

HOUSE BILL NO. 268

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTIETH LEGISLATURE - SECOND SESSION

BY REPRESENTATIVES GARA, Tuck

Introduced: 1/16/18

Referred: Health and Social Services, Labor and Commerce

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to the prescription of opioids; relating to the Department of Health and**
2 **Social Services; relating to the practice of dentistry; relating to the practice of medicine;**
3 **relating to the practice of podiatry; relating to the practice of osteopathy; relating to the**
4 **practice of nursing; and relating to the practice of optometry."**

5 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

6 * **Section 1.** The uncodified law of the State of Alaska is amended by adding a new section
7 to read:

8 SHORT TITLE. This Act may be known as the Consumer Advisory on Potential
9 Heroin Addiction from Opioid Use Act.

10 * **Sec. 2.** The uncodified law of the State of Alaska is amended by adding a new section to
11 read:

12 OPIOID ADDICTION: LEGISLATIVE FINDINGS. The legislature finds that

13 (1) the state has a considerable moral, public health, and financial interest in
14 reducing opioid and heroin addiction in the state;

1 (2) it is medically documented that opioid prescription drugs are addictive and
2 that opioid addiction is harmful and expensive to address;

3 (3) as of 2017, accepted evidence shows that approximately 80 percent of
4 people who become addicted to heroin were initially addicted to opioid prescription drugs;

5 (4) opioid prescription drug and heroin addiction interferes with an addict's
6 ability to work and provide for a stable and healthy family;

7 (5) the state's opioid epidemic damages the health of families and children and
8 affects the chances that a child will receive a healthy upbringing;

9 (6) the opioid epidemic increases crime in the state, and the presence of heroin
10 dealers in the state poses a public safety threat;

11 (7) the opioid epidemic costs the state and other entities excessive amounts of
12 money in lean budget times;

13 (8) policies that reduce the number of people who become addicted to opioids
14 and heroin will better serve citizens of the state and foster healthier families;

15 (9) many patients are not advised of the addictive effects of opioid
16 prescription drug use or that opioid prescription drug use may lead to opioid prescription drug
17 and heroin addiction; and

18 (10) requiring medical providers to inform patients of the risks associated with
19 opioid prescription drug use can help to reduce opioid prescription drug and heroin addictions
20 in the state.

21 * **Sec. 3.** AS 08.36.315 is amended to read:

22 **Sec. 08.36.315. Grounds for discipline, suspension, or revocation of license.**

23 The board may revoke or suspend the license of a dentist, or may reprimand, censure,
24 or discipline a dentist, or both, if the board finds, after a hearing, that the dentist

25 (1) used or knowingly cooperated in deceit, fraud, or intentional
26 misrepresentation to obtain a license;

27 (2) engaged in deceit, fraud, or intentional misrepresentation in the
28 course of providing or billing for professional dental services or engaging in
29 professional activities;

30 (3) advertised professional dental services in a false or misleading
31 manner;

1 (4) received compensation for referring a person to another dentist or
2 dental practice;

3 (5) has been convicted of a felony or other crime that affects the
4 dentist's ability to continue to practice dentistry competently and safely;

5 (6) engaged in the performance of patient care, or permitted the
6 performance of patient care by persons under the dentist's supervision, regardless of
7 whether actual injury to the patient occurred,

8 (A) that did not conform to minimum professional standards of
9 dentistry; or

10 (B) when the dentist, or a person under the supervision of the
11 dentist, did not have the permit, registration, or certificate required under
12 AS 08.32 or this chapter;

13 (7) failed to comply with this chapter, with a regulation adopted under
14 this chapter, or with an order of the board;

15 (8) continued to practice after becoming unfit due to

16 (A) professional incompetence;

17 (B) addiction or dependence on alcohol or other drugs that
18 impair the dentist's ability to practice safely;

19 (C) physical or mental disability;

20 (9) engaged in lewd or immoral conduct in connection with the
21 delivery of professional service to patients;

