SENATE BILL NO. 79

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTIETH LEGISLATURE - FIRST SESSION

BY THE SENATE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

Introduced: 3/6/17
Referred: Labor and Commerce, Health and Social Services, Finance

A BILL

FOR AN ACT ENTITLED

"An Act relating to the prescription of opioids; establishing the Voluntary Nonopioid Directive Act; relating to the controlled substance prescription database; relating to the practice of dentistry; relating to the practice of medicine; relating to the practice of podiatry; relating to the practice of osteopathy; relating to the practice of nursing; relating to the practice of optometry; relating to the practice of veterinary medicine; related to the duties of the Board of Pharmacy; and providing for an effective date."

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

*** Section 1.** AS 13 is amended by adding a new chapter to read:

Chapter 55. Voluntary Nonopioid Directive Act.

Sec. 13.55.010. Nonopioid directive; revocation; other requirements. (a) An individual 18 years of age or older may execute a voluntary nonopioid directive in a format prescribed by the department and available in an electronic format. The instruction must state the individual's directive that the individual not be administered

or prescribed an opioid.

(b) Regulations for the implementation of the voluntary nonopioid directive under this section shall

(1) include verification by a health care provider and comply with the written consent requirements under 42 U.S.C. 290dd-2(b) and 42 C.F.R. Part 2;

(2) provide standard procedures for an individual to submit a voluntary nonopioid directive to a health care provider or hospital;

(3) include appropriate exemptions for emergency medical personnel;

(4) ensure confidentiality of a voluntary nonopioid directive;

(5) ensure exemptions for an opioid used for treatment of substance abuse or opioid dependence.

(c) An individual may revoke a voluntary nonopioid directive at any time in writing or orally. An individual's guardian, conservator, or other person appointed by the individual or a court to manage the individual's health care may revoke an individual's voluntary nonopioid directive at any time in writing or orally. An individual's guardian, conservator, or other person appointed by the individual or a court to manage the individual's health care may not execute a voluntary nonopioid directive on behalf of the individual.

(d) An individual may submit a voluntary nonopioid directive to a health care provider or a hospital.

Sec. 13.55.020. Obligations of health care providers and hospitals. A health care provider, a hospital, or an employee of a health care provider or hospital may not be subject to disciplinary action by the health care provider's or the employee's professional licensing board and may not be subject to civil or criminal liability for failure to administer, prescribe, or dispense an opioid to an individual who has executed a voluntary nonopioid directive.

Sec. 13.55.030. Prescriptions presumed valid. A prescription presented to a pharmacy is presumed to be valid and a pharmacist shall not be subject to discipline by the pharmacist's professional licensing board or held civilly or criminally liable for dispensing a controlled substance in contradiction to a person's voluntary nonopioid directive.

Sec. 13.55.040. Effect of this chapter. Nothing is this chapter shall be construed to

(1) alter an advance health care directive under AS 13.52 (Health Care Decisions Act);

(2) limit prescribing, dispensing, or administering an opioid overdose drug;

(3) limit an authorized health care provider or pharmacist from prescribing, dispensing, or administering an opioid for the treatment of substance abuse or opioid dependence.

Sec. 13.55.100. Definitions. In this chapter, unless the context otherwise requires,

(1) "department" means the Department of Health and Social Services;

(2) "health care provider" has the meaning given in AS 09.65.340;

(3) "hospital" has the meaning given in AS 13.52.268;

(4) "opioid" includes the opium and opiate substances and opium and opiate derivatives listed in AS 11.71.140;

(5) "opioid overdose drug" has the meaning given in AS 09.65.340.

Sec. 13.55.110. Short title. This chapter may be known as the Voluntary Nonopioid Directive Act.

*** Sec. 2.** AS 08.36.070(a), as amended by sec. 5, ch. 25, SLA 2016, is amended to read:

(a) The board shall

(1) provide for the examination of applicants and the credentialing, registration, and licensure of those applicants it finds qualified;

(2) maintain a registry of licensed dentists, licensed dental hygienists, and registered dental assistants who are in good standing;

(3) affiliate with the American Association of Dental Boards and pay annual dues to the association;

(4) hold hearings and order the disciplinary sanction of a person who violates this chapter, AS 08.32, or a regulation of the board;

(5) supply forms for applications, licenses, permits, certificates, registration documents, and other papers and records;

(6) enforce the provisions of this chapter and AS 08.32 and adopt or amend the regulations necessary to make the provisions of this chapter and AS 08.32 effective;

(7) adopt regulations ensuring that renewal of a license, registration, or certificate under this chapter or a license, certificate, or endorsement under AS 08.32 is contingent upon proof of continued professional competence**; regulations must require that a licensee receive not less than two hours of education in pain management and opioid use and addiction in the two years preceding an application for renewal of a license, unless the licensee has demonstrated to the satisfaction of the board that the licensee does not currently hold a valid federal Drug Enforcement Administration registration number**;

(8) at least annually, cause to be published on the Internet and in a newspaper of general circulation in each major city in the state a summary of disciplinary actions the board has taken during the preceding calendar year;

(9) issue permits or certificates to licensed dentists, licensed dental hygienists, and dental assistants who meet standards determined by the board for specific procedures that require specific education and training;

(10) require that a licensed dentist who has a federal Drug Enforcement Administration registration number register with the controlled substance prescription database under AS 17.30.200(o).

