ALASKA STATE LEGISLATURE
SENATE HEALTH AND SOCIAL SERVICES STANDING COMMITTEE
March 3, 2022
1:31 p.m.

MEMBERS PRESENT

Senator David Wilson, Chair
Senator Shelley Hughes, Vice Chair
Senator Mia Costello
Senator Lora Reinbold
Senator Tom Begich

MEMBERS ABSENT

All members present

OTHER LEGISLATORS PRESENT

Representative Ivy Spohnholz

COMMITTEE CALENDAR

SENATE BILL NO. 175
"An Act relating to telehealth; relating to the practice of medicine; relating to medical assistance coverage for services provided by telehealth; and providing for an effective date."

- HEARD & HELD

SENATE BILL NO. 192
"An Act relating to midwives and the practice of midwifery; relating to apprentice midwives; relating to the licensing of midwives; relating to insurance requirements for the practice of midwifery; and providing for an effective date."

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: SB 175
SHORT TITLE: HEALTH CARE SERVICES BY TELEHEALTH
SPONSOR(s): SENATOR(s) WILSON

02/01/22	(S)	READ THE FIRST TIME - REFERRALS
02/01/22	(S)	HSS, L&C

02/24/22	(S)	HSS AT 1:30 PM BUTROVICH 205
02/24/22	(S)	-- Invited & Public Testimony --
03/03/22	(S)	HSS AT 1:30 PM BUTROVICH 205

BILL: SB 192
SHORT TITLE: BOARD OF LICENSED MIDWIVES
SPONSOR(s): SENATOR(s) KAWASAKI

02/15/22	(S)	READ THE FIRST TIME - REFERRALS
02/15/22	(S)	HSS, L&C, FIN
03/03/22	(S)	HSS AT 1:30 PM BUTROVICH 205

WITNESS REGISTER

JASMIN MARTIN, Staff
Senator David Wilson
Alaska State Legislature
Juneau, Alaska
POSITION STATEMENT: Presented the sectional analysis for SB 175 on behalf of the sponsor.

RENEE GAYHART, Director
Division of Health Care Services
Department of Health and Social Services (DHSS)
Juneau, Alaska
POSITION STATEMENT: Answered questions during the discussion of SB 175.

GENNIFER MOREAU, Director
Division of Behavioral Health
Department of Health and Social Services (DHSS)
Anchorage, Alaska
POSITION STATEMENT: Answered questions during the discussion of SB 175.

SARAH CHAMBERS, Director
Division of Corporations, Business, and Professional Licensing
Department of Commerce, Community and Economic Development
Juneau, Alaska
POSITION STATEMENT: Answered questions during the discussion of SB 175.

NANCY MERRIMAN, Executive Director
Alaska Primary Care Association
Anchorage, Alaska
POSITION STATEMENT: Provided invited testimony on SB 175.

JOHN SOLOMON, Director
Behavior Health
Maniilaq Association
Kotzebue, Alaska
POSITION STATEMENT: Provided invited testimony on SB 175.

SUZANNE ISHII-REGAN, representing self
Anchorage, Alaska
POSITION STATEMENT: Testified in support of SB 175.

SARAH ELIASEEN, representing self
Eagle River, Alaska
POSITION STATEMENT: Testified in support of SB 175.

CODY CHIPP, Director
Alaska Native Tribal Health Consortium (ANPHC)
Anchorage, Alaska
POSITION STATEMENT: Testified in support of SB 175.

JOE HAYS, Staff
Senator Scott Kawasaki
Alaska State Legislature
Juneau, Alaska
POSITION STATEMENT: Presented SB 192 on behalf of the sponsor.

CHERIE BOWMAN, Intern
Senator Scott Kawasaki
Alaska State Legislature
Juneau, Alaska
POSITION STATEMENT: Presented the sectional analysis for SB 192 on behalf of the sponsor.

RACHEL PUGH, Member
Board of Certified Direct-Entry Midwives
Department of Commerce, Community and Economic Development
Eagle River, Alaska
POSITION STATEMENT: Provided invited testimony on SB 192.

BETHEL BELISLE, Chair
Board of Certified Direct-Entry Midwives
Department of Commerce, Community and Economic Development
Anchorage, Alaska
POSITION STATEMENT: Provided invited testimony on SB 192.

ACTION NARRATIVE

1:31:59 PM
CHAIR DAVID WILSON called the Senate Health and Social Services Standing Committee meeting to order at 1:31 p.m. Present at the call to order were Senators Costello, Reinbold, and Chair Wilson. Senator Begich and Hughes arrived shortly thereafter.

SB 175-HEALTH CARE SERVICES BY TELEHEALTH

1:32:19 PM
CHAIR WILSON announced the consideration of SENATE BILL NO. 175 "An Act relating to telehealth; relating to the practice of medicine; relating to medical assistance coverage for services provided by telehealth; and providing for an effective date."

1:32:38 PM
SENATOR COSTELLO moved to adopt the committee substitute (CS) for SB 175, work order 32-LS1421\I, as the working document.

1:32:50 PM
CHAIR WILSON objected for purposes of discussion. He explained that the CS is a good faith compromise with stakeholders that will make a better bill.

1:33:40 PM
CHAIR WILSON removed his objection; he found no further objection, and Version I was adopted as the working document.

1:33:49 PM
SENATOR HUGHES and SENATOR BEGICH joined the meeting.

1:34:04 PM
CHAIR WILSON, speaking as sponsor, paraphrased the following sponsor statement for SB 175:

[Original punctuation provided.]

> The COVID pandemic brought many hardships, but also inspired innovation. The committee has had extensive conversations on telehealth, through both SB 56 (Disaster Bill) and SB 78 (Senator Costello's Telehealth Bill). SB 175 capitalizes on these innovations and conversations. Access to telehealth services were broadened temporarily during the COVID-19 pandemic. We want to continue these telehealth flexibilities and make them permanent in statute. SB 175:

- Improves access to behavioral health and helps to address opioid use disorder.
- Reduces bureaucracy.
- Makes health care possible when an in-person visit doesn't make sense, or just isn't an option.

