

ALASKA STATE LEGISLATURE
SENATE LABOR AND COMMERCE STANDING COMMITTEE

February 26, 2016

1:31 p.m.

MEMBERS PRESENT

Senator Mia Costello, Chair
Senator Cathy Giessel, Vice Chair
Senator Kevin Meyer
Senator Gary Stevens

MEMBERS ABSENT

Senator Johnny Ellis

COMMITTEE CALENDAR

SENATE BILL NO. 98

"An Act relating to diagnosis, treatment, and prescription of drugs without a physical examination."

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: SB 98

SHORT TITLE: PRESCRIPTION WITHOUT PHYS. EXAM.

SPONSOR(S): SENATOR(S) MICCICHE

04/07/15	(S)	READ THE FIRST TIME - REFERRALS
04/07/15	(S)	HSS, L&C
04/13/15	(S)	HSS AT 1:30 PM BUTROVICH 205
04/13/15	(S)	Heard & Held
04/13/15	(S)	MINUTE (HSS)
01/25/16	(S)	HSS AT 1:30 PM BUTROVICH 205
01/25/16	(S)	Scheduled but Not Heard
01/27/16	(S)	HSS AT 1:30 PM BUTROVICH 205
01/27/16	(S)	Heard & Held
01/27/16	(S)	MINUTE (HSS)
02/01/16	(S)	HSS AT 1:30 PM BUTROVICH 205
02/01/16	(S)	Moved CSSB 98(HSS) Out of Committee
02/01/16	(S)	MINUTE (HSS)
02/03/16	(S)	HSS RPT CS 1DP 3NR NEW TITLE
02/03/16	(S)	DP: GIESSEL
02/03/16	(S)	NR: STEDMAN, ELLIS, STOLTZE
02/03/16	(S)	FIN REFERRAL ADDED AFTER L&C

02/24/16

(S)

L&C WAIVED PUBLIC HEARING NOTICE, RULE
23

WITNESS REGISTER

SENATOR PETER MICCICHE
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Sponsor of SB 98.

CHUCK KOPP, Staff
Senator Peter Micciche
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented the sectional analysis for SB 98.

JANEY HOVENDEN, Director
Division of Corporations, Business and Professional Licensing
Department of Commerce, Community and Economic Development
Juneau, Alaska

POSITION STATEMENT: Answered questions related to SB 98.

SARAH CHAMBERS, Operations Manager
Division of Corporations, Business and Professional Licensing
Department of Commerce, Community and Economic Development
Juneau, Alaska

POSITION STATEMENT: Answered questions related to SB 98.

MARGARET BRODIE, Director
Division of Health care Services
Department of Health and Social Services
Anchorage, Alaska

POSITION STATEMENT: Answered questions related to SB 98.

DR. DAVID POWERS, member
State Medical Board and practicing physician
Dillingham, Alaska

POSITION STATEMENT: Raised questions about SB 98.

CLAUDIA TUCKER
Vice President of Government Affairs for Teladoc
Virginia

POSITION STATEMENT: Testified in support of SB 98.

JOHN JESSER, Vice President
Provider Engagement Strategy
Anthem Inc.

Indianapolis, Indiana

POSITION STATEMENT: Testified in support of SB 98.

ROBIN MINARD, Director of Public Affairs

Mat-Su Health Foundation

Wasilla, Alaska

POSITION STATEMENT: Testified in support of SB 98.

ACTION NARRATIVE

[1:31:17 PM](#)

CHAIR MIA COSTELLO called the Senate Labor and Commerce Standing Committee meeting to order at 1:31 p.m. Present at the call to order were Senators Stevens, Giessel, and Chair Costello.

SB 98-PRESCRIPTION WITHOUT PHYS. EXAM.

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CHAIR COSTELLO announced the consideration of SB 98. She noted that this is the first hearing. [CSSB 98(HSS) is before the committee.]

[1:32:06 PM](#)

SENATOR MEYER joined the committee.

[1:32:16 PM](#)

SENATOR PETER MICCICHE, Alaska State Legislature, sponsor of SB 98, stated that the bill was amended in the previous committee to include the use of telehealth technologies by behavioral health licensing boards. He explained that the bill tries to drive down the cost of health care in Alaska, and is an important piece of Medicaid reform. It will improve health care access for rural residents and prohibit unprofessional conduct claims against a physician who is licensed in Alaska, but out of state at the time of prescribing a prescription drug to a person in Alaska.

