 (4) performing limited sonography on a focused imaging target to
11 assess specific and limited information about a patient's medical condition or to
12 provide real-time visual guidance for another procedure;

13 (5) educating a patient on health promotion and disease prevention;

14 (6) providing medical consultation to patients or other health care
15 providers;

16 (7) writing a medical order;

17 (8) obtaining informed consent;

18 (9) supervising, delegating, and assigning therapeutic and diagnostic
19 measures to licensed or unlicensed personnel in accordance with regulations adopted
20 under AS 08.64.106;

21 (10) certifying the health or disability of a patient as required by a
22 local, state, or federal program;

23 (11) authenticating a document with the signature, certification, stamp,
24 verification, affidavit, or endorsement of the physician assistant if the document may
25 be authenticated by the signature, certification, stamp, verification, affidavit, or
26 endorsement of a physician;

27 (12) pronouncing death in accordance with AS 18.08.089;

28 (13) planning and initiating a therapeutic regimen that includes
29 ordering and prescribing nonpharmacological interventions; in this paragraph,
30 "nonpharmacological intervention" includes durable medical equipment, nutrition,
31 blood and blood products, diagnostic support services, home health care, hospice, and

1 physical and occupational therapy;

2 (14) prescribing schedule II, III, IV, and V controlled substances under
3 federal law and all federal legend drugs;

4 (15) administering and procuring drugs and medical devices;

5 (16) dispensing a drug if pharmacy services are not reasonably
6 available and dispensing the drug is in the best interest of the patient or an emergency
7 exists; and

8 (17) requesting, receiving, and signing for a professional sample and
9 distributing a professional sample to a patient; in this paragraph, "professional sample"
10 means a unit of a prescription drug that is not for sale and given at no cost to the
11 physician assistant to promote the drug's use.

12 (b) A physician assistant is responsible for the care provided to a patient by
13 the physician assistant.

14 (c) Except as provided in (d) of this section, a physician assistant may only
15 practice in the state under a written collaborative agreement entered into with a
16 physician licensed under this chapter or a physician exempt from licensing under
17 AS 08.64.370. The collaborative agreement must describe how the collaboration will
18 occur between the physician assistant and the physician. A physician assistant who is
19 practicing under a collaborative agreement shall provide to the board with the
20 physician assistant's application for licensure or renewal a written attestation that the
21 physician assistant is practicing under a collaborative agreement. The physician
22 assistant shall provide a copy of the written collaborative agreement to the board upon
23 request.

24 (d) A physician assistant may practice without a collaborative agreement if

25 (1) the physician assistant is practicing at

26 (A) a facility directed by a licensed physician, osteopath, or
27 podiatrist;

28 (B) a health care facility licensed by the Department of Health
29 under AS 47.32;

30 (C) a health care facility that is operated by the federal
31 government or a tribal organization as defined in 25 U.S.C. 450b;

1 (D) a federally qualified health center or rural health clinic; or

2 (E) a military and veterans' facility; or

3 (2) the board has, upon application of the physician assistant,
4 authorized the physician assistant to practice at a facility not described in (1) of this
5 subsection without obtaining a collaborative agreement.

6 * **Sec. 3.** AS 08.64 is amended by adding a new section to read:

7 **Sec. 08.64.206. Qualifications for physician assistant applicants.** Each
8 physician assistant applicant shall meet the qualifications prescribed in
9 AS 08.64.200(a)(3) - (5) and shall submit

10 (1) a certificate of graduation obtained from a physician assistant
11 program accredited, at the time of graduation, by

12 (A) the American Medical Association's Committee on Allied
13 Health Education and Accreditation or the Commission on Accreditation of
14 Allied Health Education Programs if the applicant graduated before January 1,
15 2001; or

16 (B) the Accreditation Review Commission on Education for the
17 Physician Assistant if the applicant graduated on or after January 1, 2001;

18 (2) proof of current certification issued by the National Commission on
19 Certification of Physician Assistants;

20 (3) proof of receiving a passing score on the physician assistant
21 national certifying examination offered by the National Commission on Certification
22 of Physician Assistants; and

23 (4) proof of any hours of postgraduate clinical experience obtained by
24 the applicant, including the specialties in which those hours were obtained.