1:35:04 PM

There is an extensive packet of letters of support to this legislation. Some of the supporters are: Southcentral Foundation, ASHNHA, Alaska Association on Developmental Disabilities, Alaska Behavioral Health Association, AARP, Alaska Primary Care Association Alaska Regional Coalition (TCC, Kawerak, Maniilaq, Chugachmuit, Central Council Tlingit & Haida), Alaska Native Health Board, Family Centered Services of Alaska, Set Free Alaska, and U.S. Renal Care.

SB 175:

1) Creates a new section on telehealth for health care providers licensed with the State of Alaska that removes the requirement for an in-person visit and ensures payment parity for telehealth visit.

2) Allows physicians licensed in another state to deliver telehealth services within their scope of practice if:
   a. There is an established physician-patient relationship,
   b. The non-resident physician has given the patient an in-person physical exam,
   c. And the services are related to ongoing treatment or follow-up care related to past treatment.

3) Ensures telehealth availability for services related to opioid use disorder and controlled substances for certain providers.

4) Increases telehealth access for Alaska Medicaid beneficiaries by ensuring coverage and ensures payment parity and Medicaid coverage for virtually any telehealth modality.

SB 175 does not require anyone to deliver or receive services through telehealth. Both the provider and the patient may choose to limit or decline a telehealth encounter.

1:36:40 PM
CHAIR WILSON noted that Representative Spohnholz sponsored a companion bill.

1:37:02 PM
JASMIN MARTIN, Staff, Senator David Wilson, Juneau, Alaska, paraphrased the following sectional analysis on behalf of the sponsor:

[Original punctuation provided.]

Section 1: Adds a new section (.085 Telehealth) to AS 08 (Business and Professions) .01 (Centralized Licensing).

(a) Allows a healthcare provider (other than physician licensed in in another state) to provide health care services via telehealth without first conducting an in-person visit.

(b) Allows an out-of-state physician to provide health care services via telehealth if:

(1) The physician and patient have pre-established relationship.

(2) There has been an in-person examination.

(3) The telehealth visits are a follow-up to previously provided health care services.

(c) Creates limits for a telehealth appointment. If a telehealth appointment falls outside a provider's authorized scope of practice, they may refer the patient to an appropriate clinician. Prohibits a healthcare provider from charging for any portion of the visit that was beyond their scope of practice.

(d) Requires fees charged for telehealth to be no more than fees charged for in person visits.

(e) Allows a physician, podiatrist, osteopath, or physician assistant licensed with the State of Alaska to prescribe controlled substances via telehealth if they comply with Alaska Statute regarding prescribing controlled substances without a physical examination.

(f) Allows an advanced practice registered nurse licensed with the State of Alaska to prescribe controlled substances via telehealth.

(g) Prohibits a provider from prescribing controlled substances via telehealth other than as provided in (e) and (f).

1:39:00 PM

(h) Removes the burden to document barriers to an in-person visit and clarifies that the board or department cannot require health care services to be provided from a certain location.

(i) Clarifies that nothing in this section requires a provider to provide telehealth services or a patient to use telehealth services.

(j) Defines: "health care provider," "licensed," and "telehealth."

Section 2: Amends AS 08 (Business and Professions) .64 (Medicine) .364 (Prescription of drugs without a physical examination).

Removes the in-person requirement in AS 08.64.364(b) for an appropriate health care provider to assist a patient during a telehealth appointment with a physician or physician assistant regarding controlled substances.

1:39:45 PM

Section 3: Adds a new section (.100 Telehealth) to AS 18 (Health, Safety, Housing, Human Rights, and Public Defenders) .08 (Emergency Medical Services).

(a) Allows an individual certified or licensed to provide emergency services to provide emergency services through telehealth.

(b) Requires a certified or licensed individual to stay within their scope of practice during a telehealth visit. Prohibits them from charging for any portion of the visit that was beyond their scope of practice.

(c) Requires fees charged for telehealth to be no more than fees charged for in person visits.

(d) Removes the burden to document attempts at an in person visit and clarifies that the council or department cannot require health care services to be provided from a certain location.

(e) Clarifies that nothing in this section requires a provider to provide telehealth services or a patient to use telehealth services.
(f) Defines "telehealth" as defined in section 1.

1:40:46 PM

Section 4: Adds a new section (.069. Payment for Telehealth) to AS 47 (Welfare, Social Services, and Institutions) .07 (Medical Assistance for Needy Persons).

(a) Requires Medicaid to pay for services by telehealth at the same rate they would if the services were provided in person.
(b) Requires the department to adopt regulations for services provided through telehealth. Requires these regulations to treat services provided through telehealth in the same manners as services provided in person. Allows the department to limit modes, coverage, and reimbursement of telehealth only if:
    (1) The department specifically excludes or limits services from telehealth coverage through regulation.
    (2) Determines, through substantial medical evidence, that a service cannot be safely provided via telehealth.
    (3) Providing a service through telehealth would violate federal law or render a service ineligible for reimbursement under federal law.
(c) Requires all telehealth services comply with HIPAA.
(d) Defines "federally qualified health center," "rural health clinic," "state plan," and "telehealth."

1:41:23 PM

Section 5: Adds a new section (.585 Telehealth) to AS 47 (Welfare, Social Services, and Institutions) .30 (Mental Health).

Identical to section 3 but applies to entities which are approved to receive grant funding by the Department of Health and Social Services to deliver community health services.

Section 6: Adds a new section (.145 Telehealth) to AS 47 (Welfare, Social Services, and Institutions) .37 (Uniform Alcoholism and Intoxication Act).
Identical to section 3 but applies to public or private treatment facilities approved by the Department of Health and Social Services in AS 47.37.140 to deliver services designated under AS 47.37.40 – AS 47.37.270 addressing substance use disorders.