He reminded members that in 2014 the legislature passed HB 281 by a near-unanimous vote to allow physicians to prescribe a prescription drug to a person without conducting a physical examination, within certain parameters. A controlled substance could not be prescribed unless the health care provider was present with the patient to assist the physician with examination, diagnosis, and treatment.

That bill requires the telehealth physician to be located in the state. For example, a physician in Ketchikan could conduct a

remote diagnosis and prescribe a drug in any community in Alaska. It does not allow physicians who reside outside the state to practice telemedicine across state lines, so the pool of physicians that can provide telehealth services is greatly diminished.

SENATOR MICCICHE stated that SB 98 addresses the lack of physicians available to do remote consults by removing the "physical, in-state presence" requirement. The physicians would still require an Alaska medical license. He pointed out that telemedicine services average less than one-third of the cost of an in-person office visit and less than one-tenth the cost of an ER visit.

What some physicians are concerned about is already allowed in Alaska, he said. There is remote prescription of medication occurring now with no in-person visits required as per HB 281. The only difference this year is that a physician who resides outside of Alaska may write the prescription. From the patient's perspective there is zero difference. The Alaska State Medical Board has been issuing Alaska medical license privileges to stateside physicians for decades. The Department of Health and Social Services (DHSS) has been using stateside physicians for years to deliver health care via telemedicine to Alaskans at a far more reasonable rate and it has worked out very well, he said. The sky is not falling. Data shows patient safety is as good if not better and over prescribing occurs less often as compared to in-office visits.

He noted a report by the Federation of State Medical Boards of the United States, a national non-profit organization that represents 70 state medical and osteopathic boards on model policy for the appropriate use of telemedicine technologies in the practice of medicine. The report concludes that the physician-patient relationship is clearly established when a physician agrees to undertake diagnosis and treatment of the patient and the patient agrees to be treated, whether or not there has been a personal encounter between the physician and the patient.

SENATOR MICCICHE summarized that SB 98 does six things: it clarifies that the legislature's intent is to support telemedicine in Alaska, prevents the Alaska Medical Board from blocking telemedicine to private sector insurance programs, ensures the patient controls their medical records - including their psychiatric records, removes the requirement that the physician must be physically located in Alaska, maintains the

requirement that the physician is licensed in Alaska, and it provides substantive cost savings to individuals in public programs.

SENATOR MICCICHE said both AETNA and Premera Blue Cross Blue Shield of America support the bill. State employees currently have this benefit.

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CHAIR COSTELLO asked Mr. Kopp to slowly walk through the sectional analysis.

[1:37:46 PM](#)

CHUCK KOPP, Staff, Senator Peter Micciche, Alaska State Legislature, presented the following sectional analysis for SB 98:

Section 1

Prohibits the Board of Professional Counselors from imposing disciplinary sanctions on a licensee for using telehealth technologies in the evaluation, diagnosis or treatment of a person when physically separated from the person if the licensee or another licensed health care provider is available to provide follow-up care, and the licensee follows patient consent protocols for sending medical records of the encounter to the person's primary care provider.

Section 2

Prohibits the Board of Marital and Family Therapy from imposing disciplinary sanctions on a licensee for using telehealth technologies in the evaluation, diagnosis or treatment of a person when physically separated from the person if the licensee or another licensed health care provider is available to provide follow-up care, and the licensee follows patient consent protocols for sending medical records of the encounter to the person's primary care provider; requiring licensees meet the requirements established by the board in regulation, and requiring the board to adopt regulations governing the practice of telehealth and establish standards for training, confidentiality, supervision, and other practice related issues.

Section 3

Prohibits the State Medical Board from imposing disciplinary sanctions on a physician for using the

full continuum of telehealth care, including rendering a diagnosis, providing treatment, or prescribing, dispensing, or administering a prescription drug that is not a controlled substance without an in-person encounter if the physician or another licensed health care provider, or physician in the physician's group practice is available for follow-up care, and the physician follows patient consent protocols for sending medical records of the encounter to the person's primary care provider; and removes the requirement that the physician is located in the state.

Section 4

Prohibits the State Medical Board from imposing disciplinary sanctions on a physician for prescribing, dispensing, or administering a prescription drug that is a controlled substance if the requirements of Section 3 are met, and the physician prescribes, dispenses, or administers the controlled substance when an appropriate licensed health care provider is present with the patient to assist the physician with examination, diagnosis, and treatment.