25 * **Sec. 4.** AS 08.64.230 is amended by adding a new subsection to read:

26 (d) If a physician assistant applicant passes the examination and meets the
27 requirements of AS 08.64.206 and 08.64.255, the board or its executive secretary shall
28 grant a license to the applicant to practice the acts permitted under AS 08.64.107.

29 * **Sec. 5.** AS 08.64.250(a) is amended to read:

30 (a) The board may waive the examination requirement and license by
31 credentials if the physician, osteopath, physician assistant, or podiatry applicant

1 meets the requirements of AS 08.64.200, 08.64.205, 08.64.206, or 08.64.209, submits
2 proof of continued competence as required by regulation, pays the required fee, and
3 has

4 (1) an active license from a board of medical examiners established
5 under the laws of a state or territory of the United States or a province or territory of
6 Canada issued after thorough examination; or

7 (2) passed an examination as specified by the board in regulations.

8 * **Sec. 6.** AS 08.64.270(a) is amended to read:

9 (a) The board, a member of the board, the executive secretary, or a person
10 designated by the board to issue temporary permits may issue a temporary permit to
11 an [A PHYSICIAN APPLICANT, OSTEOPATH APPLICANT, OR PODIATRY]
12 applicant who meets the requirements of AS 08.64.200, 08.64.205, 08.64.206,
13 08.64.209, or 08.64.225 and pays the required fee.

14 * **Sec. 7.** AS 08.64.275(a) is amended to read:

15 (a) A member of the board, its executive secretary, or a person designated by
16 the board to issue temporary permits may grant a temporary permit to a physician,
17 [OR] osteopath, or physician assistant for the purpose of

18 (1) substituting for another physician, [OR] osteopath, or physician
19 assistant licensed in this state;

20 (2) being temporarily employed by a physician, [OR] osteopath, or
21 physician assistant licensed in this state while that physician, [OR] osteopath, or
22 physician assistant evaluates the permittee for permanent employment; or

23 (3) being temporarily employed by a hospital or community mental
24 health center while the facility attempts to fill a vacant permanent physician, [OR]
25 osteopath, or physician assistant staff position with a physician, [OR] osteopath, or
26 physician assistant licensed in this state.

27 * **Sec. 8.** AS 08.64.275 is amended by adding a new subsection to read:

28 (g) A physician assistant applying under (a) of this section shall pay the
29 required fee and shall meet the requirements of AS 08.64.206 and 08.64.279. In
30 addition, the physician assistant shall submit evidence of holding a license to practice
31 in a state or territory of the United States or in a province or territory of Canada.

1 * **Sec. 9.** AS 08.64.312(c) is amended to read:

2 (c) The board or its designee may exempt a physician, osteopath, [OR]
3 podiatrist, or physician assistant from the requirements of (b) of this section upon an
4 application by the physician, osteopath, [OR] podiatrist, or physician assistant giving
5 evidence satisfactory to the board or its designee that the physician, osteopath, [OR]
6 podiatrist, or physician assistant is unable to comply with the requirements because
7 of extenuating circumstances. However, a person may not be exempted from more
8 than 15 hours of continuing education in a five-year period; a person may not be
9 exempted from the requirement to receive at least two hours of education in pain
10 management and opioid use and addiction unless the person has demonstrated to the
11 satisfaction of the board that the person does not currently hold a valid federal Drug
12 Enforcement Administration registration number.

13 * **Sec. 10.** AS 08.64.326(a) is amended to read:

14 (a) The board may impose a sanction if the board finds after a hearing that a
15 licensee

16 (1) secured a license through deceit, fraud, or intentional
17 misrepresentation;

18 (2) engaged in deceit, fraud, or intentional misrepresentation while
19 providing professional services or engaging in professional activities;

20 (3) advertised professional services in a false or misleading manner;

21 (4) has been convicted, including conviction based on a guilty plea or
22 plea of nolo contendere, of

23 (A) a class A or unclassified felony or a crime in another
24 jurisdiction with elements similar to a class A or unclassified felony in this
25 jurisdiction;