Section 7-10
Amends the uncodified law to instruct the Department of Health and Social Services to submit an amendment to the state plan and seek approval from the U.S. Department of Health and Human Services if needed and provides immediate effective dates for other areas of this bill.

1:42:25 PM
MS. MARTIN presented the changes from version A to version I of SB 175:

[Original punctuation provided.]

Section 1
Replaces any reference to "examination" with "visit," and updates corresponding language throughout the bill, except for providers licensed in another state.

Removes language in subsection (a) of version A related to the telehealth authority of providers licensed in another state. This language is replaced with subsection (b), which creates an exemption for physicians licensed in another state to deliver health care services within their scope of practice if there is an established physician-patient relationship, the non-resident physician has given the patient an in-person physical exam, and the services are related to ongoing treatment or follow-up care related to past treatment.

Cleans up the provisions regarding medication assisted treatment by removing subsection (d) in version A, which pertained to services addressing opioid use disorder. This language was deemed unnecessary to ensure the telehealth delivery of medication assisted treatment to treat opioid use disorder (i.e.,

medication, counseling, and behavioral health therapies).

Revises the prescribing authority provision by separating physicians, podiatrists, osteopaths, and physician assistants in subsection (e) from advanced practice registered nurses (APRNs) in subsection (f).

Amends the APRN language in subsection (f) to remove the in-person requirement of prescribing controlled substances (including buprenorphine) via telehealth. This does not change the prescribing scope for these providers.

Creates subsection (h) to remove requirements to document all attempts for an in-person visit and prevents the department or board from limiting the physical setting of a health care provider delivering telehealth.

Clarifying language is inserted under subsection (j)(2) defining all providers in this section as licensed in good standing.

1:43:36 PM

Section 3 Creates subsection (h) under Title 18 to remove requirements to document all attempts for an in-person visit. This section replicates the same provisions on documentation and physical setting for emergency medical services as Section 1.

Section 4

Amends telehealth services included in Alaska Medicaid by explicitly including home and community-based waiver services in subsection (a)(2) and adding services provided under a state plan option (e.g., 1915(k) services) in subsection (a)(3). Adds language in subsection (b), line 13 to ensure the department must revise regulatory language to include telehealth in the definition of a "visit."

Section 5-6

These are new sections adding telehealth provisions to entities in Title 47. These entities represent grantees which deliver community mental health services, or facilities approved by the department to deliver substance use disorder treatment. Their

authority to deliver telehealth was previously unaddressed in version W because they are not applicable to the provisions in Title 8 or the Alaska Medicaid provisions in Title 47. Both sections replicate the same telehealth provisions on cost, scope of services, patient protections, documentation, and physical setting as Section 1.

1:44:23 PM

Section 5 creates AS 47.30.585 to include entities designated under AS 47.30.520 – AS 47.30.620, which are approved to receive grant funding by the Department of Health and Social Services to deliver community mental health services.

Section 6 creates AS 47.37.145 to include public or private treatment facilities approved by the Department of Health and Social Services in AS 47.37.140 to deliver services designated under AS 47.37.40 – AS 47.37.270 addressing substance use disorders.

1:45:07 PM

SENATOR REINBOLD stated that when the telehealth bill was introduced by former Representative Vasquez, Alaska physicians were adamant about the requirement for an in-person visit before online visits could occur. She asked for an explanation of what SB 175 does in that regard that wasn't in that House bill.

MS. MARTIN responded that the bill removes the burden of documenting an attempted in-person visit. It would also establish payment parity for telehealth and in-person visits.

1:46:03 PM

SENATOR REINBOLD asked if SB 175 would address prescribing related to telehealth.

1:46:21 PM

At ease

1:48:52 PM

CHAIR WILSON reconvened the meeting.

1:48:57 PM

SENATOR REINBOLD asked whether HB 275 and SB 175 were identical because the fiscal notes talk about two different bills.

1:49:12 PM
CHAIR WILSON replied that the bills were the same. He deferred to the Division of Healthcare Services, Department of Health and Social Services (DHSS) to address the fiscal notes and the reason an additional person is needed to provide services the division is already providing to the public.

1:49:57 PM
RENEE GAYHART, Director, Division of Health Care Services, Department of Health and Social Services (DHSS), Juneau, Alaska, related that the department would retain some flexibilities for public health emergency care. It would require regulatory changes and quality assurance reviews of payments, which would require additional staff time. The additional staff was to ensure quality assurance. She noted that the Division of Behavioral Health and Senior and Disability Services staff were online.

1:51:34 PM
CHAIR WILSON asked if the department should wait to determine if there are additional costs to the administration. The fiscal note does not say how many more patients would use telehealth as a modality versus in-patient care. According to the fiscal note, it appears the department adds this as a cost into perpetuity and not just as a one-time charge. He asked why the department would not just request temporary funds in the supplemental budget.

MS. GAYHART responded that the department has been working with Representative Spohnholz and others on what could be added through SB 175 and the companion bill. Due to the pandemic, the flexibilities put in place added many recipients to telehealth. She indicated that if the changes in the bill are permanent, they require additional regulations, system edits, and post-payment claims review. She stated that the Centers for Medicare and Medicaid Services (CMS) temporarily waived the requirements because of the pandemic, noting that CMS reimburses the department for services it provides to recipients through providers. However, making those changes permanent would require additional staff.

1:53:40 PM
CHAIR WILSON expressed concern about the ongoing costs in SB 175. He offered his view that the regulation changes would not happen until FY 2027 and FY 2028.

1:54:05 PM

GENNIFER MOREAU-JOHNSON, Director, Division of Behavioral Health, Department of Health and Social Services (DHSS), Anchorage, Alaska, stated that the Division of Behavioral Health was very interested in supporting access to care. She highlighted that part of their mission is to ensure effective care and assurance of quality outcomes. The full-time position in the division's fiscal note would provide review and monitoring to assure the clinical appropriateness of the services and for ongoing review to ensure national best practices related to telehealth. She envisioned that telehealth would be a method of delivery that would continue to develop over time. Thus, the division believes the position should be a full-time permanent position to stay abreast of national best practices and ensure quality.