Section 5

Prohibits the Board of Psychologist and Psychological Associate Examiners from imposing disciplinary sanctions on a licensee for using telehealth technologies in the evaluation, diagnosis or treatment of a person when physically separated from the person if the licensee or another licensed health care provider is available to provide follow-up care, and the licensee follows patient consent protocols for sending medical records of the encounter to the person's primary care provider.

Section 6

Prohibits the Board of Social Work Examiners from imposing disciplinary sanctions on a licensee for using telehealth technologies in the evaluation, diagnosis or treatment of a person when physically separated from the person if the licensee or another licensed health care provider is available to provide follow-up care, and the licensee follows patient consent protocols for sending medical records of the encounter to the person's primary care provider.

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MR. KOPP noted that this bill is supported by two state-funded studies; the Legislative Budget and Audit Menges Report that highlights the need to expand telemedicine to drive down the cost of health care, and the Menges Group Report that is an assessment of Medicaid expansion reform that highlights telemedicine as an ideal way to contain state-attributable expenditures to Medicaid. The Public Works Report for the Department of Health and Social Services also recommends expanding telemedicine to drive down the cost of health care. He listed the groups that support the bill and noted those letters have been submitted to the committee.

CHAIR COSTELLO summarized that the bill scrubs state statutes to remove the impediments to telemedicine.

MR. KOPP agreed the various boards may not impose a disciplinary action on a licensee for using the technology while providing health care.

CHAIR COSTELLO asked what telemedicine looks like for Alaskans.

MR. KOPP replied the standard of care for telemedicine has been established in Alaska for at least two decades, starting with the Alaska Native Tribal Health care Center and the Alaska Federal Health care Network. The standard of care a physician uses is the same as an in-person visit.

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CHAIR COSTELLO asked what prevents someone from using telemedicine to the exclusion of in-person visits.

MR. KOPP said telemedicine isn't appropriate for every situation and part of the health care professional's responsibility is to let a patient know when telemedicine is not appropriate.

CHAIR COSTELLO encouraged the members to carefully review the model policy on telemedicine in the packets that's from the Federation of State Medical Boards of the United States. She asked what guidelines in the legislation set out the framework to ensure that patients continue to see a doctor in person.

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MR. KOPP said the guidelines don't need to be in statute because the Federation of State Medical Boards Model Policy for the Appropriate use of Telemedicine Technologies in the Practice of Medicine addresses the question of establishing the physician-

patient relationship on page 4. He read excerpts from the policy that clearly says how the relationship is established.

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CHAIR COSTELLO asked if he supports that group's model policy or if there are areas that cause him concern.

MR. KOPP said the sponsor does support it; it's a policy that is followed by nearly every state.

SENATOR MICCICHE added that the bill doesn't change the establishment of the physician-patient relationship. The only difference now is that it extends to a physician outside the state of Alaska.

SENATOR GIESSEL said she wanted to clarify some potential misunderstandings. The bill changes the requirement for a physician to have boots on the ground in Alaska when they provide health care through electronic means. She agreed with Mr. Kopp that telemedicine has been going on in Alaska for a number of years and noted that the Board of Nursing has never restricted the use of telehealth. However, they do require the nurse clinician to have boots on the ground in Alaska.

She highlighted that she offered an amendment to the bill in the previous committee to include mental health practitioners. She clarified that none of those amendments provide that these mental health providers would be in the Lower 48. The provisions in the bill would simply authorize those regulatory boards to make the decision about whether or not the psychologist or social worker needs to be a resident of Alaska. The only part in the bill that changes the boots on the ground requirement is for the physician licensed under the State Medical Board.

SENATOR GIESSEL described the O'Malley case explaining that a doctor was sued by a patient who had a negative outcome after failing to follow the doctor's recommendation to go to the emergency room. Health care professionals address liability through such recommendations. She asked what liability coverage is provided for physicians operating from outside the state and what recourse a patient would have should the physician's advice be inappropriate.

MR. KOPP said the sponsor didn't specifically take the O'Malley case into account, but all professional practices need to take liability into consideration. He discussed the use of the 800 number on the Alaska Care employee health plan to seek advice

about a health concern and agreed there is liability exposure whenever advice is given over the phone. However, seeking health care advice over the phone is a well-established practice in most states, he said.

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SENATOR GIESSEL pointed out that you don't get a prescription when you call a nurse line, whereas the bill is addressing calling a physician for health care advice and the patient could potentially receive a prescription.