*** Sec. 3.** AS 08.36.110(a) is amended to read:

(a) An applicant for a license to practice dentistry shall

(1) provide certification to the board that the applicant

(A) is a graduate of a dental school that, at the time of graduation, is approved by the board;

(B) has successfully passed a written examination approved by the board;

(C) has not had a license to practice dentistry revoked, suspended, or voluntarily surrendered in this state or another state;

(D) is not the subject of an adverse decision based upon a complaint, investigation, review procedure, or other disciplinary proceeding

within the five years immediately preceding application, or of an unresolved complaint, investigation, review procedure, or other disciplinary proceeding, undertaken by a state, territorial, local, or federal dental licensing jurisdiction;

(E) is not the subject of an unresolved or an adverse decision based upon a complaint, investigation, review procedure, or other disciplinary proceeding, undertaken by a state, territorial, local, or federal dental licensing jurisdiction or law enforcement agency that relates to criminal or fraudulent activity, dental malpractice, or negligent dental care and that adversely reflects on the applicant's ability or competence to practice dentistry or on the safety or well-being of patients;

(F) is not the subject of an adverse report from the National Practitioner Data Bank or the American Association of Dental Boards Clearinghouse for Board Actions that relates to criminal or fraudulent activity, or dental malpractice;

(G) is not impaired to an extent that affects the applicant's ability to practice dentistry;

(H) has not been convicted of a crime that adversely reflects on the applicant's ability or competency to practice dentistry or that jeopardizes the safety or well-being of a patient;

(2) pass, to the satisfaction of the board, written, clinical, and other examinations administered or approved by the board; and

(3) meet the other qualifications for a license established by the board by regulation**, including education in pain management and opioid use and addiction in the two years preceding the application for a license, unless the applicant has demonstrated to the satisfaction of the board that the applicant does not currently hold a valid federal Drug Enforcement Administration registration number; approved education may include dental school coursework**.

*** Sec. 4.** AS 08.36.315 is amended to read:

Sec. 08.36.315. Grounds for discipline, suspension, or revocation of license. The board may revoke or suspend the license of a dentist, or may reprimand, censure, or discipline a dentist, or both, if the board finds after a hearing that the dentist

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

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

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

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

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

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

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

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

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

(8) continued to practice after becoming unfit due to

(A) professional incompetence;

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

(C) physical or mental disability;

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

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

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

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

(13) prescribed or dispensed an opioid in excess of the maximum dosage authorized under AS 08.36.355; or

(14) procured, sold, prescribed, or dispensed drugs in violation of a law, regardless of whether there has been a criminal action or patient harm.

*** Sec. 5.** AS 08.36 is amended by adding a new section to read:

Sec. 08.36.355. Maximum dosage for opioid prescriptions. (a) A licensee may not issue an initial prescription for an opioid that exceeds a seven-day supply to an adult patient for outpatient use.

(b) A licensee may not issue a prescription for an opioid that exceeds a seven-day supply to a minor. At the time a licensee writes a prescription for an opioid for a minor, the licensee shall discuss with the parent or guardian of the minor why the prescription is necessary and the risks associated with opioid use.

(c) Notwithstanding (a) and (b) of this section, a licensee may issue a prescription for an opioid that exceeds a seven-day supply to an adult or minor patient if, in the professional judgment of the licensee, more than a seven-day supply of an opioid is necessary for

(1) the patient's chronic pain management; the licensee may write a prescription for an opioid for the quantity needed to treat the patient's medical condition or chronic pain; the licensee shall document in the patient's medical record the condition triggering the prescription of an opioid in a quantity that exceeds a seven-day supply and indicate that a nonopioid alternative was not appropriate to address the medical condition; or

(2) a patient who is unable to access a practitioner within the time necessary for a refill of the seven-day supply because of a logistical or travel barrier; the licensee may write a prescription for an opioid for the quantity needed to treat the patient for the time that the patient is unable to access a practitioner; the licensee shall

document in the patient's medical record the reason for the prescription of an opioid in a quantity that exceeds a seven-day supply and indicate that a nonopioid alternative was not appropriate to address the medical condition; in this paragraph, "practitioner" has the meaning given in AS 11.71.900.

(d) In this section,

(1) "adult" means

(A) a person who has reached 18 years of age; or

(B) an emancipated minor;

(2) "emancipated minor" means a minor whose disabilities have been removed for general purposes under AS 09.55.590;

(3) "minor" means a person under 18 years of age who is not an emancipated minors.

*** Sec. 6.** AS 08.36.370 is amended by adding a new paragraph to read:

(10) "opioid" includes the opium and opiate substances and opium and opiate derivatives listed in AS 11.71.140.

