



State of Alaska
Department of Health & Social Services
29th Alaska State Legislature – Work Draft Review

Bill Number//Law Log: SB 98

Bill Sponsor: Senator Micciche

Bill Short Title: Prescription Without Phys. Exam

Division: Health and Social Services

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Please note: The Department of Health and Social Services strives to provide timely programmatic input on proposed work drafts to assist with an efficient flow of legislation through the committee process. Nothing in this document should be construed as support or opposition for the proposal.

Preliminary Comments About Bill/Program Effects

The Department of Health and Social Services (DHSS) appreciates the sponsor offering SB 98, as the success of one of the bill's provisions is critical to ensuring Alaskans do not lose access to quality, appropriate, needed psychiatric care.

Background:

Due to a severe shortage of licensed psychiatrists physically located in the state, many Alaska health care providers have historically contracted with psychiatrists who are licensed by the State Medical Board to practice in Alaska, but who are physically located elsewhere.

In 2014, the Legislature passed HB 281, which added a new AS 08.64.364 prohibiting the Alaska State Medical Board from disciplining a licensee for prescribing, dispensing, or administering medications without conducting a physical examination, as long as the licensee meets certain criteria – including one requirement that they be physically located in the state at the time the prescription is made [reference: AS 08.64.364(a)(2)]. This change has, unfortunately, brought a damaging unintended consequence: it has exacerbated the state's shortage of available psychiatric care, as some established providers are now unwilling to continue providing the same quality, appropriate, needed care through high-quality telehealth practice from outside the state for fear of sanction by the Board. *For this reason, it is critical to Alaska's behavioral health care system (as well as public health and safety in the state) that SB98's provision eliminating the in-state requirement from AS08.64.346(a)(2) becomes law – either through SB98 or another vehicle.*

DHSS believes it is also important to ensure medical professionals understand the full intent of legislators. At this point, it appears the primary intent is to prevent corporations from becoming controlled pain medication mills and billing for this with impunity by providing nothing more than a brief over the phone patient-doctor encounter. For public health and safety, it is possible to also articulate another intent: to prevent out of state health care corporations from prescribing potent non-controlled substances such as antibiotics, antipsychotics, etc. with nothing more than a phone call with a patient and no responsible plan for follow-up care in person as needed.

Amendments Proposed

Conceptual Amendment #1

In 29-LS0838\A Section 1: The double negatives in this section are a source of confusion. Can the sponsor please clarify intent in this section? Is there a way to express that intent without the use of a double negative, to limit possible confusion among health care providers, employers, and others?

Intent: Physicians must either be located in the state or, if out of the state, have another licensed health care provider in the physician's group practice available to provide follow-up care.

Conceptual Amendment #2

In 29-LS0838\A Section 2, at page2/line15: To AS 08.64.364's proposed new subsection (c), also include "certified" and "competent". This would read: "appropriate licensed, *certified*, or *competent* health care provider is present with the patient to assist the physician with examination, diagnosis, and treatment".

- "Certified" is needed because Behavioral Health Aides, Community Health Aides, and Community Health Practitioners are all certified, but not licensed. These appropriate health providers are often the only persons staffing clinics in rural communities.
- "Competent" is needed because some care providers (such as psychiatric nurse assistants) are not certified, but are competent in taking vital signs and documenting patient behavior. There may also be staff who are competent (as measured by education, training, supervision, and skill demonstration) to perform these basic functions in village clinics. Clinics, hospitals, and centers that are accredited by The Joint Commission and the Commission on Accreditation of Rehabilitation Facilities all share this definition of "competent".

To ensure Rural Alaskans' access to psychiatric services in their communities, it is necessary to ensure village-based aides are included in any definition.