MR. KOPP recapped that physicians residing outside the state must be licensed in Alaska in order to practice in Alaska.

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SENATOR STEVENS asked if the bill authorizes a physician who is practicing from outside the state to prescribe a controlled substance. His interest is in keeping these drugs out of the hands of people who shouldn't be using them.

MR. KOPP read from Section 4 that says when a physician prescribes a prescription drug that is a controlled substance, an appropriate licensed health care provider must be present with the patient.

SENATOR STEVENS questioned why the licensed health care provider doesn't prescribe instead of the doctor who is on line.

MR. KOPP explained that not every health care provider has prescriptive authority.

SENATOR STEVENS expressed a preference for having a licensed health care provider who has full prescriptive authority with the patient when a controlled substance is prescribed. He asked why that isn't a requirement.

MR. KOPP answered that telemedicine wouldn't be needed if that were a requirement.

SENATOR STEVENS asked if he doesn't see a danger.

MR. KOPP pointed out that Alaska has a long history of having health aides overseeing and administering prescription drugs that were prescribed by a physician who is on the phone.

SENATOR STEVENS expressed concern with the concept in light of the abuse of prescribed controlled substances.

MR. KOPP said recent reports show fewer telehealth prescriptions are written than are prescribed in the traditional doctor-patient in-person visit.

SENATOR MICCICHE suggested the committee is missing the concept that telemedicine generally addresses lower-level medical issues. The dataset that shows that telehealth under prescribes is likely because a patient would move to a higher level of care if they had a condition that required a prescription, particularly of a controlled substance.

SENATOR STEVENS said he'd be more comfortable if a patient had to see a physician in person if a controlled substance is prescribed.

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SENATOR MEYER said he, too, is concerned about physicians outside the state making medical decisions about Alaskans, particularly those in rural areas. He asked if the impetus for the bill is a lack of physicians in Alaska to do remote consults.

MR. KOPP confirmed there aren't enough telehealth physicians in the state, in part because it's not a significant money-making proposition.

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SENATOR MEYER asked if Medicaid pays for telemedicine.

MR. KOPP answered yes and noted the packets contain a report that lists how Alaska reimburses Medicaid for telemedicine services. The cost is generally one-third less than in-person visits.

SENATOR MEYER asked if the state gets reimbursed at Alaska rates or the rate from the state where the telemedicine doctor is located.

MR. KOPP deferred the question to the Department of Health and Social Services.

SENATOR MEYER asked how telemedicine providers are regulated.

MR. KOPP replied telemedicine doctors need an Alaska license to practice and therefore are regulated by the State Medical Board.

SENATOR MICCICHE pointed out that a significant cost to the state associated with Medicaid care is travel. A dramatic reduction in travel is expected if this bill passes.

CHAIR COSTELLO asked if he expects this will increase the scope of work for the licensing boards that are overseeing these professions.

SENATOR MICCICHE said his expectation is that the State Medical Board would not travel to an outside state for the licensing process.

CHAIR COSTELLO clarified that she is referring to disciplinary actions.

SENATOR MICCICHE said his expectation is that disciplinary actions would take place in Alaska.

CHAIR COSTELLO asked if his expectation is that nobody from Alaska would go to Florida, for example, to investigate a matter relating to a physician living and practicing in Florida who also is licensed in Alaska and provides telemedicine services.

SENATOR MICCICHE said the Department of Health and Social Services is better equipped to answer the question, but his understanding is the processes would take place in Alaska.

SENATOR GIESSEL asked for clarification on the procedure the State Medical Board uses to license physicians. She suggested the Division of Corporations, Business, and Professional Licensing could probably answer both questions.

She asked Mr. Kopp if he is suggesting that the Alaska Native Tribal Health Consortium (ANTHC) may have prescribing primary care physicians or nurse practitioners who are located out of state.

MR. KOPP confirmed that ANTHC partners with multiple out-of-state physicians.

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SENATOR STEVENS said he looks forward to hearing the process for non-Alaskans to get an Alaska license to practice medicine.

MR. KOPP referenced the 1/22/16 memo from DHSS that identifies a severe shortage of available providers of psychiatric care and high quality behavioral health that is exacerbated by the

instate requirement. Their perspective is that the instate requirement must be removed. The sponsor feels that another purpose of the bill is to facilitate what is already being done to save millions of dollars.