1:55:19 PM
CHAIR WILSON wondered whether the division was currently doing so.

MS. MOREAU-JOHNSON answered yes. However, this bill proposes language that would require regulatory changes for the administration of telehealth, which would require additional staff support.

1:55:46 PM
SENATOR BEGICH asked what additional work the bill required. He related that the division would need to develop new regulations for one year, but she indicated the department currently reviews and monitors telehealth activities. Thus, he was unsure of the additional work that SB 175 would require.

MS. MOREAU-JOHNSON answered that language in SB 175 relates to substantial medical evidence, and because telehealth is an emerging platform, the division wants to ensure patients receive quality telehealth care. She said the bill focuses on providing behavioral services through telehealth, and the division supports that access but wants to ensure adequate services are provided. She highlighted that the division is small and has taken on substantial work to implement the [Medicaid Section] 1115 waiver.

1:57:02 PM
SENATOR BEGICH stated he could understand up to a five-year follow-up; however, SB 175 should reduce documentation once enacted, so he was not comfortable with the fiscal note. He offered his view that the fiscal note is inflated by half a million dollars. He surmised that it would likely take a year or

18 months at most. He said he did not see the need for an ongoing full-time position over time and suggested that the division clearly assess the time required to determine quality telehealth delivery.

1:58:08 PM
SENATOR HUGHES expressed concern about the cost of SB 175 for Alaskans because it allows fees for a telehealth visit at the same rate as an in-person visit. She recalled stipulating years ago that telehealth would reduce health care costs in the state, especially for villages. She stated that the costs associated with telehealth are less than for a clinic. For example, no medical assistant takes the patient's blood pressure and performs other duties, resulting in lower overhead. She highlighted that Alaska has a problem with high health care costs, so she questioned why the medical fees for telehealth and in-person visits would be the same.

CHAIR WILSON commented that his office worked with other telehealth providers during a Medicaid Policy conference and found that there were two reasons for including payment parity in SB 175. One reason was that it helps incentivize the use of telehealth since most doctors prefer in-patient visits for the profitability of their practice. He offered to distribute information from the National Conference of Legislatures (NCSL) on this. NCSL researched the issue and found it also related to the initial cost for some of the rural community health providers in the nation to provide telehealth. Thus, payment parity allows providers to recoup the initial costs of setting up private and secure telehealth communications equipment. This is particularly important for small practices in underserved communities because they may not have the financial means to offer telehealth if the reimbursement rates are substantially lower. He noted that he was working with stakeholders and the sponsor of the companion bill to consider an amendment for a sunset date for payment parity.

2:01:52 PM
SENATOR HUGHES opined that telehealth costs affect individuals and will also be reflected in savings to the Medicaid budget. She referred to page 6, line 9 of Version I, that says the Department of Health and Social Services (DHSS) has the responsibility to decide what will be covered, excluded, limited, or reimbursed for services provided by telehealth. She offered her belief that the medical board decides what doctors can do, and the nursing board decides what nurse practitioners can do. She wondered how DHSS would determine what is

appropriate for telehealth. She suggested that the medical board would want to determine what is suitable for telehealth.

CHAIR WILSON replied that this section was addressing reimbursable services. It allows the department to determine which provided services will be reimbursed. For example, certain case management providers may not be covered through Medicaid for in-patient visits, but the visit may be covered through another private insurance. This provision would allow them to say which service modalities will be reimbursed. It would allow the state to set the regulations accordingly for current procedural terminology (CPT) codes and determine which ones would be set for reimbursable services in Alaska.

2:04:29 PM
MS. MOREAU-JOHNSON agreed that the language in SB 175 provides the department the authority to establish regulations for reimbursement and to maintain like reimbursement for like services to the extent possible.

2:04:51 PM
SENATOR HUGHES referred to Section 1, which states that in-state providers may use telehealth without conducting a patient's physical exam. In contrast, out-of-state providers must have an in-person medical exam before providing service. She questioned the constitutionality of having different telehealth requirements for using non-Alaskan licensed physicians.

CHAIR WILSON replied that he did not believe it caused any constitutional issues. He explained that Section 1 relates to licensing requirements for doctors, creating parity for Alaska and out-of-state physicians.

2:05:55 PM
SARAH CHAMBERS, Director, Division of Corporations, Business, and Professional Licensing, Department of Commerce, Community and Economic Development (DCCED), Juneau, Alaska, related her understanding that Section 1 eliminates licensure for out-of-state providers. Out-of-state providers must be licensed in Alaska to provide care in the state. SB 175 would allow out-of-state physicians licensed in another jurisdiction to practice in Alaska via telehealth, but they must follow Alaska's laws. She related that during the pandemic, some Alaskans had a Seattle doctor for specialty care but had health restrictions and could not travel to Seattle. Their provider had limited access to in-patient services, or it was cost prohibitive.

2:07:32 PM
SENATOR HUGHES stated the explanation makes sense. She wondered if this was opening the door to allow out-of-state physicians to live in the state and provide telehealth services indefinitely without obtaining an Alaska license.

CHAIR WILSON opined that the requirements would make that difficult and deferred to Ms. Chambers.

MS. CHAMBERS replied that the intent is to have a bifurcated system where a physician practicing in Alaska must have an Alaska license. She offered to research when out-of-state physicians would need an Alaska license to clarify the bill's intent for the future.

2:09:19 PM
CHAIR WILSON stated he would add the suggestion to his list of potential amendments.

2:09:38 PM
NANCY MERRIMAN, Executive Director, Alaska Primary Care Association, Anchorage, Alaska, paraphrased her testimony as follows:

[Original punctuation provided.]