22 (10) permitted a dental hygienist or dental assistant who is employed
23 by the dentist or working under the dentist's supervision to perform a dental procedure
24 in violation of AS 08.32.110 or AS 08.36.346;

25 (11) failed to report to the board a death that occurred on the premises
26 used for the practice of dentistry within 48 hours;

27 (12) falsified or destroyed patient or facility records or failed to
28 maintain a patient or facility record for at least seven years after the date the record
29 was created;

30 (13) prescribed or dispensed an opioid in excess of the maximum
31 dosage authorized under AS 08.36.355; [OR]

1 (14) procured, sold, prescribed, or dispensed drugs in violation of a
 2 law, regardless of whether there has been a criminal action or harm to the patient; or
 3 **(15) repeatedly and without good cause failed to provide oral and**
 4 **written information on opioids under AS 08.36.357 before prescribing an opioid**
 5 **to a patient.**

6 * **Sec. 4.** AS 08.36 is amended by adding a new section to read:

7 **Sec. 08.36.357. Opioid prescription information and warning; relationship**
 8 **to causes of action.** (a) Before a licensee prescribes an opioid to a patient, the licensee
 9 or an agent of the licensee shall provide to the patient or the person authorized to make
 10 health care decisions for the patient

11 (1) an oral statement which, in the licensee's or agent's own words,
 12 includes

13 (A) the licensee's reasons for prescribing the opioid;

14 (B) any non-opioid alternatives to the prescription;

15 (C) any advantages or disadvantages of using a prescription for
 16 a shorter period; and

17 (D) a warning that

18 (i) the prescription may lead to opioid addiction;

19 (ii) the danger of opioid addiction may begin to increase
 20 if a prescription is extended beyond three days;

21 (iii) more than half of all people who are addicted to
 22 heroin were initially addicted to opioid prescription drugs; and

23 (iv) heroin and opioid addiction pose a potentially
 24 lifelong health danger; and

25 (2) a written statement, which may include graphics, prepared by the
 26 Department of Health and Social Services that

27 (A) provides appropriate information conveying the potential
 28 addictive and health dangers of opioids;

29 (B) provides that approximately 80 percent of people who are
 30 addicted to heroin were initially addicted to opioid prescription drugs; and

31 (C) is not more than six sentences long and uses a font not

1 smaller than 16 points.

2 (b) The information and warning requirements under (a) of this section do not
3 apply to a patient receiving

4 (1) active cancer treatment;

5 (2) hospice or palliative care from a licensed provider or facility; and

6 (3) substance abuse or opioid dependence treatment.

7 (c) Nothing in this section creates a new cause of action or affects an existing
8 cause of action.

9 * **Sec. 5.** AS 08.64.326(a) is amended to read:

10 (a) The board may impose a sanction if the board finds after a hearing that a
11 licensee

12 (1) secured a license through deceit, fraud, or intentional
13 misrepresentation;

14 (2) engaged in deceit, fraud, or intentional misrepresentation while
15 providing professional services or engaging in professional activities;

16 (3) advertised professional services in a false or misleading manner;

17 (4) has been convicted, including conviction based on a guilty plea or
18 plea of nolo contendere, of

19 (A) a class A or unclassified felony or a crime in another
20 jurisdiction with elements similar to a class A or unclassified felony in this
21 jurisdiction;

22 (B) a class B or class C felony or a crime in another jurisdiction
23 with elements similar to a class B or class C felony in this jurisdiction if the
24 felony or other crime is substantially related to the qualifications, functions, or
25 duties of the licensee; or

26 (C) a crime involving the unlawful procurement, sale,
27 prescription, or dispensing of drugs;

28 (5) has procured, sold, prescribed, or dispensed drugs in violation of a
29 law regardless of whether there has been a criminal action or harm to the patient;

30 (6) intentionally or negligently permitted the performance of patient
31 care by persons under the licensee's supervision that does not conform to minimum

1 professional standards even if the patient was not injured;