CHAIR COSTELLO shared the story of a constituent whose son refused to go to the doctor's office so he didn't get the medication he needed. Medicaid wouldn't reimburse without an office visit and the doctor was unwilling to make a house call because Medicaid doesn't reimburse for travel. She asked if the bill would address that situation.

MR. KOPP said that's outside the scope of the bill but it highlights an issue with reimbursement for telemedicine services.

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SENATOR GIESSEL commented on the barriers to behavioral health care in this state related to the requirement to have a psychiatrist on site 30 percent of the time.

SENATOR MICCICHE clarified that the bill expands the existing telemedicine services provided in Alaska to physicians who are located outside the state.

CHAIR COSTELLO asked Ms. Hovenden to respond to the previous questions.

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JANEY HOVENDEN, Director, Division of Corporations, Business and Professional Licensing, Department of Commerce, Community and Economic Development (DCCED), said the State Medical Board does in person interviews at the time of complete licensure.

CHAIR COSTELLO asked if that would change if the bill were to pass.

SARAH CHAMBERS, Operations Manager, Division of Corporations, Business and Professional Licensing, Department of Commerce, Community and Economic Development (DCCED), said the bill doesn't change the procedures of licensure. The expectation is that the applicant would come to Alaska at their discretion to attend a board meeting for the interview.

CHAIR COSTELLO asked how many individuals are in the que for licensure in Alaska.

MS. CHAMBERS said she didn't know but without additional resources the division wouldn't be able to maintain service levels. That is what happened when the last telemedicine bill passed and applications doubled. The bill would open the door to allow doctors across the nation and other parts of the world to practice in Alaska.

SENATOR STEVENS asked about the composition of the State Medical Board, how often it meets, and if this wouldn't be an enormous addition to its responsibilities.

MS. CHAMBERS estimated there are 7-9 members, primarily different physicians with different specialties and 1 or 2 public members. The physicians are all licensed in Alaska and she believes all the members are Alaska residents.

The board typically meets quarterly. To maintain efficient and expedited services for Alaskans, the expectation is that the board would need to extend its meetings to accommodate the in-person interviews to obtain permanent licensure. The process to obtain a temporary license is shorter, but could not be granted again if permanent licensure isn't pursued. The expectation is that there would be a dramatic increase in volume and complexity as a result of working with doctors nationwide.

MS. CHAMBERS told the committee that a number of out-of-state physicians visit Alaska to work in rural areas for limited amounts of time, but wouldn't be able to find fulltime work. She mentioned psychiatrists and cardiologists as examples. She offered her belief that a large number of professionals are anticipating this bill.

CHAIR COSTELLO asked Ms. Chambers to review the department's fiscal note.

MS. CHAMBERS said the fiscal note anticipates \$343 thousand in personal services for two full-time licensing examiners and two full-time investigators. Specific travel needs were not factored in, but there is \$148.6 thousand for legal services related to investigations in the second and subsequent years. The setup support for the new staff members is \$52.5 thousand with an additional \$20 thousand in commodities for computers and office furniture. In FY2017 the fiscal note totals \$415.5 thousand and \$491.6 in subsequent years.

CHAIR COSTELLO asked how extensive she expects regulation drafting will be if the bill were to pass.

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MS. CHAMBERS replied the expectation is that all five boards would need to draft regulations for a cost of approximately \$10,000. That is worked into the fiscal note.

SENATOR STEVENS asked if disciplinary actions in other states would impact the individual's ability to work in Alaska.

MS. CHAMBERS explained that there is a national database of disciplinary actions so an Alaska board would immediately know if a disciplinary board in another state had a finding or took action on a license. Responding to a further question, she said Alaska investigators would pursue any complaint filed by an Alaskan through the telemedicine company, the state of licensure, or private practice in another state.

CHAIR COSTELLO asked which of the boards affected by the bill are operating in the red and which in the black.

MS. CHAMBERS offered to follow up with the information.

CHAIR COSTELLO listed the individuals available to answer questions.

SENATOR GIESSEL asked if Medicaid reimburses for services from a telehealth provider and how that's done if the provider is outside the state.

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MARGARET BRODIE, Director, Division of Health care Services, Department of Health and Social Services (DHSS), confirmed that Medicaid reimburses for telehealth services. She reported that telehealth services increased 400 percent between FY2010 and FY2014. The telehealth provider bills the same as for an office visit, but using other codes.