> The Alaska Primary Care Association (APCA) supports the operations and development of Alaska 29 federally qualified health centers, also known as community health centers, or FQHC. Health centers provide comprehensive whole person care which includes medical, dental, behavioral, pharmacy and care coordination services. A PCA and Alaska's health centers support SB 175 because it increases access to primary care and behavioral health services, and it expands telehealth in this space. This legislation does several things that are important to help centers. First, it includes a range of telehealth modalities, including audio only, both now and into the future. Second, it allows patients and providers to engage in telehealth services outside of clinic setting if they so choose. And third, it provides adequate reimbursement for telehealth visits, providing new points of access to whole person care, including behavioral health and substance use disorder treatment.

In 2020, health centers served 105,000 patients through 450,000 visits. Telehealth and substance use disorder services are our fastest growing area of service, and of those visits 40 percent were accommodated via telehealth. In the subspecialty area of substance use disorder services, 45 percent of visits were via telehealth. The temporary telehealth policy changes have benefited health centers because they have allowed health centers to be recognized as telehealth treating providers to furnish some behavioral health services via audio only technology, and to be paid for telehealth services furnished to Medicaid beneficiaries under the health centers bundled payment reimbursement model.

2:11:47 PM
MS. MERRIMAN continued her testimony:

Health centers serve hard to reach community. The majority of health center patients experienced challenges in accessing health care that include long distances to reach local providers, cost of care, transportation, language, and cultural barriers. In Alaska, over half of our patients are from racial or ethnic minorities, a majority are low income, and most patients live in rural communities. Health centers best serve their patient populations if they have the ability to use technology to meet their patients where they are at. Additionally, workforce shortages, particularly in behavioral health providers, impact health centers uniquely as nonprofit safety net providers. And telehealth allows health centers to use their clinical workforce most nimbly.

In 2021, a cohort of health centers reported that of their telehealth interactions 59 percent occurred by phone and 40 percent by audio or video. Through the pandemic demand for tele behavioral health now represents 35 percent of all telehealth usage. Health centers have witnessed how telehealth has provided a stronger continuity of care for patients, reduced travel costs, and has resulted in fewer dropped visits, and less delayed and more costly care. And we understand that delivering quality whole person care ultimately leads to better health outcomes, saves lives, and in the long run saves on cost. So, on behalf of the Alaska Primary Care Association and

health centers across the state, I urge you to support SB 175. And we appreciate your support.

2:13:39 PM
SENATOR REINBOLD stated she made a commitment when she supported telehealth six years ago to support Alaska's physicians. She said she is pleased that SB 175 requires physicians to have an established patient relationship before offering telehealth services. She expressed concern that SB 175 might mean more patients would seek medical care from physicians in the Lower 48, which could be difficult for local providers who established small clinics. She wants to ensure that patients do not turn to out-of-area telemedicine and leave local doctors without patients.

CHAIR WILSON asked Ms. Merriman whether Alaskan providers would have that concern.

MS. MERRIMAN opined that SB 175 seeks to establish and protect the patient-provider relationship.

2:15:17 PM
SENATOR REINBOLD stated she supports SB 175 because it prevents providers from requiring patients to be vaccinated before receiving treatment. She is concerned about the opioid crisis in Alaska and whether SB 175 would increase access to opioids in Alaska.

CHAIR WILSON responded no. He stated that SB 175 would not increase access because there are still state statutes that out-of-state providers must follow. He said he would follow up to ensure that all entities are required to follow Alaska's prescribing rules.

SENATOR REINBOLD recalled that opioid prescriptions were limited to a 7-day maximum prescription.

2:16:22 PM
SENATOR REINBOLD asked if SB 175 mirrors or complements HB 172 related to psychotropic medication use in sub-acute medical facilities.

CHAIR WILSON answered no.

2:17:09 PM
SENATOR REINBOLD related her understanding that the local physicians, physician's assistants, and nurse practitioners were

represented by APCA. She acknowledged that APCA testified in support of SB 175, but she would like to know if Alaska's healthcare providers support SB 175.

CHAIR WILSON replied that other invited testimony would speak to her concern.

2:17:37 PM
JOHN SOLOMON, Director, Behavior Health, Maniilaq Association, Kotzebue, Alaska, stated that Maniilaq is the only association serving the Northwest Arctic area villages on the North Slope. Before becoming an administrator, he was a counselor who flew to villages to see patients, carrying his backpack and sleeping bag. He emphasized the importance of telehealth to his region, which he hopes was happening in other rural Alaska areas.

MR. SOLOMON explained that previously many logistical barriers prevented patients from obtaining treatment. Still, once restrictions were removed, the flexibilities allowed telehealth, which brought about an explosion in the number of clients asking for and receiving care. Telehealth for substance abuse groups went up 800 percent in six months. People had been waiting and wanting care but lacked access to providers. The substance abuse program grew from five to 70 ongoing clients. He emphasized the importance of the telephonic provision in SB 175 for rural Alaskans. The Northwest Arctic has clinics that do not have behavioral health aides (BHAs) and organizations with clinics that are not staffed. The telephonic option provides access to obtain care. In rural Alaska, telehealth is not about better or best practices but about care or no care for rural Alaskans.

MR. SOLOMON highlighted that Maniilaq has worked to develop the local workforce in villages, so village BHA's can provide care to other villages. The hope is to fill the remaining BHA positions. In closing, he stated that the Maniilaq Association is a strong advocate for SB 175.

2:20:23 PM
CHAIR WILSON related that BHA stands for behavior health aide.

MR. SOLOMON agreed and elaborated that in the tribal health organizations, a behavior health aide works as a village-based counselor.

2:20:43 PM
CHAIR WILSON opened public testimony on SB 175.

