

**SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 268**

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTIETH LEGISLATURE - SECOND SESSION

**BY REPRESENTATIVES GARA, Tuck**

**Introduced: 1/22/18**

**Referred: Health and Social Services, Finance**

**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 a significant percentage 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, which is especially problematic 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) patients are not always 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) habitually 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; relationship to causes of**  
 8 **action.** (a) Before a licensee prescribes an opioid to a patient, the licensee or an agent  
 9 of the licensee shall provide to the patient or the person authorized to make health care  
 10 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 reasonable non-opioid alternatives to the prescription;

15 (C) information that

16 (i) the prescription could potentially lead to opioid  
 17 addiction;

18 (ii) the danger of opioid addiction can begin to increase  
 19 if a prescription is extended over longer periods of time; and

20 (iii) heroin and opioid addiction pose a potentially  
 21 lifelong health danger, and many heroin users begin their use after  
 22 becoming addicted to opioid prescription drugs; and

23 (2) a written statement, which may include graphics, prepared by the  
 24 Department of Health and Social Services that provides appropriate information  
 25 conveying the potential addictive and health dangers of opioids.

26 (b) The requirements under (a) of this section do not apply to a patient  
 27 receiving

28 (1) hospice care from a licensed provider or facility; and

29 (2) substance abuse or opioid dependence treatment.

30 (c) The Department of Health and Social Services shall provide access on the  
 31 department's Internet website to a printable version of the written statement a licensee

1 is required to distribute under (a)(2) of this section.

2 (d) Nothing in this section creates a new cause of action or affects an existing  
3 cause of action.

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

5 (a) The board may impose a sanction if the board finds after a hearing that a  
6 licensee

7 (1) secured a license through deceit, fraud, or intentional  
8 misrepresentation;

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

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

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

14 (A) a class A or unclassified felony or a crime in another  
15 jurisdiction with elements similar to a class A or unclassified felony in this  
16 jurisdiction;

17 (B) a class B or class C felony or a crime in another jurisdiction  
18 with elements similar to a class B or class C felony in this jurisdiction if the  
19 felony or other crime is substantially related to the qualifications, functions, or  
20 duties of the licensee; or

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

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

25 (6) intentionally or negligently permitted the performance of patient  
26 care by persons under the licensee's supervision that does not conform to minimum  
27 professional standards even if the patient was not injured;

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

30 (8) has demonstrated

31 (A) professional incompetence, gross negligence, or repeated

1 negligent conduct; the board may not base a finding of professional  
 2 incompetence solely on the basis that a licensee's practice is unconventional or  
 3 experimental in the absence of demonstrable physical harm to a patient;

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

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

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

17 (10) has violated AS 18.16.010;

18 (11) has violated any code of ethics adopted by regulation by the  
 19 board;

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

23 (13) has had a license or certificate to practice medicine in another  
 24 state or territory of the United States, or a province or territory of Canada, denied,  
 25 suspended, revoked, surrendered while under investigation for an alleged violation,  
 26 restricted, limited, conditioned, or placed on probation unless the denial, suspension,  
 27 revocation, or other action was caused by the failure of the licensee to pay fees to that  
 28 state, territory, or province; [OR]

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

31 **(15) habitually and without good cause failed to provide oral and**

1        **written information on opioids under AS 08.64.371 before prescribing an opioid**  
 2        **to a patient.**

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

4                **Sec. 08.64.371. Opioid prescription information; relationship to causes of**  
 5        **action.** (a) Before a licensee prescribes an opioid to a patient, the licensee or an agent  
 6        of the licensee shall provide to the patient or the person authorized to make health care  
 7        decisions for the patient

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

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

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

12                        and

13                                (C) information that

14                                        (i) the prescription could potentially lead to opioid  
 15        addiction;

16                                        (ii) the danger of opioid addiction can begin to increase  
 17        if a prescription is extended over longer periods of time;

18                                        (iii) heroin and opioid addiction pose a potentially  
 19        lifelong health danger, and many heroin users begin their use after  
 20        becoming addicted to opioid prescription drugs; and

21                        (2) a written statement, which may include graphics, prepared by the  
 22        Department of Health and Social Services that provides appropriate information  
 23        conveying the potential addictive and health dangers of opioids.

24                        (b) The requirements under (a) of this section do not apply to a patient  
 25        receiving

26                                (1) hospice care from a licensed provider or facility; and

27                                (2) substance abuse or opioid dependence treatment.

28                        (c) The Department of Health and Social Services shall provide access on the  
 29        department's Internet website to a printable version of the written statement a licensee  
 30        is required to distribute under (a)(2) of this section.