SENATOR GIESSEL asked the mechanism for reimbursing out-of-state telehealth providers.

MS. BRODIE replied it is the same mechanism. She added that the majority of providers of telehealth services to Medicaid recipients are the regional tribal health corporations.

SENATOR GIESSEL summarized her understanding that the federal government would pay 100 percent of the reimbursement for that

Medicaid service and the telehealth provider probably is part of the Indian Health Service.

MS. BRODIE agreed that's the case the majority of the time. However, it is sometimes necessary to go outside the system to find providers.

SENATOR GIESSEL asked if Alaska receives the money because the client is an Alaskan living in Alaska.

MS. BRODIE said the majority of telehealth services are conducted through video, so there are two charges: a facility fee within Alaska and also payment for the actual telehealth service outside Alaska.

CHAIR COSTELLO asked if the department would bill the Indian Health Service for the relevant Alaska portion.

MS. BRODIE explained that Alaska Natives and American Indians participating in tribal health also could use tribal health systems in other states.

SENATOR MEYER asked if Medicaid reimburses at the Alaska rate or Arizona rate for a non-Native using telehealth services from a provider from Arizona.

MS. BRODIE replied the payment would be based on the lowest rate.

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CHAIR COSTELLO asked if there is ever an instance where the outside rate is lower than the Alaska rate.

MS. BRODIE answered yes, for certain services.

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CHAIR COSTELLO reconvened the meeting and invited Dr. Powers to provide testimony.

DR. DAVID POWERS, member State Medical Board and practicing physician in Dillingham said he is just finishing his second and final term on the board. He reviewed his professional career in Alaska and said he doesn't expect the bill will make much difference in rural areas because telemedicine technology has

been used there since it became available. Access is equally available for Natives and non-Natives.

He said the philosophical disagreement the State Medical Board has with this legislation is that it does away with the requirement that the provider is either with the patient or there is a preexisting relationship between the provider and the patient. Doing away with the physical exam places an additional burden on the provider because there's a greater chance of making a mistake. He said the first best is the doctor and patient in the room, the second best is a doctor treating a patient remotely with a health provider also present, and the third best is a doctor talking to a patient without the benefit of a physical exam or another provider with the patient. The board perceives this legislation to fall below the standard that has been present in the state for many years.

DR. POWERS also commented on the drafting style and questioned why it was written in the negative.

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SENATOR STEVENS asked if this legislation would significantly add to the responsibilities of the board and how they'd handle that.

DR. POWERS answered yes and there already aren't enough license examiners to process applications. The board used to interview every applicant but that's no longer possible. They do, however, interview license applicants if there are questions about their education or license or there's a red flag for some reason.

SENATOR STEVENS asked how the board would treat a non-resident applicant who was under investigation or threat of disciplinary action. Would the applicant be denied a license to practice in Alaska and is the board able to follow through on such disciplinary actions?

DR. POWERS said the board would want to be party to an investigation in another state because it would directly affect the individual's ability to deliver health care in Alaska.

SENATOR STEVENS asked how much time he devotes to medical board business.

DR. POWERS estimated he spends 10 hours per week and also attends quarterly meetings that generally last two days.

SENATOR STEVENS thanks Dr. Powers for his testimony and years of service to Alaska.

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SENATOR GIESSEL asked for clarification of a previous statement that the State Medical Board accepted the concept of not having boots on the ground in Alaska.

DR. POWERS said that's correct and pointed out that a lot of people in rural Alaska lost access to psychiatric health care overnight when the previous telemedicine bill passed. It probably wasn't the drafter's intent, but providers outside Alaska interpreted the language to prohibit someone outside the state from providing telemedicine.

SENATOR GIESSEL asked if the State Medical Board has any concerns about a physician in Florida prescribing antibiotics to a client in Nome for sinusitis, for example.

DR. POWERS replied that's probably the board's biggest concern. The reason is that it's impossible to diagnose some things over the phone, a computer screen, or even video teleconference. He listed sinusitis, strep throat, and ear infection as impossible to diagnose without an in-person examination. It leads to antibiotic abuse and resistant germs.

SENATOR GIESSEL said that is her concern yet the Teladoc medical director told her the three main things they treat is bronchitis, sinusitis, and urinary tract infections (UTIs).

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CHAIR COSTELLO asked him to highlight the nature and character of his testimony. She listed the negative drafting approach; concern about moving away from the in-person relationship between the doctor and patient. She asked if he believes something could be written into the bill to prioritize that relationship.

