

AMENDMENT #4

OFFERED IN THE HOUSE  
TO: HB 338

BY REPRESENTATIVE ALLARD

1 Page 1, lines 1 - 2:

2 Delete "physician liability for gender transition procedures performed on  
3 minors;"

4 Insert "physician liability for sex-reassignment treatments or procedures  
5 performed on minors; establishing the crime of criminal sex-reassignment treatment or  
6 procedure; relating to standardized informed consent forms for sex-reassignment  
7 treatments or procedures; relating to the duties of the State Medical Board; relating to  
8 informed consent for sex-reassignment treatments or procedures performed on minors;"

9

10 Page 1, following line 3:

11 Insert new bill sections to read:

12 **\*\* Section 1.** AS 08.64.101(a) is amended to read:

13 (a) The board shall

14 (1) except as provided in regulations adopted by the board under (b) of  
15 this section, examine and issue licenses to applicants;

16 (2) develop written guidelines to ensure that licensing requirements are  
17 not unreasonably burdensome and the issuance of licenses is not unreasonably  
18 withheld or delayed;

19 (3) after a hearing, impose disciplinary sanctions on persons who  
20 violate this chapter or the regulations or orders of the board;

21 (4) adopt regulations ensuring that renewal of licenses is contingent on  
22 proof of continued competency on the part of the licensee;

23 (5) under regulations adopted by the board, contract with private

1 professional organizations to establish an impaired medical professionals program to  
 2 identify, confront, evaluate, and treat persons licensed under this chapter who abuse  
 3 alcohol, other drugs, or other substances or are mentally ill or cognitively impaired;

4 (6) adopt regulations that establish guidelines for a physician or  
 5 physician assistant who is rendering a diagnosis, providing treatment, or prescribing,  
 6 dispensing, or administering a prescription drug to a person without conducting a  
 7 physical examination under AS 08.64.364; the guidelines must include a nationally  
 8 recognized model policy for standards of care of a patient who is at a different location  
 9 than the physician or physician assistant;

10 (7) require that a licensee who has a federal Drug Enforcement  
 11 Administration registration number register with the controlled substance prescription  
 12 database under AS 17.30.200(n);

13 **(8) create a standardized informed consent form that complies**  
 14 **with AS 08.64.135 for a patient to complete before a physician performs a sex-**  
 15 **reassignment treatment or procedure.**

16 \* **Sec. 2.** AS 08.64 is amended by adding a new section to read:

17 **Sec. 08.64.135. Standardized informed consent form for sex-reassignment**  
 18 **treatments or procedures.** The board shall require a physician to provide a  
 19 standardized informed consent form to a patient at every visit for a sex-reassignment  
 20 treatment or procedure for a period of not less than one year. The form must state the  
 21 following in a font not smaller than 14 points:

22 (1) the United States Food and Drug Administration has not approved  
 23 the use of puberty blockers or the prescription or administration of hormones or  
 24 hormone antagonists for the purpose of treating gender dysphoria or gender  
 25 incongruence;

26 (2) governments of other countries, including the United Kingdom,  
 27 Sweden, and Finland, have studied the use of puberty blockers and the prescription or  
 28 administration of hormones or hormone antagonists and have concluded that there is  
 29 no reliable evidence to support the notion that the potential benefits of these treatments  
 30 outweigh the risks; these governments instead recommend psychotherapy as the first  
 31 line of treatment for minors with gender dysphoria;

1 (3) the use of puberty blockers or the prescription or administration of  
2 hormones or hormone antagonists for the purpose of treating gender dysphoria or  
3 gender incongruence

4 (A) increases the risk that a minor will become sterile,  
5 preventing future conception of a child;

6 (B) carries the risk of physical harm, including decreased bone  
7 density, heart disease, stroke, and cancer;

8 (C) has unknown effects on the brain development of minors.

9 \* **Sec. 3.** AS 08.64.380 is amended by adding a new paragraph to read:

10 (8) "sex-reassignment treatment or procedure" has the meaning given  
11 in AS 11.41.240(d)"

12  
13 Page 1, line 4:

14 Delete "**Section 1**"

15 Insert "**Sec. 4**"

16  
17 Renumber the following bill sections accordingly.

18  
19 Page 2, following line 13:

20 Insert a new bill section to read:

21 \*\* **Sec. 6.** AS 09.55.556 is amended by adding a new subsection to read:

22 (c) An individual under 18 years of age may not consent to a sex-reassignment  
23 treatment or procedure. In this section, "sex-reassignment treatment or procedure" has  
24 the meaning given in AS 11.41.240(d)."

25  
26 Renumber the following bill sections accordingly.

27  
28 Page 2, line 15:

29 Delete "**gender transition**"

30 Insert "**sex-reassignment treatments or**"

31

1 Page 2, line 16:

2 Delete "A person"

3 Insert "(a) An individual"

4

5 Page 2, lines 16 - 17:

6 Delete "gender transition"

7 Insert "sex-reassignment treatment or"

8

9 Page 2, lines 20 - 21:

10 Delete "In this section, "physician" means a person licensed as a physician under  
11 AS 08.64."

12

13 Page 2, following line 21:

14 Insert new material to read:

15 "(b) If an individual who received a sex-reassignment treatment or procedure  
16 as a minor is incompetent by reason of mental illness or mental disability, the  
17 individual's parent or legal guardian may bring an action under this section on behalf  
18 of the individual.