*** Sec. 7.** AS 08.64.107 is amended to read:

Sec. 08.64.107. Regulation of physician assistants and intensive care paramedics. The board shall adopt regulations regarding the licensure of physician assistants and registration of mobile intensive care paramedics, and the medical services that they may perform, including the

(1) educational and other qualifications**, including education in pain management and opioid use and addiction**;

(2) application and registration procedures;

(3) scope of activities authorized; and

(4) responsibilities of the supervising or training physician.

*** Sec. 8.** AS 08.64.200(a) is amended to read:

(a) Except for foreign medical graduates as specified in AS 08.64.225, each physician applicant shall

(1) submit a certificate of graduation from a legally chartered medical school accredited by the Association of American Medical Colleges and the Council on Medical Education of the American Medical Association;

(2) submit a certificate from a recognized hospital or hospitals certifying that the applicant has satisfactorily performed the duties of resident physician or intern for a period of

(A) one year if the applicant graduated from medical school before January 1, 1995, as evidenced by a certificate of completion of the first year of postgraduate training from the facility where the applicant completed the first year of internship or residency; and

(B) two years if the applicant graduated from medical school on or after January 1, 1995, as evidenced by a certificate of completion of the first year of postgraduate training from the facility where the applicant completed the first year of internship or residency and a certificate of successful completion of one additional year of postgraduate training at a recognized hospital;

(3) submit a list of negotiated settlements or judgments in claims or civil actions alleging medical malpractice against the applicant, including an explanation of the basis for each claim or action; and

(4) not have a license to practice medicine in another state, country, province, or territory that is currently suspended or revoked for disciplinary reasons**;**

(5) receive education in pain management and opioid use and addiction, unless the applicant has demonstrated to the satisfaction of the board that the applicant does not currently hold a valid federal Drug Enforcement Administration registration number; an applicant may include past professional experience or professional education as proof of professional competence.

*** Sec. 9.** AS 08.64.205 is amended to read:

Sec. 08.64.205. Qualifications for osteopath applicants. Each osteopath applicant shall meet the qualifications prescribed in AS 08.64.200(a)(3)**, (4), and (5)** [AND (4)] and shall

(1) submit a certificate of graduation from the legally chartered school of osteopathy approved by the board;

(2) submit a certificate from a hospital approved by the American Medical Association or the American Osteopathic Association that certifies that the

osteopath has satisfactorily completed and performed the duties of intern or resident physician for

(A) one year if the applicant graduated from a school of osteopathy before January 1, 1995, as evidenced by a certificate of completion of the first year of postgraduate training from the facility where the applicant completed the first year of internship or residency; or

(B) two years if the applicant graduated from a school of osteopathy on or after January 1, 1995, as evidenced by a certificate of completion of the first year of postgraduate training from the facility where the applicant completed the first year of internship or residency and a certificate of successful completion of one additional year of postgraduate training at a recognized hospital;

(3) take the examination required by AS 08.64.210 or be certified to practice by the National Board of Examiners for Osteopathic Physicians and Surgeons**;**

(4) receive education in pain management and opioid use and addiction, unless the applicant has demonstrated to the satisfaction of the board that the applicant does not currently hold a valid federal Drug Enforcement Administration registration number; an applicant may include past professional experience or professional education as proof of professional competence.

*** Sec. 10.** AS 08.64.209(a) is amended to read:

(a) Each applicant who desires to practice podiatry shall meet the qualifications prescribed in AS 08.64.200(a)(3)**, (4), and (5)** [AND (4)] and shall

(1) submit a certificate of graduation from a legally chartered school of podiatry approved by the board;

(2) take the examination required by AS 08.64.210; the State Medical Board shall call to its aid a podiatrist of known ability who is licensed to practice podiatry to assist in the examination and licensure of applicants for a license to practice podiatry;

(3) **receive education in pain management and opioid use and addiction, unless the applicant has demonstrated to the satisfaction of the board**

that the applicant does not currently hold a valid federal Drug Enforcement Administration registration number; an applicant may include past professional experience or professional education as proof of professional competence;

(4) meet other qualifications of experience or education which the board may require.

*** Sec. 11.** AS 08.64.225(a) is amended to read:

(a) Applicants who are graduates of medical colleges not accredited by the Association of American Medical Colleges and the Council on Medical Education of the American Medical Association shall

(1) meet the requirements of AS 08.64.200(a)(3)**, (4), and (5)** [AND (4)] and 08.64.255;

(2) have successfully completed

(A) three years of postgraduate training as evidenced by a certificate of completion of the first year of postgraduate training from the facility where the applicant completed the first year of internship or residency and a certificate of successful completion of two additional years of postgraduate training at a recognized hospital; or

(B) other requirements establishing proof of competency and professional qualifications as the board considers necessary to ensure the continued protection of the public adopted at the discretion of the board by regulation**, including education in pain management and opioid use and addiction, unless the applicant has demonstrated to the satisfaction of the board that the applicant does not currently hold a valid federal Drug Enforcement Administration registration number; an applicant may include past professional experience or professional education as proof of professional competence**; and

(3) have passed examinations as specified by the board in regulations.