2 (7) failed to comply with this chapter, a regulation adopted under this
3 chapter, or an order of the board;

4 (8) has demonstrated

5 (A) professional incompetence, gross negligence, or repeated
6 negligent conduct; the board may not base a finding of professional
7 incompetence solely on the basis that a licensee's practice is unconventional or
8 experimental in the absence of demonstrable physical harm to a patient;

9 (B) addiction to, severe dependency on, or habitual overuse of
10 alcohol or other drugs that impairs the licensee's ability to practice safely;

11 (C) unfitness because of physical or mental disability;

12 (9) engaged in unprofessional conduct, in sexual misconduct, or in
13 lewd or immoral conduct in connection with the delivery of professional services to
14 patients; in this paragraph, "sexual misconduct" includes sexual contact, as defined by
15 the board in regulations adopted under this chapter, or attempted sexual contact with a
16 patient outside the scope of generally accepted methods of examination or treatment of
17 the patient, regardless of the patient's consent or lack of consent, during the term of the
18 physician-patient relationship, as defined by the board in regulations adopted under
19 this chapter, unless the patient was the licensee's spouse at the time of the contact or,
20 immediately preceding the physician-patient relationship, was in a dating, courtship,
21 or engagement relationship with the licensee;

22 (10) has violated AS 18.16.010;

23 (11) has violated any code of ethics adopted by regulation by the
24 board;

25 (12) has denied care or treatment to a patient or person seeking
26 assistance from the physician if the only reason for the denial is the failure or refusal
27 of the patient to agree to arbitrate as provided in AS 09.55.535(a);

28 (13) has had a license or certificate to practice medicine in another
29 state or territory of the United States, or a province or territory of Canada, denied,
30 suspended, revoked, surrendered while under investigation for an alleged violation,
31 restricted, limited, conditioned, or placed on probation unless the denial, suspension,

1 revocation, or other action was caused by the failure of the licensee to pay fees to that
2 state, territory, or province; [OR]

3 (14) prescribed or dispensed an opioid in excess of the maximum
4 dosage authorized under AS 08.64.363; or

5 **(15) repeatedly and without good cause failed to provide oral and**
6 **written information on opioids under AS 08.64.371 before prescribing an opioid**
7 **to a patient.**

8 * **Sec. 6.** AS 08.64 is amended by adding a new section to read:

9 **Sec. 08.64.371. Opioid prescription information and warning; relationship**
10 **to causes of action.** (a) Before a licensee prescribes an opioid to a patient, the licensee
11 or an agent of the licensee shall provide to the patient or the person authorized to make
12 health care decisions for the patient

13 (1) an oral statement which, in the licensee's or agent's own words,
14 includes

15 (A) the licensee's reasons for prescribing the opioid;

16 (B) any non-opioid alternatives to the prescription;

17 (C) any advantages or disadvantages of using a prescription for
18 a shorter period; and

19 (D) a warning that

20 (i) the prescription may lead to opioid addiction;

21 (ii) the danger of opioid addiction may begin to increase
22 if a prescription is extended beyond three days;

23 (iii) more than half of all people who are addicted to
24 heroin were initially addicted to opioid prescription drugs; and

25 (iv) heroin and opioid addiction pose a potentially
26 lifelong health danger; and

27 (2) a written statement, which may include graphics, prepared by the
28 Department of Health and Social Services that

29 (A) provides appropriate information conveying the potential
30 addictive and health dangers of opioids;

31 (B) provides that approximately 80 percent of people who are

1 addicted to heroin were initially addicted to opioid prescription drugs; and

2 (C) is not more than six sentences long and uses a font not
3 smaller than 16 points.

4 (b) The information and warning requirements under (a) of this section do not
5 apply to a patient receiving

6 (1) active cancer treatment;

7 (2) hospice or palliative care from a licensed provider or facility; and

8 (3) substance abuse or opioid dependence treatment.

9 (c) Nothing in this section creates a new cause of action or affects an existing
10 cause of action.