26 (B) a class B or class C felony or a crime in another jurisdiction
27 with elements similar to a class B or class C felony in this jurisdiction if the
28 felony or other crime is substantially related to the qualifications, functions, or
29 duties of the licensee; or

30 (C) a crime involving the unlawful procurement, sale,
31 prescription, or dispensing of drugs;

1 (5) has procured, sold, prescribed, or dispensed drugs in violation of a
2 law regardless of whether there has been a criminal action or harm to the patient;

3 (6) intentionally or negligently permitted the performance of patient
4 care by persons under the licensee's supervision that does not conform to minimum
5 professional standards even if the patient was not injured;

6 (7) failed to comply with this chapter, a regulation adopted under this
7 chapter, or an order of the board;

8 (8) has demonstrated

9 (A) professional incompetence, gross negligence, or repeated
10 negligent conduct; the board may not base a finding of professional
11 incompetence solely on the basis that a licensee's practice is unconventional or
12 experimental in the absence of demonstrable physical harm to a patient;

13 (B) addiction to, severe dependency on, or habitual overuse of
14 alcohol or other drugs that impairs the licensee's ability to practice safely;

15 (C) unfitness because of physical or mental disability;

16 (9) engaged in unprofessional conduct, in sexual misconduct, or in
17 lewd or immoral conduct in connection with the delivery of professional services to
18 patients; in this paragraph, "sexual misconduct" includes sexual contact, as defined by
19 the board in regulations adopted under this chapter, or attempted sexual contact with a
20 patient outside the scope of generally accepted methods of examination or treatment of
21 the patient, regardless of the patient's consent or lack of consent, during the term of the
22 physician-patient relationship, as defined by the board in regulations adopted under
23 this chapter, unless the patient was the licensee's spouse at the time of the contact or,
24 immediately preceding the physician-patient relationship, was in a dating, courtship,
25 or engagement relationship with the licensee;

26 (10) has violated AS 18.16.010;

27 (11) has violated any code of ethics adopted by regulation by the
28 board;

29 (12) has denied care or treatment to a patient or person seeking
30 assistance from the licensee [PHYSICIAN] if the only reason for the denial is the
31 failure or refusal of the patient to agree to arbitrate as provided in AS 09.55.535(a);

1 (13) has had a license or certificate to practice medicine in another
2 state or territory of the United States, or a province or territory of Canada, denied,
3 suspended, revoked, surrendered while under investigation for an alleged violation,
4 restricted, limited, conditioned, or placed on probation unless the denial, suspension,
5 revocation, or other action was caused by the failure of the licensee to pay fees to that
6 state, territory, or province; or

7 (14) prescribed or dispensed an opioid in excess of the maximum
8 dosage authorized under AS 08.64.363.

9 * **Sec. 11.** AS 08.64.334 is amended to read:

10 **Sec. 08.64.334. Voluntary surrender.** The board, at its discretion, may accept
11 the voluntary surrender of a license. A license may not be returned unless the board
12 determines, under regulations adopted by it, that the licensee is competent to resume
13 practice. However, a license may not be returned to the licensee if the voluntary
14 surrender resulted in the dropping or suspension of civil or criminal charges against
15 the physician or physician assistant.

16 * **Sec. 12.** AS 08.64.336(a) is amended to read:

17 (a) A physician or physician assistant who professionally treats a person
18 licensed to practice medicine or osteopathy in this state for alcoholism or drug
19 addiction, or for mental, emotional, or personality disorders, shall report [IT] to the
20 board if there is probable cause that the person may constitute a danger to the health
21 and welfare of that person's patients or the public if that person continues in practice.
22 The report must state the name and address of the person and the condition found.

23 * **Sec. 13.** AS 08.64.336(e) is amended to read:

24 (e) A physician, physician assistant, hospital, hospital committee, or private
25 professional organization contracted with under AS 08.64.101(a)(5) to identify,
26 confront, evaluate, and treat individuals licensed under this chapter who abuse
27 addictive substances that in good faith submits a report under this section or
28 participates in an investigation or judicial proceeding related to a report submitted
29 under this section is immune from civil liability for the submission or participation.