2:21:09 PM
SUZANNE ISHII-REGAN, representing self, Anchorage, Alaska, said she is a member of a family who has benefited from telehealth. She thanked the state for a quick pivot to provide the flexibility of telehealth during the pandemic, which helped protect many vulnerable citizens. She said she has a male family member who uses a ventilator and has a primary immune deficiency. She noted that telehealth helped the family stay connected to doctors and avoid exposure to illnesses and infection, so they did not bring them home. Telehealth provided an opportunity for first-time access to services when he needed to transition to a new provider. It also reduced barriers that allowed him to continue receiving medical care. Telehealth was beneficial during extreme cold and icy weather, which further complicate mobility issues. She said it was easier to communicate since masks did not have to be worn during the telehealth appointments.

2:23:40 PM
SARAH ELIASEEN, representing self, Eagle River, Alaska, stated she is a 96-year-old retired schoolteacher who appreciated being able to stay home and receive medical care. She has been declared legally blind and must use a walker. She can no longer use public transportation but would like to remain as independent as possible. She surmised that she is not the only person who finds transportation to Anchorage difficult. She mentioned that while visiting with her doctor online, an assistant kept records and facilitated the call. She asked the committee to make telehealth a permanent option for the elderly, disabled, those in rural areas, and anyone else who needs it. She thanked members and urged them to pass SB 175.

2:27:30 PM
CODY CHIPP, Director, Alaska Native Tribal Health Consortium (ANPHC), Anchorage, Alaska, stated that the telehealth flexibility that came about through COVID created a greater ability to provide greater access to care. ANPHC launched a telehealth behavioral health clinic to address COVID-related distress. He stated that ANTHC uses OQ 45, the gold standard of patient-reported outcome measures, to measure clinical outcomes. Telehealth was found to be accessible, safe, and effective. The clinical outcomes were equal to or greater than the national averages. Client surveys expressed patient gratitude for easy access to services previously not available. Alaska's fiscal analysis has shown that telehealth could also save the state money, as noted in the Medicaid Reform report in response to SB

74. Telehealth also saves individuals time and money because it eliminates driving time.

2:29:32 PM
CHAIR WILSON held SB 175 in committee with public testimony open.

2:30:17 PM
At ease

SB 192-BOARD OF LICENSED MIDWIVES

2:31:16 PM
CHAIR WILSON reconvened the meeting and announced the consideration of SENATE BILL NO. 192 "An Act relating to midwives and the practice of midwifery; relating to apprentice midwives; relating to the licensing of midwives; relating to insurance requirements for the practice of midwifery; and providing for an effective date."

2:31:49 PM
JOE HAYS, Staff, Senator Scott Kawasaki, Alaska State Legislature, Juneau, Alaska, paraphrased the sponsor statement for SB 192:

[Original punctuation provided.]

> Senate Bill 192 would establish licensing of certified professional midwives in Alaska and create a governing board to develop licensing procedures and review licensing applications and renewals.
>
> Currently Alaska only has legislation regarding the certification of direct-entry midwives. This bill would institute licensing requirements and regulations for certified professional midwives to be formed in conjunction with a nationally recognized midwife organization. The bill also requires that licensed midwives have basic life support certification for health care providers and certification in neonatal resuscitation, and knowledge of and experience with non-hospital-based births. These requirements would be in addition to a required background in a health-related field other than nursing and graduation from a master's level midwifery education program.

2:33:18 PM

This bill would also create a Board of Licensed Midwives from the current Board of Certified Direct-Entry Midwives. The new Board will adopt standards and regulations for licensed midwives that are in the public interest and in compliance with the Administrative Procedure Act. The Board will review license applications and renewals for midwives in the State of Alaska and establish insurance provisions. The Board will help to develop future legislation specific to licensed midwives that will clarify these standards and regulations.

SB 192 is important for ensuring safer at-home births and improving prepartum and postpartum care for mothers and infants.

I ask for your consideration and support of Senate Bill 192 to allow the State licensing of certified professional midwives and the formation of a governing board to oversee the standards and regulations for licensed midwives.

2:34:15 PM
CHERIE BOWMAN, Intern, Senator Scott Kawasaki, Alaska State Legislature, Juneau, Alaska, read the sectional analysis for SB 192:

[Original punctuation provided.]

Section 1. Uncodified law providing legislative Intent to preserve right of women to deliver children at home with licensed midwives.

Section 2. Amends AS 08.01.017(17) to change board name form (certified direct - entry) to licensed midwives.

Section 3. Amends AS 08.02.010(a) to explain who can practice and what type of professional letters or title shall appear on.

Section 4. Amends AS 08.03.010(c)(8) to change the name certified direct – entry to licensed midwives and adds an effective date of June 30, 2023.

2:35:20 PM

Section 5. Amends AS 08.64.370 to explain how licensed midwives are recognized with or without compensation and how licensed midwives are defined in AS 08.65.190

Section 6. Amends AS 08.65.010(a) to establish the board of licensed midwives.

Section 7. Amends AS 08.65.010(b) to define who can be members of the licensed midwife board.

Section 8. Amends AS 08.065.030 to address the powers and duties of the board of midwives

Section 9. Amends AS 08.065.040 to add a new subsection on activities the board cannot adopt by regulations to include: (b) and (c). Subsection B includes

1. Requires a person to have a nursing degree or diploma to be licensed under this chapter

2. Requires a licensed midwife to practice midwifery under the supervision of or collaboration with another health care provider or a health care facility

3. Requires a licensed midwife to enter into an agreement, whether written, oral, or in another form, with another health care provider or a health care facility.

4. Limits the location where a licensed midwife may practice midwifery.

2:36:43 PM

Subsection C. adds definitions of health care facility and health care provider as identified in AS 18.35.399 and AS 09.65.300 respectively.

Section 10. Amends AS 08.65.050 to address the qualifications needed to be a licensed midwife in Alaska.

1. Line 1 reads "holds a valid certified professional midwife certificate, if the certificate is issued by a nationally recognized midwife organization recognized by the board and

the requirements for the certificate are consistent with this chapter."