*** Sec. 12.** AS 08.64.250 is amended to read:

Sec. 08.64.250. License by credentials. The board may waive the examination requirement and license by credentials if the physician**, osteopath,** or podiatry

applicant meets the requirements of AS 08.64.200**, 08.64.205,** or 08.64.209, submits proof of continued competence as required by regulation, pays the required fee**,** and has

(1) an active license from a board of medical examiners established under the laws of a state or territory of the United States or a province or territory of Canada issued after thorough examination; or

(2) passed an examination as specified by the board in regulations.

*** Sec. 13.** AS 08.64.250 is amended by adding a new subsection to read:

(b) Regulations under (a) of this section must require the applicant demonstrate professional competence in pain management and addiction disorders; an applicant may include past professional experience or professional education as proof of professional competence.

*** Sec. 14.** AS 08.64.312 is amended to read:

Sec. 08.64.312. Continuing education requirements. (a) The board shall promote a high degree of competence in the practice of medicine**, osteopathy, and podiatry** by requiring every **licensee of medicine, osteopathy, and podiatry** [PHYSICIAN LICENSED] in the state to fulfill continuing education requirements.

(b) Before a license may be renewed, the licensee shall submit evidence to the board or its designee that continuing education requirements prescribed by regulations adopted by the board have been met**, including not less than two hours of education in pain management and opioid use and addiction for every 40 hours of education received, unless the licensee demonstrates to the satisfaction of the board that the licensee's practice does not include pain management and opioid treatment or prescribing**.

(c) The board or its designee may exempt a physician**, osteopath, or podiatrist** from the requirements of (b) of this section upon an application by the physician**, osteopath, or podiatrist** giving evidence satisfactory to the board or its designee that the physician**, osteopath, or podiatrist** is unable to comply with the requirements because of extenuating circumstances. However, a person may not be exempted from more than 15 hours of continuing education in a five-year period**; a person may not be exempted from the requirement to receive at least two hours**

of education in pain management and opioid use and addiction, unless the person has demonstrated to the satisfaction of the board that the person does not currently hold a valid federal Drug Enforcement Administration registration number .

*** Sec. 15.** AS 08.64.326(a) is amended to read:

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

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

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

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

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

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

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

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

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

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

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

(8) has demonstrated

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

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

(C) unfitness because of physical or mental disability;

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

(10) has violated AS 18.16.010;

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

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

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

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

*** Sec. 16.** AS 08.64 is amended by adding a new section to article 3 to read:

Sec. 08.64.363. Maximum dosage for opioid prescriptions. (a) A licensee may not issue an initial prescription for an opioid that exceeds a seven-day supply to an adult patient for outpatient use.

(b) A licensee may not issue a prescription for an opioid that exceeds a seven-day supply to a minor. At the time a licensee writes a prescription for an opioid for a minor, the licensee shall discuss with the parent or guardian of the minor why the prescription is necessary and the risks associated with opioid use.

(c) Notwithstanding (a) and (b) of this section, a licensee may issue a prescription for an opioid that exceeds a seven-day supply to an adult or minor patient if, in the professional medical judgment of the licensee, more than a seven-day supply of an opioid is necessary for

(1) the patient's acute medical condition, chronic pain management, pain associated with a cancer diagnosis, or pain experienced while the patient is in palliative care; the licensee may write a prescription for an opioid for the quantity needed to treat the patient's medical condition, chronic pain, pain associated with a cancer diagnosis, or pain experienced while the patient is in palliative care; the licensee shall document in the patient's medical record the condition triggering the prescription of an opioid in a quantity that exceeds a seven-day supply and indicate that a nonopioid alternative was not appropriate to address the medical condition;

(2) a patient who is unable to access a practitioner within the time necessary for a refill of the seven-day supply because of a logistical or travel barrier; the licensee may write a prescription for an opioid for the quantity needed to treat the patient for the time that the patient is unable to access a practitioner; the licensee shall document in the patient's medical record the reason for the prescription of an opioid in a quantity that exceeds a seven-day supply and indicate that a nonopioid alternative was not appropriate to address the medical condition; in this paragraph, "practitioner" has the meaning given in AS 11.71.900; or

(3) the treatment of a patient's substance abuse or opioid dependence; the licensee may write a prescription for an opioid approved for the treatment of substance abuse or opioid dependence for the quantity needed to treat the patient's

substance abuse or opioid dependence; the licensee shall document in the patient's medical record the reason for the prescription of an opioid approved for the treatment of substance abuse or opioid dependence in a quantity that exceeds a seven-day supply and indicate that a nonopioid alternative was not appropriate for the treatment of substance abuse or opioid dependence.

(d) In this section,

(1) "adult" means

(A) a person who has reached 18 years of age; or

(B) an emancipated minor;

(2) "emancipated minor" means a minor whose disabilities have been removed for general purposes under AS 09.55.590;

(3) "minor" means a person under 18 years of age who is not an emancipated minor.

*** Sec. 17.** AS 08.64.364(c) is amended to read:

(c) The board may not impose disciplinary sanctions on a physician for prescribing, dispensing, or administering a prescription drug that is a controlled substance or botulinum toxin if the requirements under (a) of this section **and AS 08.64.363** are met and the physician prescribes, dispenses, or administers the controlled substance or botulinum toxin when an appropriate licensed health care provider is present with the patient to assist the physician with examination, diagnosis, and treatment.