30 * **Sec. 14.** AS 08.64.336(f) is amended to read:

31 (f) A physician, physician assistant, or hospital may not refuse to submit a

1 report under this section or withhold from the board or its investigators evidence
2 related to an investigation under this section on the grounds that the report or evidence

3 (1) concerns a matter that was disclosed in the course of a confidential
4 physician-patient or psychotherapist-patient relationship or during a meeting of a
5 hospital medical staff, governing body, or committee that was exempt from the public
6 meeting requirements of AS 44.62.310; or

7 (2) is required to be kept confidential under AS 18.23.030.

8 * **Sec. 15.** AS 08.64.360 is amended to read:

9 **Sec. 08.64.360. Penalty for practicing without a license or in violation of**
10 **law.** Except for [A PHYSICIAN ASSISTANT OR] a person licensed or authorized
11 under another law of the state who engages in practices for which that person is
12 licensed or authorized under that law, a person practicing medicine or osteopathy in
13 the state without a valid license or permit is guilty of a class A misdemeanor. Each day
14 of illegal practice is a separate offense.

15 * **Sec. 16.** AS 08.64.370 is amended to read:

16 **Sec. 08.64.370. Exceptions to application of chapter.** This chapter does not
17 apply to

18 (1) officers in the regular medical service of the armed services of the
19 United States or the United States Public Health Service while in the discharge of their
20 official duties;

21 (2) a physician, [OR] osteopath, or physician assistant licensed in
22 another state who is asked by a physician, [OR] osteopath, or physician assistant
23 licensed in this state to help in the diagnosis or treatment of a case, unless the
24 physician, osteopath, or physician assistant is practicing under AS 08.02.130(b);

25 (3) the practice of the religious tenets of a church;

26 (4) a physician or physician assistant in the regular medical service of
27 the United States Public Health Service or the armed services of the United States
28 volunteering services without pay or other remuneration to a hospital, clinic, medical
29 office, or other medical facility in the state;

30 (5) a person who is certified as a direct-entry midwife by the
31 department under AS 08.65 while engaged in the practice of midwifery whether or not

1 the person accepts compensation for those services;

2 (6) a physician **or physician assistant** licensed in another state who,
3 under a written agreement with an athletic team located in the state in which the
4 physician **or physician assistant** is licensed, provides medical services to members of
5 the athletic team while the athletic team is traveling to or from or participating in a
6 sporting event in this state.

7 * **Sec. 17.** AS 08.64.380(6) is amended to read:

8 (6) "practice of medicine" or "practice of osteopathy" means [:]

9 (A) for a fee, donation, or other consideration, to diagnose,
10 treat, operate on, prescribe for, or administer to [,] any human ailment,
11 blemish, deformity, disease, disfigurement, disorder, injury, or other mental or
12 physical condition; or to attempt to perform or represent that a person is
13 authorized to perform any of the acts set out in this subparagraph;

14 (B) to use or publicly display a title in connection with a
15 person's name **in such a manner as to show that the person is willing or**
16 **qualified to diagnose or treat the sick or injured,** including "doctor of
17 medicine," "physician," "M.D.," [OR] "doctor of osteopathic medicine," [OR]
18 "D.O.," **"physician assistant," or "P.A."** or a specialist designation,
19 including "surgeon," "dermatologist," or a similar title, **except that "practice**
20 **of medicine" or "practice of osteopathy" does not include the use of the**
21 **title "doctor" by a person holding a doctorate degree who is not a**
22 **physician or osteopath and who clearly communicates that the person is**
23 **not a physician or osteopath** [IN SUCH A MANNER AS TO SHOW THAT
24 THE PERSON IS WILLING OR QUALIFIED TO DIAGNOSE OR TREAT
25 THE SICK OR INJURED];

26 * **Sec. 18.** AS 08.64.380(7) is amended to read:

27 (7) "practice of podiatry" means the medical, mechanical, and surgical
28 treatment of ailments of the foot, the muscles and tendons of the leg governing the
29 functions of the foot, and superficial lesions of the hand other than those associated
30 with trauma; the use of preparations, medicines, and drugs as are necessary for the
31 treatment of these ailments; the treatment of the local manifestations of systemic

diseases as they appear in the hand and foot, except that

(A) a patient shall be concurrently referred to a physician, [OR] osteopath, **or physician assistant** for the treatment of the systemic disease itself;

(B) general anaesthetics may be used only in colleges of podiatry approved by the board and in hospitals approved by the joint commission on the accreditation of hospitals, or the American Osteopathic Association; and

(C) the use of X-ray or radium for therapeutic purposes is not permitted.

