HOUSE BILL NO. 319

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-EIGHTH LEGISLATURE - SECOND SESSION

BY REPRESENTATIVE TAMMIE WILSON

Introduced: 2/21/14
Referred: Health and Social Services, Labor and Commerce

A BILL

FOR AN ACT ENTITLED

"An Act relating to wholesale drug or device distributors; relating to prescription benefits under the state health insurance plan; and providing for an effective date."

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

*** Section 1.** AS 08.80.157(h) is amended to read:

(h) The board may suspend, revoke, deny, or refuse to renew the license of a facility or pharmacy on the following grounds:

(1) the finding by the board of violations of a federal, state, or local law relating to the practice of pharmacy, drug samples, wholesale or retail drug or device distribution, or distribution of controlled substances;

(2) a felony conviction under federal, state, or local law of an owner of the facility or pharmacy or of an employee of the facility or pharmacy;

(3) the furnishing of false or fraudulent material in an application made in connection with drug or device manufacturing or distribution;

(4) suspension or revocation by federal, state, or local government of a

license currently or previously held by the applicant for the manufacture or distribution of drugs or devices, including controlled substances;

(5) obtaining remuneration by fraud, misrepresentation, or deception;

(6) dealing with drugs or devices that are known or should have been known to be stolen drugs or devices;

(7) dispensing or distributing drugs or devices directly to patients by a wholesale drug **or device** distributor other than a pharmacy;

(8) violation of this chapter or a regulation adopted under this chapter.

*** Sec. 2.** AS 08.80 is amended by adding a new section to read:

Sec. 08.80.159. Registration of wholesale drug or device distributors located outside of state. (a) A wholesale drug or device distributor located outside of the state that regularly ships, mails, or delivers drugs or devices to vendors in the state shall register with the board.

(b) A wholesale drug or device distributor registering with the board under (a) of this section shall furnish to the board annually, and within 30 days after a change of ownership, location, or name,

(1) the location, names, and titles of all principal corporate officers and managers who are involved in shipping drugs or devices to vendors in the state;

(2) a copy of a current valid license, permit, or registration to conduct operations in the jurisdiction in which the wholesale drug or device distributor is located and a copy of the most recent report resulting from an inspection of the wholesale drug or device distributor by the regulatory or licensing agency of the jurisdiction in which the wholesale drug or device distributor is located;

(3) a sworn statement indicating that the wholesale drug or device distributor is in compliance with all lawful directions and requests for information from the regulatory or licensing authority of the jurisdiction in which the wholesale drug or device distributor is located; and

(4) proof satisfactory to the board that the wholesale drug or device distributor maintains its records of drugs and devices dispensed to vendors in the state so that the records are readily retrievable from the records of other items dispensed by the wholesale drug or device distributor.

(c) The board may, after a hearing, deny, revoke, or suspend the registration of a wholesale drug or device distributor located outside of the state and subject to this section if the wholesale drug or device distributor fails to comply with the requirements of this section or if the license, permit, or registration of the wholesale drug or device distributor is denied, revoked, or suspended by the licensing or regulatory agency of the jurisdiction in which the wholesale drug or device distributor is located.

(d) A wholesale drug or device distributor located outside of the state that is subject to this section but is not registered with the board under this section may not ship, mail, or deliver drugs or devices to the state and may not advertise its services in the state.

(e) A wholesale drug or device distributor subject to this section shall appoint a registered agent in the state who is empowered to accept, on behalf of the wholesale drug or device distributor, process, notice, and demand required or permitted by law to be served on the wholesale drug or device distributor. If the wholesale drug or device distributor fails to appoint an agent under this subsection, if the registered agent cannot with reasonable diligence be found at the registered office, or if the registration of the wholesale drug or device distributor is suspended or revoked, the commissioner of commerce, community, and economic development is an agent on whom process, notice, or demand may be served. Service on the commissioner shall be made in the same manner as provided for corporations under AS 10.06.175(b), except that for the purposes of AS 10.06.175(b)(2)(A) the address shall be the last registered address of the wholesale drug or device distributor as shown on the records of the board.

(f) The board shall by regulation define "regularly" for this section.

*** Sec. 3.** AS 08.80.480(36) is amended to read:

(36) "wholesale drug **or device** distributor" means anyone engaged in wholesale distribution of drugs **or devices**, including [BUT NOT LIMITED TO] manufacturers; repackagers; own-label distributors; private label distributors; jobbers; brokers; warehouses, including manufacturers' and distributors' warehouses; chain drug **or device** warehouses; wholesale drug **or device** warehouses; independent wholesale drug **or device** traders; and retail pharmacies that conduct wholesale

distributions.

*** Sec. 4.** AS 11.71.020(b) is amended to read:

(b) In a prosecution under (a) of this section, possession of more than six grams of the listed chemicals ephedrine, pseudoephedrine, phenylpropanolamine, or the salts, isomers, or salts of isomers of those chemicals is prima facie evidence that the person intended to use the listed chemicals to manufacture, to aid or abet another person to manufacture, or to deliver to another person who intends to manufacture methamphetamine, its immediate precursors, or the salts, isomers, or salts of isomers of methamphetamine or its immediate precursors. The prima facie evidence described in this subsection does not apply to a person who possesses

(1) the listed chemicals ephedrine, pseudoephedrine, phenylpropanolamine, or the salts, isomers, or salts of isomers of those chemicals

(A) and the listed chemical was dispensed to the person under a valid prescription; or

(B) in the ordinary course of a legitimate business, or an employee of a legitimate business, as a

(i) retailer or as a wholesaler;

(ii) wholesale drug **or device** distributor licensed **or registered** by the Board of Pharmacy;

(iii) manufacturer of drug products licensed by the Board of Pharmacy;

(iv) pharmacist licensed by the Board of Pharmacy; or

(v) health care professional licensed by the state; or

(2) less than 24 grams of ephedrine, pseudoephedrine, phenylpropanolamine, or the salts, isomers, or salts of isomers of those chemicals, kept in a locked storage area on the premises of a legitimate business or nonprofit organization operating a camp, lodge, school, day care center, treatment center, or other organized group activity, and the location or nature of the activity, or the age of the participants, makes it impractical for the participants in the activity to obtain medicinal products.