11 * **Sec. 7.** AS 08.68.270 is amended to read:

12 **Sec. 08.68.270. Grounds for denial, suspension, or revocation.** The board
13 may deny, suspend, or revoke the license of a person who

14 (1) has obtained or attempted to obtain a license to practice nursing by
15 fraud or deceit;

16 (2) has been convicted of a felony or other crime if the felony or other
17 crime is substantially related to the qualifications, functions, or duties of the licensee;

18 (3) habitually abuses alcoholic beverages, or illegally uses controlled
19 substances;

20 (4) has impersonated a registered, advanced practice registered, or
21 practical nurse;

22 (5) has intentionally or negligently engaged in conduct that has
23 resulted in a significant risk to the health or safety of a client or in injury to a client;

24 (6) practices or attempts to practice nursing while afflicted with
25 physical or mental illness, deterioration, or disability that interferes with the
26 individual's performance of nursing functions;

27 (7) is guilty of unprofessional conduct as defined by regulations
28 adopted by the board;

29 (8) has wilfully or repeatedly violated a provision of this chapter or
30 regulations adopted under this chapter or AS 08.01;

31 (9) is professionally incompetent;

1 (10) denies care or treatment to a patient or person seeking assistance
 2 if the sole reason for the denial is the failure or refusal of the patient or person seeking
 3 assistance to agree to arbitrate as provided in AS 09.55.535(a);

4 (11) has prescribed or dispensed an opioid in excess of the maximum
 5 dosage authorized under AS 08.68.705; [OR]

6 (12) has procured, sold, prescribed, or dispensed drugs in violation of a
 7 law, regardless of whether there has been a criminal action or harm to the patient; **or**

8 **(13) has repeatedly and without good cause failed to provide oral**
 9 **and written information on opioids under AS 08.68.710 before prescribing an**
 10 **opioid to a patient.**

11 * **Sec. 8.** AS 08.68 is amended by adding a new section to article 6 to read:

12 **Sec. 08.68.710. Opioid prescription information and warning; relationship**
 13 **to causes of action.** (a) Before an advanced practice registered nurse prescribes an
 14 opioid to a patient, the advanced practice registered nurse or an agent of the advanced
 15 practice registered nurse shall provide to the patient or the person authorized to make
 16 health care decisions for the patient

17 (1) an oral statement which, in the advanced practice registered nurse's
 18 or agent's own words, includes

19 (A) the advanced practice registered nurse's reasons for
 20 prescribing the opioid;

21 (B) any non-opioid alternatives to the prescription;

22 (C) any advantages or disadvantages of using a prescription for
 23 a shorter period; and

24 (D) a warning that

25 (i) the prescription may lead to opioid addiction;

26 (ii) the danger of opioid addiction may begin to increase
 27 if a prescription is extended beyond three days;

28 (iii) more than half of all people who are addicted to
 29 heroin were initially addicted to opioid prescription drugs; and

30 (iv) heroin and opioid addiction pose a potentially
 31 lifelong health danger; and

1 (2) a written statement, which may include graphics, prepared by the
2 Department of Health and Social Services that

3 (A) provides appropriate information conveying the potential
4 addictive and health dangers of opioids;

5 (B) provides that approximately 80 percent of people who are
6 addicted to heroin were initially addicted to opioid prescription drugs; and

7 (C) is not more than six sentences long and uses a font not
8 smaller than 16 points.

9 (b) The information and warning requirements under (a) of this section do not
10 apply to a patient receiving

11 (1) active cancer treatment;

12 (2) hospice or palliative care from a licensed provider or facility; and

13 (3) substance abuse or opioid dependence treatment.

14 (c) Nothing in this section creates a new cause of action or affects an existing
15 cause of action.