31                        (d) Nothing in this section creates a new cause of action or affects an existing

1 cause of action.

2 \* **Sec. 7.** AS 08.68.270 is amended to read:

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

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

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

9 (3) habitually abuses alcoholic beverages, or illegally uses controlled  
10 substances;

11 (4) has impersonated a registered, advanced practice registered, or  
12 practical nurse;

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

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

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

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

22 (9) is professionally incompetent;

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

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

28 (12) 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; **or**

30 **(13) has habitually and without good cause failed to provide oral**  
31 **and written information on opioids under AS 08.68.710 before prescribing an**

1           **opioid to a patient.**

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

3                       **Sec. 08.68.710. Opioid prescription information; relationship to causes of**  
 4           **action.** (a) Before an advanced practice registered nurse prescribes an opioid to a  
 5           patient, the advanced practice registered nurse or an agent of the advanced practice  
 6           registered nurse shall provide to the patient or the person authorized to make health  
 7           care decisions for the patient

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

10                                       (A) the advanced practice registered nurse's reasons for  
 11           prescribing the opioid;

12                                       (B) any reasonable non-opioid alternatives to the prescription;  
 13           and

14                                       (C) information that

15   (i) the prescription could potentially lead to opioid  
 16           addiction;

17   (ii) the danger of opioid addiction can begin to increase  
 18           if a prescription is extended over longer periods of time;

19   (iii) heroin and opioid addiction pose a potentially  
 20           lifelong health danger, and many heroin users begin their use after  
 21           becoming addicted to opioid prescription drugs; and

22                               (2) a written statement, which may include graphics, prepared by the  
 23           Department of Health and Social Services that provides appropriate information  
 24           conveying the potential addictive and health dangers of opioids.

25                       (b) The requirements under (a) of this section do not apply to a patient  
 26           receiving

27                                       (1) hospice care from a licensed provider or facility; and

28                                       (2) substance abuse or opioid dependence treatment.

29                       (c) The Department of Health and Social Services shall provide access on the  
 30           department's Internet website to a printable version of the written statement an  
 31           advanced practice registered nurse is required to distribute under (a)(2) of this section.

1 (d) Nothing in this section creates a new cause of action or affects an existing  
2 cause of action.

3 \* **Sec. 9.** AS 08.72.240 is amended to read:

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

6 (1) secured a license through deceit, fraud, or intentional  
7 misrepresentation;

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

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

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

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

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

19 (7) continued to practice after becoming unfit due to

20 (A) professional incompetence;

21 (B) failure to keep informed of or use current professional  
22 theories or practices;

23 (C) addiction or severe dependency on alcohol or other drugs  
24 that impairs the licensee's ability to practice safely;

25 (D) physical or mental disability;

26 (8) engaged in lewd or immoral conduct in connection with the  
27 delivery of professional service to patients;

28 (9) failed to refer a patient to a physician after ascertaining the  
29 presence of ocular or systemic conditions requiring management by a physician;

30 (10) prescribed or dispensed an opioid in excess of the maximum  
31 dosage authorized under AS 08.72.276;

1 (11) 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 **(12) habitually and without good cause failed to provide oral and**  
 4 **written information on opioids under AS 08.72.277 before prescribing an opioid**  
 5 **to a patient.**

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

7 **Sec. 08.72.277. Opioid prescription information; relationship to causes of**  
 8 **action.** (a) Before a licensee prescribes an opioid to a patient, the licensee or an agent  
 9 of the licensee shall provide to the patient or the person authorized to make health care  
 10 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 reasonable non-opioid alternatives to the prescription;

15 and

16 (C) information that

17 (i) the prescription could potentially lead to opioid  
 18 addiction;

19 (ii) the danger of opioid addiction can begin to increase  
 20 if a prescription is extended over longer periods of time;

21 (iii) heroin and opioid addiction pose a potentially  
 22 lifelong health danger, and many heroin users begin their use after  
 23 becoming addicted to opioid prescription drugs; and

24 (2) a written statement, which may include graphics, prepared by the  
 25 Department of Health and Social Services that provides appropriate information  
 26 conveying the potential addictive and health dangers of opioids.

27 (b) The requirements under (a) of this section do not apply to a patient  
 28 receiving

29 (1) hospice care from a licensed provider or facility; and

30 (2) substance abuse or opioid dependence treatment.

31 (c) The Department of Health and Social Services shall provide access on the

1 department's Internet website to a printable version of the written statement a licensee  
2 is required to distribute under (a)(2) of this section.

3 (d) Nothing in this section creates a new cause of action or affects an existing  
4 cause of action.

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

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