DR. POWERS said he'd have to think about that, because it seems to be at odds with the idea of getting away from a physical interaction between a doctor and patient.

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CLAUDIA TUCKER, Vice President of Government Affairs Teladoc, Virginia testified in support of SB 98. She related that this is the nation's first and largest telehealth platform. Enrollees are connected to a network of over 2,800 board-certified

physicians and mental health providers who have an average of 20 years of physician experience. They treat a wide range of conditions including upper respiratory infections, urinary tract infections, influenza, and sinusitis. The physicians are ER doctors, primary care doctors, pediatricians, and internists that have active practices. Teladoc has established more than 100 proprietary, evidence-based clinical guidelines specifically designed for telehealth. The highest credentialing requirements have been implemented to ensure quality interactions and reliable resolutions.

She reported that after 10 years of service and over 1 million telehealth visits, Teladoc has not been subject to a single malpractice claim. They have over 28,000 members in Alaska from over 200 companies.

MS. TUCKER described SB 98 as well thought out legislation that considers patient safety and access to less expensive, quality health care for simple non-emergency illnesses. She highlighted that Alaska and Louisiana are the only states that require telemedicine physicians to be a resident of the state in which they practice, and Louisiana is reconsidering that policy this legislative session. She questioned why a physician licensed in Alaska who moves to Washington state should no longer be permitted to practice medicine in Alaska. She pointed out that the State Medical Board would still have jurisdiction and oversight over the licensee.

Referencing the concern that allowing out of state physicians to use telemedicine in Alaska would take business away from physicians in Alaska, she said there currently aren't enough physicians to meet the demand. The shortage of psychiatrists and mental health providers is even more dramatic. The federal government has designated much of Alaska as medically underserved. It ranks 48th in the nation in the ratio of doctors to residents, and 55 percent of the physicians practice in Anchorage. Requiring physicians licensed in Alaska to reside in Alaska in order to practice does nothing to address the shortage or increase access to quality health care in rural Alaska. In fact, the requirement is in conflict with the Federation of State Medical Boards licensure compact policy. She confirmed previous testimony that Alaskans covered through federal programs already have access to physicians outside the state. Removing the in-state requirement would allow all Alaskans to enjoy this benefit.

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Addressing questions that were previously asked, Ms. Tuck said Teladoc does not prescribe any controlled substance or lifestyle drug. The Ryan Haight Act prohibits any prescription drug from being issued without at least one in-person assessment. She agreed with previous testimony that any disciplinary actions filed in Alaska would be under the jurisdiction of the State Medical Board. She expressed hope that Alaska would pass SB 98 joining the other 36 states that have enacted good telemedicine policies.

SENATOR STEVENS asked for examples of lifestyle drugs.

MS. TUCKER said Viagra and birth control pills both fall in that category.

SENATOR GIESSEL questioned how a provider in the Teladoc network who lives in Florida would know the resistant strain that might exist in a remote, rural community in Alaska.

MS. TUCKER said it goes back to the standard of care and a physician's discretion. If, after the patient presents and the medical history is before him, the physician believes the patient has sinusitis he has the ability to write the prescription. She noted that Teladoc has a 94 percent satisfaction rate and the reason 6 percent of patients expressed dissatisfaction is because the physician didn't write the prescription the patient wanted.

SENATOR GIESSEL pointed out that sinusitis can't be diagnosed without imaging and antibiotics are over-prescribed in that scenario. She questioned how a provider in the Teladoc network who lives in Florida would know what the susceptibility patterns are for UTIs in Alaska.

MS. TUCKER described an example to illustrate that there are parameters for prescribing antibiotics for UTIs. The Teladoc physician looks at the patient's history, her age, history of UTIs and previous diagnosis during an in-person doctor-patient visit. Protocol says it would be perfectly fine for a physician to diagnose that patient without an in-person visit. She offered to share the data and research that supports this.

Addressing a previous question, she explained that Teladoc encourages patients to use a primary care provider. They don't want to serve in that capacity and to ensure they don't, they limit access to Teladoc to three times in five months and eight times a year. About 40 percent of patients that approach Teladoc

don't have a primary care physician and Teladoc encourages them to find one and explains why it's important.

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SENATOR GIESSEL asked if Teladoc limits the types of treatment.

MS. TUCKER replied they treat simple non-emergency illnesses.