*** Sec. 18.** AS 08.64.380 is amended by adding a new paragraph to read:

(7) "opioid" includes the opium and opiate substances and opium and opiate derivatives listed in AS 11.71.140.

*** Sec. 19.** AS 08.68.270 is amended to read:

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

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

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

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

(4) has impersonated a registered or practical nurse;

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

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

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

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

(9) is professionally incompetent;

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

(11) prescribed or dispensed an opioid in excess of the maximum dosage authorized under AS 08.68.705; or

(12) has procured, sold, prescribed, or dispensed drugs in violation of a law, regardless of whether there has been a criminal action or patient harm.

*** Sec. 20.** AS 08.68.276 is amended to read:

Sec. 08.68.276. Continuing competence required. A license to practice nursing may not be renewed unless the nurse has complied with continuing competence requirements established by the board by regulation. **Regulations for renewal of a license of an advanced practice registered nurse must require a licensee receive not less than two hours of education in pain management and opioid use and addiction in the two years preceding an application for renewal of a license, unless the licensee has demonstrated to the satisfaction of the board that the licensee does not currently hold a valid federal Drug Enforcement Administration registration number.**

*** Sec. 21.** AS 08.68 is amended by adding a new section to article 6 to read:

Sec. 08.68.705. Maximum dosage for opioid prescriptions. (a) An advanced practice registered nurse licensed in the state may not issue an initial prescription for an opioid that exceeds a seven-day supply to an adult patient for outpatient use.

(b) An advanced practice registered nurse licensed in the state may not issue a prescription for an opioid that exceeds a seven-day supply to a minor. At the time an advanced practice registered nurse writes a prescription for an opioid for a minor, the advanced practice registered nurse shall discuss with the parent or guardian of the minor why the prescription is necessary and the risks associated with opioid use.

(c) Notwithstanding (a) and (b) of this section, an advanced practice registered nurse licensed in the state may issue a prescription for an opioid that exceeds a seven-day supply to an adult or minor patient if, in the professional judgment of the advanced practice registered nurse, more than a seven-day supply of an opioid is necessary for

(1) the patient's acute medical condition, chronic pain management, pain associated with a cancer diagnosis, or pain experienced while the patient is in palliative care; the advanced practice registered nurse may write a prescription for an opioid for the quantity needed to treat the patient's medical condition, chronic pain, pain associated with a cancer diagnosis, or pain experienced while the patient is in palliative care; the advanced practice registered nurse shall document in the patient's medical record the condition triggering the prescription of an opioid in a quantity that exceeds a seven-day supply and indicate that a nonopioid alternative was not appropriate to address the medical condition; or

(2) a patient who is unable to access a practitioner within the time necessary for a refill of the seven-day supply because of a logistical or travel barrier; the advanced practice registered nurse may write a prescription for an opioid for the quantity needed to treat the patient for the time that the patient is unable to access a practitioner; the advanced practice registered nurse shall document in the patient's medical record the reason for the prescription of an opioid in a quantity that exceeds a seven-day supply and indicate that a nonopioid alternative was not appropriate to address the medical condition; in this paragraph, "practitioner" has the meaning given in AS 11.71.900.

(e) This section does not authorize an advanced practice registered nurse to prescribe a controlled substance if that advanced practice registered nurse is not otherwise authorized to prescribe a controlled substance under policies, procedures, or regulations issued or adopted by the board.

(f) In this section,

(1) "adult" means

(A) a person who has reached 18 years of age; or

(B) an emancipated minor;

(2) "emancipated minor" means a minor whose disabilities have been removed for general purposes under AS 09.55.590;

(3) "minor" means a person under 18 years of age who is not an emancipated minor.

*** Sec. 22.** AS 08.68.850 is amended by adding a new paragraph to read:

(12) "opioid" includes the opium and opiate substances and opium and opiate derivatives listed in AS 11.71.140.

*** Sec. 23.** AS 08.72.170 is amended to read:

Sec. 08.72.170. Licensure by credentials. The board shall issue a license by credentials to an applicant who

(1) is a graduate of a school or college of optometry recognized by the board;

(2) has passed a written examination approved by the board that is designed to test the applicant's knowledge of the laws of Alaska governing the practice of optometry and the regulations adopted under those laws;

(3) holds a current license to practice optometry in another state or territory of the United States or in a province of Canada that has licensure requirements that the board determines are equivalent to those established under this chapter;

(4) at some time in the past, received a license to practice optometry from another state or territory of the United States or from a province of Canada that required the person to have passed the National Board of Examiners in Optometry examination to qualify for licensure;

(5) was engaged in the active licensed clinical practice of optometry in a state or territory of the United States or in a province of Canada for at least 3,120 hours during the 36 months preceding the date of application under this section;

(6) has not committed an act in any jurisdiction that would have constituted a violation of this chapter or regulations adopted under this chapter at the time the act was committed; and

(7) has not been disciplined by an optometry licensing entity in another jurisdiction and is not the subject of a pending disciplinary proceeding conducted by an optometry licensing entity in another jurisdiction; however, the board may consider the disciplinary action and, in the board's discretion, determine if the person is qualified for licensure**;**

(8) has received education in pain management and opioid use and addiction adequate for the practice of optometry, unless the applicant has demonstrated to the satisfaction of the board that the applicant does not currently hold a valid federal Drug Enforcement Administration registration number; an applicant may include past professional experience or professional education as proof of professional competence.