*** Sec. 5.** AS 11.71.210(b) is amended to read:

(b) This section does not apply to a person who lawfully purchases or receives

(1) more than six grams of a listed chemical identified in (a) of this section

(A) that was dispensed to the person under a valid prescription; or

(B) in the ordinary course of a legitimate business, or to an employee of a legitimate business, as a

(i) retailer or as a wholesaler;

(ii) wholesale drug **or device** distributor licensed **or registered** by the Board of Pharmacy;

(iii) manufacturer of drug products licensed by the Board of Pharmacy;

(iv) pharmacist licensed by the Board of Pharmacy; or

(v) health care professional licensed by the state; or

(2) more than six but less than 24 grams of a listed chemical identified in (a) of this section in the ordinary course of a legitimate business or nonprofit organization, or as an employee of a legitimate business or nonprofit organization, operating a camp, lodge, school, day care center, treatment center, or other organized group activity, and the location or nature of the activity, or the age of the participants, makes it impractical for the participants in the activity to obtain medicinal products.

*** Sec. 6.** AS 21.36.090(d) is amended to read:

(d) Except to the extent necessary to comply with AS 21.42.365 and AS 21.56, a person may not practice or permit unfair discrimination against a person who provides a service covered under a group health insurance policy that extends coverage on an expense incurred basis, or under a group service or indemnity type contract issued by a health maintenance organization or a nonprofit corporation, if the service is within the scope of the provider's occupational license. In this subsection, "provider" means a state licensed physician, physician assistant, dentist, osteopath, optometrist, chiropractor, nurse midwife, advanced nurse practitioner, naturopath, physical therapist, occupational therapist, marital and family therapist, psychologist, psychological associate, licensed clinical social worker, licensed professional

counselor, [OR] certified direct-entry midwife**, pharmacy, or pharmacist**.

*** Sec. 7.** AS 21.55.110 is amended to read:

Sec. 21.55.110. Minimum benefits of state health insurance plan. Except as provided in AS 21.55.120 - 21.55.140, the minimum standard benefits of a health insurance plan offered under AS 21.55.100(a) shall be benefits with a lifetime maximum of $1,000,000 for each individual for usual, customary, reasonable, or prevailing charges or, when applicable, the allowance agreed upon between a provider and the plan administrator for charges. The minimum standard benefits of the plan must cover the following medical services performed for an individual covered by the plan for the diagnosis or treatment of nonoccupational disease or nonoccupational injury:

(1) hospital services;

(2) subject to the limitations of AS 21.36.090(d), professional services that are rendered by a physician or by a registered nurse at the physician's direction, other than services for mental or dental conditions;

(3) the diagnosis or treatment of mental conditions, as defined in regulations of the director, rendered during the year on other than an inpatient basis, up to a yearly maximum benefit of $4,000;

(4) legend drugs requiring a physician's prescription;

(5) services of a skilled nursing facility for not more than 120 days in a policy year;

(6) home health agency services up to a maximum of 270 visits in a calendar year if the services commence within seven days following confinement in a hospital or skilled nursing facility of at least three consecutive days for the same condition, except that**,** in the case of an individual diagnosed by a physician as terminally ill with a prognosis of six months or less to live, the home health agency services may commence irrespective of whether the covered person was previously confined or, if the covered person was confined, irrespective of the seven-day period, and the yearly benefit for medical social services may not exceed $200;

(7) hospice services for up to six months in a calendar year;

(8) use of radium or other radioactive materials;

(9) outpatient chemotherapy;

(10) oxygen;

(11) anesthetics;

(12) nondental prosthesis and maxillo-facial prosthesis used to replace any anatomic structure lost during treatment for head and neck tumors or additional appliances essential for the support of the prosthesis;

(13) rental, or purchase if purchase is more **cost-effective** [COST EFFECTIVE] than rental, of durable medical equipment that has no personal use in the absence of the condition for which it was prescribed;

(14) diagnostic x-rays and laboratory tests;

(15) oral surgery for excision of partially or completely unerupted impacted teeth or excision of a tooth root without the extraction of the entire tooth;

(16) services of a licensed physical therapist rendered under the direction of a physician;

(17) transportation by a local ambulance operated by licensed or certified personnel to the nearest health care institution for treatment of the illness or injury and round trip transportation by air to the nearest health care institution for treatment of the illness or injury if the treatment is not available locally; if the patient is a child under 12 years of age, the transportation charges of a parent or legal guardian accompanying the child may be paid if the attending physician certifies the need for the accompaniment;

(18) confinement in a licensed or certified facility established primarily for the treatment of alcohol or drug abuse, or in a part of a hospital used primarily for this treatment, for a period of at least 45 days within any calendar year;

(19) alternatives to inpatient services as defined by the association in the state plan benefits;

(20) second surgical opinions;

(21) other services that are medically necessary in the treatment or diagnosis of an illness or injury as may be designated or approved by the director**;**

(22) compounded prescriptions, regardless of whether the compounded prescription contains a legend drug.

*** Sec. 8.** This Act takes effect July 1, 2014.