* **Sec. 19.** AS 11.71.900(20) is amended to read:

(20) "practitioner" means

(A) a physician, **physician assistant**, dentist, advanced practice registered nurse, optometrist, veterinarian, scientific investigator, or other person licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to, or to administer or use in teaching or chemical analysis a controlled substance in the course of professional practice or research in the state;

(B) a pharmacy, hospital, or other institution licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to, or to administer a controlled substance in the course of professional practice or research in the state;

* **Sec. 20.** AS 13.52.390(31) is amended to read:

(31) "physician assistant" means an individual licensed **as a physician assistant** under **AS 08.64** [AS 08.64.107].

* **Sec. 21.** AS 18.08.089(a) is amended to read:

(a) A mobile intensive care paramedic licensed under this chapter, a physician assistant registered or licensed under **AS 08.64** [AS 08.64.107], or an emergency medical technician certified under this chapter may make a determination and pronouncement of death of a person under the following circumstances:

(1) the mobile intensive care paramedic or emergency medical

1 technician is an active member of an emergency medical service certified under this
2 chapter;

3 (2) neither a physician licensed under AS 08.64 nor a physician
4 exempt from licensure under AS 08.64 is immediately available for consultation by
5 radio or telephone communications;

6 (3) the mobile intensive care paramedic, physician assistant, or
7 emergency medical technician has determined, based on acceptable medical standards,
8 that the person has sustained irreversible cessation of circulatory and respiratory
9 functions.

10 * **Sec. 22.** AS 21.07.010(b) is amended to read:

11 (b) A contract between a participating health care provider and a health care
12 insurer that offers a health care insurance policy may not contain a provision that

13 (1) has as its predominant purpose the creation of direct financial
14 incentives to the health care provider for withholding covered medical care services
15 that are medically necessary; nothing in this paragraph shall be construed to prohibit a
16 contract between a participating health care provider and a health care insurer from
17 containing incentives for efficient management of the utilization and cost of covered
18 medical care services;

19 (2) requires the provider to contract for all products that are currently
20 offered or that may be offered in the future by the health care insurer; [OR]

21 (3) requires the health care provider to be compensated for medical
22 care services performed at the same rate as the health care provider has contracted
23 with another health care insurer; or

24 **(4) imposes a practice, education, or collaboration requirement on**
25 **physician assistants that is inconsistent with or more restrictive than the**
26 **requirements imposed under AS 08.64 or a regulation adopted by the State**
27 **Medical Board.**

28 * **Sec. 23.** AS 23.30.395(3) is amended to read:

29 (3) "attending physician" means one of the following designated by the
30 employee under AS 23.30.095(a) or (b):

31 (A) a licensed medical doctor;

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- (B) a licensed doctor of osteopathy;
- (C) a licensed dentist or dental surgeon;
- (D) a licensed physician assistant [ACTING UNDER SUPERVISION OF A LICENSED MEDICAL DOCTOR OR DOCTOR OF OSTEOPATHY];
- (E) a licensed advanced practice registered nurse; or
- (F) a licensed chiropractor;

* **Sec. 24.** AS 33.30.901(10) is amended to read:

(10) "health care provider" means

- (A) a physician assistant licensed to practice in the state [AND WORKING UNDER THE DIRECT SUPERVISION OF A LICENSED PHYSICIAN OR PSYCHIATRIST];
- (B) a mental health professional as defined in AS 47.30.915; or
- (C) an advanced practice registered nurse as defined in AS 08.68.850;

* **Sec. 25.** AS 08.64.170(a)(1) is repealed.