*** Sec. 24.** AS 08.72.181(d) is amended to read:

(d) Before a license may be renewed, the licensee shall submit to the board evidence that, in the four years preceding the application for renewal, the licensee has

(1) completed eight hours of continuing education, approved by the board, concerning the use and prescription of pharmaceutical agents;

(2) completed seven hours of continuing education, approved by the board, concerning the injection of nontopical therapeutic pharmaceutical agents; [AND]

(3) **completed at least two hours of education in pain management and opioid use and addiction, unless the applicant has demonstrated to the satisfaction of the board that the applicant does not currently hold a valid federal Drug Enforcement Administration registration number; and**

(4) met other continuing education requirements as may be prescribed by regulations of the board to ensure the continued protection of the public.

*** Sec. 25.** AS 08.72.240 is amended to read:

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

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

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

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

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

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

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

(7) continued to practice after becoming unfit due to

(A) professional incompetence;

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

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

(D) physical or mental disability;

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

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

(10) procured, sold, prescribed, or dispensed drugs in violation of a law, regardless of whether there has been a criminal action or patient harm.

*** Sec. 26.** AS 08.80.030(b), as amended by sec. 12, ch. 25, SLA 2016, is amended to read:

(b) In order to fulfill its responsibilities, the board has the powers necessary

for implementation and enforcement of this chapter, including the power to

(1) elect a president and secretary from its membership and adopt rules for the conduct of its business;

(2) license by examination or by license transfer the applicants who are qualified to engage in the practice of pharmacy;

(3) assist the department in inspections and investigations for violations of this chapter, or of any other state or federal statute relating to the practice of pharmacy;

(4) adopt regulations to carry out the purposes of this chapter;

(5) establish and enforce compliance with professional standards and rules of conduct for pharmacists engaged in the practice of pharmacy;

(6) determine standards for recognition and approval of degree programs of schools and colleges of pharmacy whose graduates shall be eligible for licensure in this state, including the specification and enforcement of requirements for practical training, including internships;

(7) establish for pharmacists and pharmacies minimum specifications for the physical facilities, technical equipment, personnel, and procedures for the storage, compounding, and dispensing of drugs or related devices, and for the monitoring of drug therapy;

(8) enforce the provisions of this chapter relating to the conduct or competence of pharmacists practicing in the state, and the suspension, revocation, or restriction of licenses to engage in the practice of pharmacy;

(9) license and regulate the training, qualifications, and employment of pharmacy interns and pharmacy technicians;

(10) issue licenses to persons engaged in the manufacture and distribution of drugs and related devices;

(11) establish and maintain a controlled substance prescription database as provided in AS 17.30.200;

(12) establish standards for the independent administration by a pharmacist of vaccines and related emergency medications under AS 08.80.168, including the completion of an immunization training program approved by the board;

(13) require that a licensed pharmacist [WHO HAS A FEDERAL DRUG ENFORCEMENT ADMINISTRATION REGISTRATION NUMBER] register with the controlled substance prescription database under AS 17.30.200(o).

*** Sec. 27.** AS 08.80 is amended by adding a new section to read:

Sec. 08.80.340. Prescription for an opioid; voluntary request for lesser quantity. (a) A pharmacist filling a prescription for an opioid that is a schedule II or III controlled substance under federal law may, at the request of the individual for whom the prescription is written, dispense the prescribed substance in a lesser quantity than prescribed. The remaining quantity in excess of the quantity requested by the individual shall be void.

(b) A pharmacist who dispenses less than the full quantity of a prescribed substance under (a) of this section shall notify the prescribing practitioner within 72 hours and submit information as to the amount of the controlled substance prescribed and the amount dispensed in the controlled substance prescription database under AS 17.30; in this section, "opioid" includes the opium and opiate substances and opium and opiate derivatives listed in AS 11.71.140.

(c) Nothing in this section shall be construed to prevent substitution of an equivalent drug under AS 08.80.295.

*** Sec. 28.** AS 08.98.050(a) is amended to read:

(a) The board shall

(1) establish examination requirements for eligible applicants for licensure to practice veterinary medicine;

(2) examine, or cause to be examined, eligible applicants for licensure or registration;

(3) approve the issuance of licenses and student permits to qualified applicants;

(4) establish standards for the practice of veterinary medicine by regulation;

(5) conduct disciplinary proceedings in accordance with this chapter; **in addition, the board may deny, suspend, or revoke the license of a person who has procured, sold, prescribed, or dispensed drugs in violation of a law,**

regardless of whether there has been a criminal action;

(6) adopt regulations requiring proof of continued competency before a license is renewed;

(7) as requested by the department, monitor the standards and availability of veterinary services provided in the state and report its findings to the department;

(8) collect, or cause to be collected, data concerning the practice of veterinary technology by veterinary technicians in the state and submit the data to the department for maintenance;

(9) establish, by regulation, educational and training requirements for

(A) the issuance of student permits; and

(B) the delegation of duties by veterinarians licensed under this chapter to veterinary technicians**;**

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

(11) identify resources and develop educational materials to assist licensees to identify an animal owner who may be at risk for abusing or misusing an opioid.