19 (c) The cause of action created by this section does not apply to a medical  
20 treatment or procedure to treat an individual who was born with a medically verifiable  
21 sexual development genetic disorder, including

22 (1) ambiguous external biological sex characteristics;

23 (2) a sexual development disorder

24 (A) caused by abnormal sex chromosome structures, sex  
25 steroid production, or sex steroid hormone action for the individual's sex; and

26 (B) discovered through genetic or biochemical testing;

27 (3) an infection, injury, disease, or disorder caused or exacerbated by a  
28 previous sex-reassignment treatment or procedure; or

29 (4) a physical disorder, physical injury, or physical illness that would  
30 place the individual in imminent danger of death or impairment of a major bodily  
31 function without the sex-reassignment treatment or procedure.

1 (d) In this section,

2 (1) "minor" means an individual under 18 years of age who is not an  
3 emancipated minor;

4 (2) "physician" means a person licensed as a physician under  
5 AS 08.64;

6 (3) "sex" means the classification of an individual as male or female  
7 based on the individual's reproductive role, indicated by the individual's sex  
8 chromosomes, naturally occurring sex hormones, and internal and external genitalia  
9 present at birth;

10 (4) "sex-reassignment treatment or procedure" has the meaning given  
11 in AS 11.41.240(d).

12 \* **Sec. 8.** AS 11.41 is amended by adding a new section to read:

13 **Sec. 11.41.240. Criminal sex-reassignment treatment or procedure.** (a) A  
14 person commits the crime of criminal sex-reassignment treatment or procedure if the  
15 person knowingly performs a sex-reassignment treatment or procedure on

16 (1) a minor; or

17 (2) an individual over 18 years of age without the voluntary, informed,  
18 and written consent of the individual.

19 (b) For the purposes of this section, consent is considered voluntary, informed,  
20 and written if, before an individual's initial sex-reassignment treatment or procedure,  
21 the physician performing the sex-reassignment treatment or procedure, while  
22 physically present in the same room as the individual,

23 (1) informs the individual of the nature and risks of the sex-  
24 reassignment treatment or procedure;

25 (2) provides the individual with a standardized informed consent form  
26 created by the State Medical Board under AS 08.64.101(a)(8); and

27 (3) receives the individual's written acknowledgment that the  
28 individual received the information required by this subsection.

29 (c) In a prosecution under this section, it is an affirmative defense that the  
30 defendant is a physician who provided a medical treatment or procedure to treat

31 (1) a minor with ambiguous external biological sex characteristics;

1 (2) a minor with a sexual development disorder discovered through  
 2 genetic or biochemical testing, caused by abnormal sex chromosome structures, sex  
 3 steroid production, or sex steroid hormone action for the sex of the minor at birth;

4 (3) an infection, injury, disease, or disorder caused or exacerbated by a  
 5 previous sex-reassignment treatment or procedure; or

6 (4) a physical disorder, physical injury, or physical illness that would  
 7 place the individual in imminent danger of death or impairment of a major bodily  
 8 function without the sex-reassignment treatment or procedure.

9 (d) In this section,

10 (1) "minor" means an individual under 18 years of age who is not an  
 11 emancipated minor;

12 (2) "physician" means a person licensed as a physician under  
 13 AS 08.64;

14 (3) "sex" means the classification of an individual as male or female  
 15 based on the individual's reproductive role, indicated by the individual's sex  
 16 chromosomes, naturally occurring sex hormones, and internal and external genitalia  
 17 present at birth;

18 (4) "sex-reassignment treatment or procedure" means

19 (A) the prescription or administration of puberty blockers for  
 20 the purpose of delaying or stopping puberty in an individual to affirm an  
 21 individual's perception of the individual's sex if that perception is inconsistent  
 22 with the individual's sex;

23 (B) the prescription or administration of hormones or hormone  
 24 antagonists to affirm an individual's perception of the individual's sex if that  
 25 perception is inconsistent with the individual's sex;

26 (C) any surgical procedure used to affirm an individual's  
 27 perception of the individual's sex if that perception is inconsistent with the  
 28 individual's sex.

29 (e) Criminal sex-reassignment treatment or procedure is a class C felony.

30 \* Sec. 9. The uncodified law of the State of Alaska is amended by adding a new section to  
 31 read:

1           APPLICABILITY. (a) AS 09.65.175, enacted by sec. 7 of this Act, applies to a sex-  
2 reassignment treatment or procedure that began or was completed on or after the effective  
3 date of this Act.

4           (b) AS 11.41.240, enacted by sec. 8 of this Act, applies to an offense committed on or  
5 after the effective date of this Act.

6       \* **Sec. 10.** The uncodified law of the State of Alaska is amended by adding a new section to  
7 read:

8           **TRANSITION: REGULATIONS ON STANDARDS OF CARE.** Notwithstanding  
9 AS 09.55.556(c), enacted by sec. 6 of this Act, AS 09.65.175, enacted by sec. 7 of this Act,  
10 and AS 11.41.240, enacted by sec. 8 of this Act, the State Medical Board shall adopt  
11 regulations establishing standards of care under which a physician may, for a period ending  
12 six months after the effective date of this Act, under regulations adopted by the State Medical  
13 Board, temporarily continue to prescribe or administer a puberty blocker, hormone, or  
14 hormone antagonist as part of a sex-reassignment treatment or procedure for a minor patient  
15 whom the physician began treating with the puberty blocker, hormone, or hormone antagonist  
16 before the effective date of this Act, for the sole purpose of reducing and discontinuing the  
17 minor's use of the puberty blocker, hormone, or hormone antagonist. In adopting regulations  
18 under this section, the board shall prioritize the provision of professional counseling services  
19 for the patient during and after the patient's use of the prescription treatment."  
20

21       Renumber the following bill section accordingly.