16 * **Sec. 9.** AS 08.72.240 is amended to read:

17 **Sec. 08.72.240. Grounds for imposition of disciplinary sanctions.** The board
18 may impose disciplinary sanctions when the board finds after a hearing that a licensee

19 (1) secured a license through deceit, fraud, or intentional
20 misrepresentation;

21 (2) engaged in deceit, fraud, or intentional misrepresentation in the
22 course of providing professional services or engaging in professional activities;

23 (3) advertised professional services in a false or misleading manner;

24 (4) has been convicted of a felony or other crime that affects the
25 licensee's ability to continue to practice competently and safely;

26 (5) intentionally or negligently engaged in or permitted the
27 performance of patient care by persons under the licensee's supervision that does not
28 conform to minimum professional standards regardless of whether actual injury to the
29 patient occurred;

30 (6) failed to comply with this chapter, with a regulation adopted under
31 this chapter, or with an order of the board;

- 1 (7) continued to practice after becoming unfit due to
 2 (A) professional incompetence;
 3 (B) failure to keep informed of or use current professional
 4 theories or practices;
 5 (C) addiction or severe dependency on alcohol or other drugs
 6 that impairs the licensee's ability to practice safely;
 7 (D) physical or mental disability;
 8 (8) engaged in lewd or immoral conduct in connection with the
 9 delivery of professional service to patients;
 10 (9) failed to refer a patient to a physician after ascertaining the
 11 presence of ocular or systemic conditions requiring management by a physician;
 12 (10) prescribed or dispensed an opioid in excess of the maximum
 13 dosage authorized under AS 08.72.276;
 14 (11) procured, sold, prescribed, or dispensed drugs in violation of a
 15 law, regardless of whether there has been a criminal action or harm to the patient; **or**
 16 **(12) repeatedly and without good cause failed to provide oral and**
 17 **written information on opioids under AS 08.72.277 before prescribing an opioid**
 18 **to a patient.**

19 * **Sec. 10.** AS 08.72 is amended by adding a new section to read:

20 **Sec. 08.72.277. Opioid prescription information and warning; relationship**
 21 **to causes of action.** (a) Before a licensee prescribes an opioid to a patient, the licensee
 22 or an agent of the licensee shall provide to the patient or the person authorized to make
 23 health care decisions for the patient

24 (1) an oral statement which, in the licensee's or agent's own words,
 25 includes

- 26 (A) the licensee's reasons for prescribing the opioid;
 27 (B) any non-opioid alternatives to the prescription;
 28 (C) any advantages or disadvantages of using a prescription for
 29 a shorter period; and
 30 (D) a warning that
 31 (i) the prescription may lead to opioid addiction;

- 1 (ii) the danger of opioid addiction may begin to increase
 2 if a prescription is extended beyond three days;
- 3 (iii) more than half of all people who are addicted to
 4 heroin were initially addicted to opioid prescription drugs; and
- 5 (iv) heroin and opioid addiction pose a potentially
 6 lifelong health danger; and
- 7 (2) a written statement, which may include graphics, prepared by the
 8 Department of Health and Social Services that
- 9 (A) provides appropriate information conveying the potential
 10 addictive and health dangers of opioids;
- 11 (B) provides that approximately 80 percent of people who are
 12 addicted to heroin were initially addicted to opioid prescription drugs; and
- 13 (C) is not more than six sentences long and uses a font not
 14 smaller than 16 points.
- 15 (b) The information and warning requirements under (a) of this section do not
 16 apply to a patient receiving
- 17 (1) active cancer treatment;
- 18 (2) hospice or palliative care from a licensed provider or facility; and
- 19 (3) substance abuse or opioid dependence treatment.
- 20 (c) Nothing in this section creates a new cause of action or affects an existing
 21 cause of action.

22 * **Sec. 11.** The uncodified law of the State of Alaska is amended by adding a new section to
 23 read:

24 TRANSITION: REGULATIONS. The Department of Health and Social Services may
 25 adopt regulations necessary to implement the changes made by secs. 4, 6, 8, and 10 of this
 26 Act. The regulations take effect under AS 44.62 (Administrative Procedure Act), but not
 27 before the effective date of the relevant provision of this Act implemented by the regulation.