

BRUCE E. GAGNON
ROBERT J. DICKSON
W. MICHAEL MOODY
PATRICK B. GILMORE
RICHARD E. VOLLERTSEN
NEIL T. O'DONNELL
JEROME H. JUDAY
CHRISTOPHER J. SLOTEE
SARAH A. MARSEY

LAW OFFICES OF
ATKINSON, CONWAY & GAGNON, INC.
A PROFESSIONAL CORPORATION
420 L STREET
SUITE 500
ANCHORAGE, ALASKA 99501

PHONE: (907) 276-1700
FAX: (907) 272-2082
www.acglaw.com
RETIRED
KENNETH R. ATKINSON
JOHN M. CONWAY
(1936-2009)

March 8, 2012

Stephen T. Rust, MD, FACP, FAAHPM
Director of Palliative Care
Providence Alaska Medical Center
3200 Providence Drive
Anchorage, AK 99508

Re: CSSB 172
Supplement to March 7 analysis

Dear Dr. Rust:

Mr. Jim Jordon, Executive Director of the Alaska State Medical Association has raised a very good point about the statutes governing physicians that require them to adhere to the AMA Code of Ethics. His point was passed on by Laurie Herman. The purpose of this is to follow-up on that point.

The bottom line is that the statutes and regulations governing physicians requires them to adhere to the nine AMA "Principles of Medical Ethics" appearing at the beginning of the book "Code of Medical Ethics" which includes both those principles as well as all of the opinions adopted by the AMA Counsel on Ethical and Judicial Affairs. None of those nine general principles specifically addresses end-of-life issues or Do Not Resuscitate orders. The closest one is principle VIII which states "a physician shall, while caring for a patient, regard responsibility to the patient as paramount." The nine "principles of medical ethics" do not include the specific ethics opinions referenced in our letter of March 7th.

The details are that Chapter 64 of Title 8 of the Alaska Statutes is the chapter that governs the Alaska State Medical Board, physician licensing, and physician discipline. A.S. 08.64.326(a)(11) states:

The board may impose a sanction if the board finds after a hearing that a licensee . . .

* * *

(11) Has violated any code of ethics adopted by regulation by the board;

The State Medical Board has adopted regulations which include 12 AAC 40.955 entitled "Ethical Standards." 12 AAC 40.955(a) states:

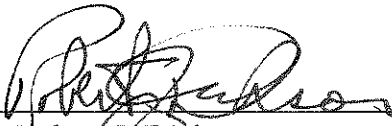
The Principles of Medical Ethics of The American Medical Association on p.xiv of the 2002 – 03 Edition of the Council on Ethical and Judicial Affairs, Code of Medical Ethics, published by the American Medical Association are adopted by reference as the ethical standards for physicians and applies to all physicians subject to this chapter.

The AMA publishes its Code of Medical Ethics which includes the nine "Principles of Medical Ethics" now appearing on p.xv of the 2006 – 07 Edition; but they are the same as those referenced in the 2002 – 03 Edition. The "Code of Medical Ethics" includes both these general principles and over 300 pages of ethics opinions on various matters which have been adopted by the Council on Ethical and Judicial Affairs. The State Medical Board's regulation does not explicitly incorporate all of these opinions. But from our conversation with Mr. Jordon, Executive Director of the Alaska State Medical Association, we understand that the State Medical Board interprets its own regulation to include not just simply the nine general principles, but also all of the opinions that are published as part of the "Code of Medical Ethics" by the AMA.

That being the case, requiring a physician to perform or authorize a resuscitation when he did not think it was medically effective or ethical would put him in the impossible position of either violating the new provisions of the Alaska Health Care Act as amended by CSSB 172 or violating the State Medical Board's disciplinary statutes.

Very truly yours,

ATKINSON, CONWAY & GAGNON

By 
Robert J. Dickson

RJD/jkh

114842/5000.9999