2. Line 2 is added and reads "applies on a form provided by the board".

3. Lines 2 and 3 are renumbered as 3 and 4.

4. Line 4 is renumbered as line 5 and adds "is a certified in basic life support for health care provider" and adds the word "and".

5. Line 5 is renumbered as line 6 and adds "is certified in the interventions used at the time of birth to support the establishment of breathing and circulation of the newborn."

Section 11. Amends AS 08.65.080 to explain procedures for renewal of midwifery license.

2:38:08 PM

Section 12. Amends AS 08.65.090(a) to allow the midwifery board to issue permits to midwife apprentices who have satisfied the education, training and apprenticeship that is deemed by the board to be in the public interest and recognized by a nationally commissioner to adopt regulations to implement and interpret the Act.

Section 13. Amends AS 08.65.110 to address grounds of discipline, suspension or revocation of certification for licensed midwives.

Section 14. Amends AS 08.65.120(a) to give the board the authority to impose discipline to include revocation or suspension of midwives' licenses for those who broke any code of conduct.

Section 15. Amends AS 08.65.120(d) to give the board the ability to reinstate a licensed after appeal if a person proves to able to practice with reasonable skill and safety.

Section 16. Amends AS 08.65.140 to allow the board to adopt regulations to licensed midwives after consultation with a nationally recognized midwife

organization. The regulations would have to conform to the public interest.

Section 17. Amends AS 08.08.65.150 to add a new subsection to read:

(b) A licensed midwife may practice midwifery without being under the supervision of, or collaborating with, another health care provider or a health care facility.

2:39:50 PM

(c) A licensed midwife may practice midwifery without entering into a written or other form of agreement with another health care provider or a health care facility.

(d) A licensed midwife may provide services using audio, video, or other electronic media for the purpose of diagnosis, consultation or treatment.

Section 18: Amends AS 08.65.150 to give specification that a non-licensed midwife recognized under AS 08.65.150 cannot receive compensation.

Section 19: Amends AS 08.65.160 to address who can be called a licensed midwife and the penalties established for a person who uses the title illegally.

Section 20: Amends AS 08.65.170 to exclude licensed physicians and advanced practiced registered nurses.

Section 21: Amends AS 08.65.180 to explain the responsibility of care is not transferred from a licensed midwife to a licensed physician until the patient is physically within the physician's care.

Section 22: Amends AS 08.65.190(1) to explain what board is being discussed licensed midwives.

Section 23: Amends AS 08.65.190(3) to define the practice of midwifery to include preconception pregnancy, the first postpartum year and well-baby care for the infant through the age of six weeks.

2:41:41 PM

Section 24: Amends AS 08.65.190 by adding a new paragraph to read:

1. "licensed midwife" means a midwife who is licensed under this chapter to practice midwifery.
2. "midwife" means a person who practices midwifery.

Section 25: Amends AS 09.65.300(c)(1) to add licensed midwives as a health care provider.

Section 26: Amends AS11.42.470(1) to add licensed midwives as a health care worker.

Section 27: Amends AS 18.20.095(e)(2) to add licensed midwives as a licensed staff member under AS 08.64.

Section 28: Amends AS 18.50.165(b) to add licensed midwives to the responsibilities of the registrar to distribute information to.

Section 29: Amends AS 21.36.090(d) to add licensed midwives as a person who cannot practice or permit unfair discrimination against a person who provides services covered under a group health insurance that extends coverage on an expense incurred basis.

2:43:12 PM

Section 30: Amends AS 21.42.355 by adding a new subsection that reads:

(c) If a health care insurance plan or an excepted benefits policy or contract provides indemnity for the cost of services of a physician provided to women during preconception, pregnancy, childbirth and the period after childbirth up to one year, indemnity in a reasonable amount shall also be provided for the cost of a midwife licensed in AS 08.65 who provides the same services. Indemnity may be provided under this subsection only if the licensed midwife is practicing as a licensed midwife within the scope of the license.

(d) If a health care insurance plan or an excepted benefits policy or contract provides for furnishing those services required of a physician in the care of women during preconception, pregnancy childbirth and the period after childbirth, and the period after childbirth up to one year, the contract shall also

provide that a midwife licensed under AS 08.65 may furnish those same services instead of a physician. Services may be provided under this subsection only if the licensed midwife is practicing as a licensed midwife as a licensed midwife in accordance with the regulations adopted under AS 08.65.030(a)(7), and the services provided within the scope of practice of the license.

2:44:57 PM
At ease

2:45:50 PM
CHAIR WILSON reconvened the meeting.

2:45:52 PM
MS. BOWMAN continued reading the sectional analysis for SB 192:

Section 31: Amends AS 21.84.335(b)(15) to add AS 21.42.355(a) and (b).

Section 32: Amends AS 25.20.055(a) to add licensed midwives to the protocol that hospitals must follow to assist a single parent and coupled parents regarding their rights and responsibilities and the forms and statements that must be filled out.

Section 33: Amends AS 25.20.055(b) to add licensed midwives to the list of medical professionals who must adhere to the same duties described in (a)(2) -(6) of this section or ensure that an agent performs those duties.

Section 34: Amends AS 44.62.330(a)(36) to rename board of certified direct entry to licensed midwives.

Section 35: Amends AS 47.07.900 to explain what midwife services are for a licensed midwife.

Section 36: Amends AS 47.20.320(d) to add licensed midwives in this section explaining who shall not be criminally or civilly liable for providing information in good faith to the department or its designee.

Section 37: Repeals AS 08.65.060, 08.65.070 and 08.65.090(b).

2:47:36 PM

Section 38: Amends uncodified law by adding a new section that reads:

Transition: Continuation of Board. (a) Notwithstanding AS 08.65.030, as amended by sec 8 of this Act, the members of the Board of Certified Direct-Entry Midwives, as that board is constituted under AS 08.65.030 as that section reads on December 31, 2022, shall operate as the Board of Licensed Midwives from January 1, 2023, until the new members of the Board of the Licensed Midwives are appointed by the governor un sec 39of this Act and confirmed by the legislature under AS 08.65.010, as amended by secs. 6 and 7 of this Act.