SENATOR GIESSEL asked if Teladoc treats migraines over the phone.

MS. TUCKER said it would depend on a previous in-person diagnosis and the medication that was prescribed.

SENATOR GIESSEL asked if Teladoc provides behavioral health services.

MS. TUDKER answered yes and reiterated that they do not prescribe controlled substances.

SENATOR GIESSEL asked how Teladoc keeps patient records secure.

MS. TUCKER explained that patients upload their medical history to Teladoc's HIPPA compliant, secure platform. This is the patient's record and they have 24/7 access. Teladoc asks patients for permission to send the record of the consultation to their primary care provider (PCP). With the patient's permission, the PCP also has access to those records.

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JOHN JESSER, Vice President of Provider Engagement Strategy, Anthem Inc., Indianapolis, Indiana, explained that Anthem is a large health insurance company that markets Blue Cross plans in 14 states and Medicaid plans in about 19 states through Amerigroup. He leads the telehealth part of the business called LiveHealth Online. He described the technology platform they use that provides everything that happens in a doctor's office other than the physical hands on the patient. There's a permanent record of the visit and electronic prescription and the claim is submitted to the health plan. The doctor has live, high definition video on their computer or tablet and the patient and doctor can see each other. The physicians are board certified in the states where the patients reside. He noted the handout that was provided to the committee that shows Anthem is live in 47 states, but not Alaska. He said Anthem got involved in telemedicine for three reasons: access to care, affordability of health care, and consumer convenience.

MR. JESSER listed the employers that use LiveHealth Online and noted that those that do business in Alaska are continually asked when it will be available in Alaska. He appreciates Dr. Powers' comments but he works with a number of physicians that feel differently. He described a study they conducted that shows an average savings of \$201 per telehealth visit, which is of great interest to employers that pay health care costs. LiveHealth Online meets 100 percent of the Federation of Medical Board guidelines for safe and effective telehealth. Patients are matched with a doctor that is licensed in the patient's state, the patient has a choice of physician, and controlled substances and lifestyle drugs may not be prescribed. The concerns of medical boards in many states have been alleviated sufficiently to comfortably say a live video visit is adequate to establish a patient-physician relationship and for the doctor to use their judgement to prescribe.

By the end of 2016 LiveHealth Online will offer telehealth services to close to 20 million covered lives, but not in Alaska. They also offer these services to Medicare Advantage members in 12 states.

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SENATOR GIESSEL asked how LiveHealth Online provides the visual to remote areas in the states they cover.

MS. JESSER said it works with 4G wireless and often with 3G but the video is more apt to drop. They support work going on to expand WIFI in rural areas and in some states they're working to make this available in a library or public school where there is WIFI. He noted that there is also a need in urban areas. They are also offering this to primary care doctors to use this for their patients. This is the ideal but those doctors aren't going to be available 24/7 and this keeps the patient from running to the emergency room for something that's simple, he said.

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ROBIN MINARD Director of Public Affairs, Mat-Su Health Foundation, Wasilla, Alaska, testified in support of SB 98. She described a community health needs assessment that the foundation conducted in 2013. The top five goals were related to access to behavioral health care. The data collected in a subsequent behavioral health environmental scan indicated that residents do not have adequate access to vital behavioral health care. This is a statewide problem. Telemedicine is a proven method to increase access to health care and reduce costly

visits to emergency rooms. SB 98 reflects successful evidence-based practices that can ease the access issues facing Mat-Su and the rest of Alaska.

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CHAIR COSTELLO said she would hold public testimony open.

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SENATOR MICCICHE said his goal is to bring down the cost of health care without compromising the quality of care. As with most aspects of Medicaid reform, there is some resistance, he said. Some is based on real concerns that need to be evaluated. He pointed out that the licensing fees are receipt supported. He would like a preference for in-state physicians to be licensed first, but he didn't know if it would be constitutional. He noted that Dr. Powers made a statement about changing the doctor-patient relationship, but telehealth is already in law. This bill simply expands that law to physicians residing outside Alaska.

He acknowledged that the bill was drafted in the negative and said he was in favor of changing that if there is a way. He concluded saying the bill is designed for a positive outcome in providing additional health care in Alaska and reducing the cost while doing so.

CHAIR COSTELLO held SB 98 in committee with public testimony open.

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There being no further business to come before the committee, Chair Costello adjourned the Senate Labor and Commerce Standing Committee meeting at 3:20 p.m.