*** Sec. 29.** AS 17.30.200(a) is amended to read:

(a) The controlled substance prescription database is established in the Board of Pharmacy. The purpose of the database is to contain data as described in this section regarding every prescription for a schedule IA, IIA, IIIA, IVA, or VA controlled substance under state law or a schedule I, II, III, IV, or V controlled substance under federal law dispensed in the state to a person other than those administered to a patient at a health care facility **or a correctional facility, except when prescribing opioids to an inmate at the time of the inmate's release**. The Department of Commerce, Community, and Economic Development shall assist the board and provide necessary staff and equipment to implement this section.

*** Sec. 30.** AS 17.30.200(b), as amended by sec. 23, ch. 25, SLA 2016, is amended to read:

(b) The pharmacist-in-charge of each licensed or registered pharmacy,

regarding each schedule II, III, or IV controlled substance under federal law dispensed by a pharmacist under the supervision of the pharmacist-in-charge, and each practitioner who directly dispenses a schedule II, III, or IV controlled substance under federal law other than those administered to a patient at a health care facility **or a correctional facility, except when prescribing opioids to an inmate at the time of the inmate's release**, shall submit to the board, by a procedure and in a format established by the board, the following information for inclusion in the database on at least a **daily** [WEEKLY] basis:

(1) the name of the prescribing practitioner and the practitioner's federal Drug Enforcement Administration registration number or other appropriate identifier;

(2) the date of the prescription;

(3) the date the prescription was filled and the method of payment; this paragraph does not authorize the board to include individual credit card or other account numbers in the database;

(4) the name, address, and date of birth of the person for whom the prescription was written;

(5) the name and national drug code of the controlled substance;

(6) the quantity and strength of the controlled substance dispensed;

(7) the name of the drug outlet dispensing the controlled substance; and

(8) the name of the pharmacist or practitioner dispensing the controlled substance and other appropriate identifying information.

*** Sec. 31.** AS 17.30.200(d), as amended by sec. 25, ch. 25, SLA 2016, is amended to read:

(d) The database and the information contained within the database are confidential, **and** are not public records, and are not subject to public disclosure [, AND MAY NOT BE SHARED WITH THE FEDERAL GOVERNMENT]. The board shall undertake to ensure the security and confidentiality of the database and the information contained within the database. The board may allow access to the database only to the following persons, and in accordance with the limitations provided and regulations of the board:

(1) personnel of the board regarding inquiries concerning licensees or registrants of the board or personnel of another board or agency concerning a practitioner under a search warrant, subpoena, or order issued by an administrative law judge or a court;

(2) authorized board personnel or contractors as required for operational and review purposes;

(3) a licensed practitioner having authority to prescribe controlled substances or an agent or employee of the practitioner whom the practitioner has authorized to access the database on the practitioner's behalf, to the extent the information relates specifically to a current patient of the practitioner to whom the practitioner is prescribing or considering prescribing a controlled substance; the agent or employee must be licensed or registered under AS 08;

(4) a licensed or registered pharmacist having authority to dispense controlled substances or an agent or employee of the pharmacist whom the pharmacist has authorized to access the database on the pharmacist's behalf, to the extent the information relates specifically to a current patient to whom the pharmacist is dispensing or considering dispensing a controlled substance; the agent or employee must be licensed or registered under AS 08;

(5) federal, state, and local law enforcement authorities may receive printouts of information contained in the database under a search warrant, subpoena, or order issued by a court establishing probable cause for the access and use of the information;

(6) an individual who is the recipient of a controlled substance prescription entered into the database may receive information contained in the database concerning the individual on providing evidence satisfactory to the board that the individual requesting the information is in fact the person about whom the data entry was made and on payment of a fee set by the board under AS 37.10.050 that does not exceed $10;

(7) a licensed pharmacist employed by the Department of Health and Social Services who is responsible for administering prescription drug coverage for the medical assistance program under AS 47.07, to the extent that the information

relates specifically to prescription drug coverage under the program;

(8) a licensed pharmacist, licensed practitioner, or authorized employee of the Department of Health and Social Services responsible for utilization review of prescription drugs for the medical assistance program under AS 47.07, to the extent that the information relates specifically to utilization review of prescription drugs provided to recipients of medical assistance;

(9) the state medical examiner, to the extent that the information relates specifically to investigating the cause and manner of a person's death;

(10) an authorized employee of the Department of Health and Social Services may receive information from the database that does not disclose the identity of a patient, prescriber, dispenser, or dispenser location, for the purpose of identifying and monitoring public health issues in the state; however, the information provided under this paragraph may include the region of the state in which a patient, prescriber, and dispenser are located and the specialty of the prescriber; and

(11) a practitioner, pharmacist, or clinical staff employed by an Alaska tribal health organization, including commissioned corps officers of the United States Public Health Service employed under a memorandum of agreement; in this paragraph, "Alaska tribal health organization" has the meaning given to "tribal health program" in 25 U.S.C. 1603.

