

Senator Peter A. Micciche

Alaska State Legislature

SESSION ADDRESS:

Alaska State Capitol, Rm. 514

Juneau, Alaska 99801-1182

Phone: (907) 465-2828

Fax: (907) 465-4779

Toll Free: (800) 964-5733



INTERIM ADDRESS:

145 Main Street Loop, Suite #226

Kenai, Alaska 99611-7771

Phone: (907) 283-7996

Fax: (907) 283-8127

Toll Free: (800) 964-5733

To: Senator Bert Stedman
Chair, Senate Health & Social Services Committee

From: Senator Peter Micciche

A handwritten signature in blue ink that reads "P. A. Micciche".

Date: January 24, 2016

Re: SB 98 - Response to State Medical Board letter of 01/22/16

Please consider this response to the recent memo from the State Medical Board delivered via email on Friday, January 22, 2016.

Lowering the cost of healthcare and improving access are goals the state has been pursuing in earnest for several years now. I am grateful that Gov. Parnell allowed HB281, an Act that enabled the buildout of telemedicine healthcare practice in Alaska, to go into law over and above the Medical Board's objection. The Act passed the legislature on a near unanimous vote. The Board's subsequent Resolution calling for the Repeal of HB281 was a disappointing reaction to this important legislation prohibiting the Board from disciplining physicians for carrying out their medical practice via telemedicine to numerous beneficiaries in rural communities across our state.

The Board takes issue with my adding "*diagnosis and treatment*" to the care continuum of a telemedicine consult, yet the [Model Policy For The Appropriate Use of Telemedicine Technologies in the Practice of Medicine](#) that the State Medical Board refers to in its own [guidelines on telemedicine](#) as the standard of care that must be employed states in *Section Two. Establishing the Physician-Patient Relationship* –

"The relationship is clearly established when the physician agrees to undertake diagnosis and treatment of the patient, and the patient agrees to be treated, whether or not there has been an encounter in person between the physician (or other appropriately supervised health care practitioner) and patient"(emphasis added).

The Board correctly points out that SB 98 expands telemedicine practice to out-of-state Alaska-licensed physicians, however, the prescription of controlled substances was already allowed

under HB 281, as long as a licensed health care provider was with the patient to assist the prescribing physician with examination, diagnosis and treatment. This is not new in SB 98. Further, SB 98 specifically does nothing to remove the Alaska-licensed physician requirement to practice in Alaska.

The Medical Board's letter describing conduct that they sanction is very disturbing in that it shows a significant recalcitrance to the passage of HB 281 which explicitly allows the establishment of a physician-patient relationship, within proper protocols, without an in-person encounter. The standard of practice the Board speaks against is exactly what they recommend as best practice in their guidelines to physicians on telemedicine, mentioned above. Over 20% of Americans today choose to NOT have an ongoing relationship with a primary care provider. Further, the only evidence supporting the benefits of a prior primary care provider (PCP) relationship is in pediatric and some adult patients with ongoing chronic medical conditions. For the rest of the American population, there is little evidence of improved outcomes related to a prior PCP relationship.

In October 2015 my staff contacted the Board on their posted Guidelines and Policies concerning telemedicine. We had physicians and nurse practitioners tell us that the guidelines had inaccurate statements and misrepresentations of what was currently allowed in the law as a result of HB 281. In response, the Board pulled the Telemedicine guideline and posted the current version which refers to the "Model Policy for the Appropriate Use of Telemedicine Technologies in the Practice of Medicine" as best practice of care for telemedicine. SB 98 is entirely consistent with this model policy.

Further, all federal programs in Alaska have successfully used telemedicine per the terms of HB 281 and the proposed SB 98 for many years with no degradation in patient outcomes. Yet the Board considers this type of telemedicine practice to be unprofessional conduct.

The Board speaks of the following possible consequences to telemedicine legislation:

1. *A potential for missed diagnoses and overprescribing associated with no physical examination of the patient.*

Response - The data is very clear; both patient outcomes as well as prescribing rates are exactly the same with telemedicine as for similar visits to an in-person physician visit. Further, the complete resolution rate for medical problems in telemedicine over a 30 day follow up period is 92%; that same rate for in person visits is only 88%. (RAND Corporation study of 300,000 telemedicine recipients as published in *Health Affairs*, February, 2014.)

2. *Unintended negative consequences of the proposed legislation on current medical practice in Alaska (for example, the abrupt loss of psychiatric care for multiple communities in rural Alaska).*

Response - This assertion makes absolutely no sense. There is a SEVERE shortage of behavioral health professionals in Alaska (in all states, actually) and telemedicine would

absolutely improve access and lower costs (travel and otherwise) for all Alaskans who seek behavioral health services.

3. *Potential liability and investigative costs related to misdiagnosis or mismanagement with resultant poor outcomes.*

Response - The data clearly shows similar patient outcomes related to diagnosis and management in telemedicine programs. There is no basis for this assertion.

4. *Decreasing the standard of care throughout Alaska.*

Response - I am not sure how increasing access to high quality medical care reduces the standard of care. Are all Alaskans who receive care via federal programs, where telemedicine has been in place for many years, receiving inferior care with associated poorer outcomes? No.

5. *Setting practice standards by statute, written by venture capitalists, instead of expert Medical Board members whom you appointed and confirmed.*

Response - If the medical board acted in the best interests of the citizens in Alaska who they are supposed to be serving, there would be no need for legislation. It is rather insulting to assert that lawmakers in Alaska allow laws to be written by "venture capitalists." Further, companies like Alaska Airlines, Aetna, Premera, GCI, Costco, Home Depot, Fred Meyer, and many others have already elected this form of care benefit. Are they all wrong?

In conclusion, the Medical Board says that it exists to maintain the highest standards of patient care. I can only say that it would be good to see them act like it. The Medical Board has been screening and qualifying physicians out of state and granting them licenses to treat the citizens of Alaska for decades. Their position now on SB 98 and on the current law (HB 281) implies that they feel those doctors are no longer qualified to treat Alaska citizens, but the licensees who reside in the state are somehow superior. Something is wrong when our Medical Board would allow a physician in Ketchikan to provide telemedicine care for a patient in Point Hope, and disallow a Seattle-based, Alaska-licensed physician to care for a patient in Ketchikan.