

Alaska State Medical Association

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February 25, 2016

The Honorable Mia Costello
Alaska State Senate
State Capitol Room 510
Juneau, AK 99801

RE: Senate Bill 98 Version \W

Dear Senator Costello:

The Alaska State Medical Association (ASMA) represents physicians statewide and is primarily concerned with the health of all Alaskans.

ASMA appreciates your past efforts and willingness to work with us and values our relationship with you.

As currently written the Alaska State Medical Association strongly opposes Senate Bill 98.

During the 28th Legislature House Bill 281 was passed that expanded the use of telemedicine by allowing physicians to prescribe medication via telemedicine without conducting a physical exam of the patient and without establishing a physician-patient relationship. That legislation was introduced because the Alaska State Medical Board's practice standards required that in order to practice telemedicine and issue a prescription the physician needed to have conducted a physical exam of the patient and established a physician-patient relationship, or have an appropriate licensed health care provider present with the patient on the other end of the phone call to assist the tele-health physician with their examination and diagnosis process. During the legislative process the Alaska State Medical Board strongly opposed that legislation.

Although many of our members had concerns over the expansion in HB 281 with the removal of both the requirements that (1) a physician had to have conducted a physical examination, and (2) that a physician-patient relationship be required prior to issuing a diagnosis and prescription, the Alaska State Medical Association adopted a neutral position after sideboards were placed in the legislation. Those standards of care sideboards required:

1. The prescription not be a controlled substance,
2. The physician be located in Alaska,
3. The physician or another physician in group practice is available to provide follow-up care,
4. The patient consent to sending a copy of the records to the patient's primary care provider.

These provisions were adopted by the Legislature with the intent to allow for a cautious step expanding telemedicine while also ensuring patient care was protected.

Current SB 98 removes one of the primary patient protections and lowers the standard of care. Those patient protection sideboards requiring the physician to be located in Alaska were the provisions in HB 281 that allowed ASMA to adopt a neutral position on HB 281 in the 28th Legislature. Although some have accused the Association of being

parochial there is a real benefit and protection to patients seeing physicians that understand Alaska and its unique needs.

By exempting telemedicine from the requirement that there be a physician-patient relationship the legislation greatly reduced patient protections. It is important that under these circumstances the physician be an Alaska-based physician. We believe that utilizing Alaska-based physicians helps mitigate the lack of a physician-patient relationship. We believe that Alaska-based physicians will be better equipped to make appropriate referrals to local physicians than a physician based in the Lower 48. Telemedicine can be a very useful tool in providing for access to healthcare and ASMA supports its use when appropriate. However, a physician in Topeka, Kansas won't understand the healthcare choices available to a patient in Lime Village versus Wasilla, Anchorage, or Sitka. Each of those areas can drive a different decision on how best to proceed with a phone consultation.

What telemedicine shouldn't be is a "one call gets it all" free for all for prescriptions. Or a "doc in a box" in some town that is more concerned about reimbursements than the appropriate care of Alaskan patients.

That said, if the Legislature does move SB 98 forward we believe the bill should be amended to add the following patient protections:

- 1) The Alaska State Medical Board and licensing operations are already overworked with significant delays in licensing new physicians. We don't believe the Board and licensing operations can adequately handle the burden of policing physicians nationally and possibly internationally. We believe requiring businesses to register with the Board prior to offering telemedicine services in Alaska would assist the Board in understanding who is practicing telemedicine in Alaska and also allow for a more efficient regulatory oversight of this broad expansion. Legitimate businesses conducting telemedicine within nationally recognized model policies should not have any issues with that requirement. Therefore, ASMA suggests the following concepts be incorporated into the bill:

An out-of-State business offering telemedicine services in Alaska that includes prescribing medicine shall register with the Board before providing or facilitating treatment to patients. The Board may, by regulation, adopt standards for telemedicine businesses to ensure telemedicine services are in line with national telemedicine standards of care. The Board may investigate whether a telemedicine business is in compliance with national standards of telemedicine. The Board shall adopt regulations for taking actions to revoke a registration.

- 2) Recognizing that concerns have been expressed from telemedicine providers over the Board regulating telemedicine we suggest the Legislature provide direction on the regulatory standards through intent language. ASMA suggests the following language be adopted:

The legislature intends the Board utilize a nationally recognized Model Policy as a foundation for establishing Standards of Care for Telemedicine such as those developed by Federation of State Medical Boards or other nationally recognized policies on Telemedicine.

- 3) Ensure that Alaska scope of practice must be followed regardless of scope of practice in the State the physician is physically located. ASMA suggests:

This section shall not be construed to alter the scope of practice of any health care provider or authorize the delivery of health care services in a setting or in a manner not otherwise authorized by this state.

- 4) Ensure that a physician-patient relationship is established prior to a prescription being issued. ASMA suggests:

Telemedicine that results in prescription of medication shall not be utilized by a physician with respect to any patient located in Alaska in the absence of a physician-patient relationship.

- 5) Place sideboards on the ability to prescribe medication to mitigate against unscrupulous practices. ASMA suggests:

Without a prior and proper physician-patient relationship, physicians are prohibited from issuing prescriptions solely in response to an Internet questionnaire, email message, or audio-only telephone consult.

ASMA requests that if SB 98 passes out of committee it be amended as suggested above.

Sincerely,

A handwritten signature in cursive script, appearing to read "Michael Haugen", followed by a long horizontal flourish.

Michael Haugen
Executive Director
Alaska State Medical Association

cc: Senator Peter Micciche
Members of the Senate Labor and Commerce Committee