*** Sec. 32.** AS 17.30.200(e) as enacted by sec. 27, ch. 25, SLA 2016, is amended to read:

(e) The failure of a pharmacist-in-charge, pharmacist, or practitioner to register**, review the database** or submit information to the database as required under this section is grounds for the board to take disciplinary action against the license or registration of the pharmacy or pharmacist or for another licensing board to take disciplinary action against a practitioner.

*** Sec. 33.** AS 17.30.200(p), as enacted by sec. 34, ch. 25, SLA 2016, is amended to read:

(p) The board shall promptly notify the State Medical Board, the Board of Nursing, the Board of Dental Examiners, [AND] the Board of Examiners in Optometry**, and the Board of Veterinary Examiners** when a practitioner registers with the database under (o) of this section.

*** Sec. 34.** AS 17.30.200(q), as enacted by sec. 34, ch. 25, SLA 2016, is amended to read:

(q) The board is authorized to provide unsolicited notification to a pharmacist**,** **to a practitioner's licensing board,** or practitioner if a patient has received one or more prescriptions for controlled substances in quantities or with a frequency inconsistent with generally recognized standards of safe practice. **An unsolicited notification to a practitioner's licensing board under this section**

(1) also must be provided to the practitioner;

(2) is confidential;

(3) may not disclose information confidential under this section;

(4) may be in a summary form sufficient to provide notice of the basis for the unsolicited notification.

*** Sec. 35.** AS 17.30.200(r), as enacted by sec. 34, ch. 25, SLA 2016, is amended to read:

(r) The board shall update the database on at least a **daily** [WEEKLY] basis with the information submitted to the board under (b) of this section.

*** Sec. 36.** AS 17.30.200 is amended by adding new subsections to read:

(t) Notwithstanding (q) of this section, the board may issue to a practitioner periodic unsolicited reports that detail and compare the practitioner's opioid prescribing practice with other practitioners of the same occupation and similar specialty. A report issued under this subsection is confidential and shall be issued only to a practitioner. The board may adopt regulations to implement this subsection; regulations may address the types of controlled substances to be included in an unsolicited report, quantities dispensed, medication strength, and other factors determined by the board.

(u) In this section, "opioid" includes the opium and opiate substances and opium and opiate derivatives listed in AS 11.71.140.

*** Sec. 37.** AS 18.05**.**040(a) is amended to read:

(a) The commissioner shall adopt regulations consistent with existing law for

(1) the time, manner, information to be reported, and persons responsible for reporting for each disease or other condition of public health importance on the list developed under AS 18.15.370;

(2) cooperation with local boards of health and health officers;

(3) protection and promotion of the public health and prevention of

disability and mortality;

(4) the transportation of dead bodies, except that the commissioner may not require that a dead body be embalmed unless the body is known to carry a communicable disease or embalmment is otherwise required for the protection of the public health or for compliance with federal law;

(5) carrying out the purposes of this chapter;

(6) the conduct of its business and for carrying out the provisions of laws of the United States and the state relating to public health;

(7) establishing the divisions and local offices and advisory groups necessary or considered expedient to carry out or assist in carrying out a duty or power assigned to it;

(8) the voluntary certification of laboratories to perform diagnostic, quality control, or enforcement analyses or examinations based on recognized or tentative standards of performance relating to analysis and examination of food, including seafood, milk, water, and specimens from human beings submitted by licensed physicians and nurses for analysis;

(9) the regulation of quality and purity of commercially compressed oxygen sold for human respiration;

(10) establishing confidentiality and security standards for information and records received under AS 18.15.355 - 18.15.395**;**

(11) implementation of AS 13.55 (Voluntary Nonopioid Directive Act).

*** Sec. 38.** Sections 52 and 73, ch. 25, SLA 2016, are repealed.

*** Sec. 39.** The uncodified law of the State of Alaska is amended by adding a new section to read:

TRANSITION: REGULATIONS. (a) The Department of Health and Social Services and the Department of Commerce, Community, and Economic Development may adopt regulations necessary to implement the changes made by this Act. The regulations take effect under AS 44.62 (Administrative Procedure Act), but not before the effective date of the relevant provision of this Act implemented by the regulation.

(b) The Department of Commerce, Community, and Economic Development and the

board that regulates an occupation that includes a practitioner who is required to register with the controlled substance prescription database under AS 17.30.200 shall adopt regulations to implement the changes made by AS 08.98.050(a), as amended by sec. 28 of this Act. The regulations take effect under AS 44.62 (Administrative Procedure Act), but not before the effective date of sec. 28 of this Act.

*** Sec. 40.** This Act takes effect immediately under AS 01.10.070(c).