(b) in this section, "Board of Licensed Midwives" means the Board of Licensed Midwives established by AS 08.65.010 as amended by secs 6 and 7 of this Act.

Section 39: Amends uncodified law by adding a new section that reads:

Transition: Current Direct Entry Midwives and Apprentice Midwives. (a) Notwithstanding AS 08.65.050, as amended by sec 10 of this Act, a person who holds on December 31, 2022, an unexpired certificate to practice direct-entry midwifery issued under AS 08.65.050, as that section reads on December 31, 2022, is licensed on the effective date of secs. 1 – 40 of this Act to practice midwifery under AS 08.65, as amended by secs. 6 – 24 of this Act, for a two - year period.

(b) Notwithstanding AS 08.65.090, as amended by sec 12 of this Act, a person who holds on December 31, 2022, an unexpired permit to practice as an apprentice direct-entry midwife issued under AS 08.65.090, as that section reads on December 31, 2022, is permitted on the effective date of secs. 1 – 40 of this Act to practice as an apprentice midwife under AS 08.65.090, as amended by sec. 12 of this Act, for a two-year period.

2:50:21 PM

Section 40. The uncodified law of the State of Alaska is amended by adding a new section that reads:

TRANSITION: NEW BOARD MEMBERS. (a) Within 60 days after the effective date of secs. 1 – 40 of this Act, the governor shall appoint an advanced practice registered nurse licensed under AS 08.68 to be a member of the board to replace the physician member of the board for the remainder of the term of the physician member.

2:50:53 PM

(b) Within 60 days after the effective date of secs. 1 – 40 of this Act, the governor shall appoint an advanced practice registered nurse licensed under AS 08.68 to be a member of the board to replace the certified nurse midwife member of the board for the remainder of the term of the certified nurse midwife member.

(c) The board, as constituted under (a) and (b) of this section, shall begin operating as the board when the legislature has confirmed the members appointed under (a) and (b) of this section.

(d) In this section, "board" means the Board of Licensed Midwives established by AS 08.65.010, as amended by secs. 6 and 7 of this Act.

2:51:49 PM

Section 41. The uncodified law of the State of Alaska is amended by adding a new section to read:

TRANSITION: REGULATIONS. The Board of Direct-Entry Midwives established by AS 08.65.010, as that section reads on December 31, 2022, shall adopt, repeal, or amend regulations as necessary to implement the changes made by secs. 1 – 40 of this Act. The regulations take effect under AS 44.62 (Administrative Procedure Act), but not before January 1, 2023.

Section 42. Reads "Section 41 of this Act takes effect immediately under AS 01.10.070(c)."

Section 43. Reads "Except as provided in sec. 42 of this Act, this Act takes effect January 1, 2023."

2:52:53 PM
CHAIR WILSON opened invited testimony on SB 192. He stated that public testimony would be heard at a later date.

2:53:45 PM
RACHEL PUGH, Member, Board of Certified Direct-Entry Midwives, Department of Commerce, Community and Economic Development, Eagle River, Alaska, stated she strongly supports SB 192. She said she was directly involved in writing the proposed statute changes for over a year. The changes are necessary to comply with state audit recommendations and eliminate many outdated statutes that make it challenging to access midwifery care in Alaska.

MS. PUGH related one issue: the lack of legal recognition and insurance coverage for certified direct-entry midwives (CDMs) and certified professional midwives (CPMs), based on current statutes, is creating insurmountable financial barriers for many.

MS. PUGH reported that a nationwide study revealed that only 3.4 percent of hospital births were paid out of pocket. In contrast, 67.9 percent of planned out-of-hospital births and 32.3 percent of birth center births were self-pay. Seven and nine-tenths percent of all births in Alaska are planned out of hospital births, whereas the national average is 1.6 percent.

MS. PUGH stated that SB 192 would provide greater access to midwifery. It would allow midwives to practice to the full extent of their competencies and education and ensure that Alaska midwives have nationally recognized credentials. They would be paid the same rate as certified nurse midwives and physicians for identical procedures. She said studies provide clear evidence that midwifery care, birth center, and home birth settings provide improved birth outcomes and are highly effective at improving maternal and infant health.

MS. PUGH said not passing SB 192 limits freedom of medical choice and available medical options to families in more than 35 states.

2:55:42 PM
MS. PUGH offered her view that the changes in SB 192 do not endanger the health and safety of a single woman in Alaska. SB

192 would not affect how a midwife currently practices or the type of care they provide. It would not limit or restrict women from choosing their providers or where to give birth.

MS. PUGH emphasized that she was fighting for the rights of women and families in Alaska to have more options and better access to the type of maternity care that they deserve, not less. She stated that witnessing women being denied medical coverage for home births was frustrating. She said she was tired of explaining to women that bureaucracy dictates their limited maternity care in Alaska, but if they lived in many other states, they would have more freedom in their medical choices.

2:56:36 PM
MS. PUGH said she was also tired of providing medical care for free, such as postpartum care beyond six weeks, which she is trained and licensed to provide. She highlighted that other medical providers are reimbursed when providing these services. However, due to the current statute, she cannot do so.

MS. PUGH highlighted another issue in Alaska: some women choose to have an unassisted birth because Alaska's current statutes and regulations prevent them from hiring a licensed midwife, most often due to insurance coverage and financial barriers. She stated SB 192 addresses a human rights issue. She urged members to pass the bill as written.

2:57:56 PM
BETHEL BELISLE, Chair, Board of Certified Midwives, Department of Commerce, Community and Economic Development, Anchorage, Alaska, stated that she is a certified direct-entry midwife in Alaska and a professional midwife, a nationally recognized designation. She has been a midwife since 1999, with a home and birth center practice. She related that she has served on the board since 2020.

MS. BELISLE thanked Senator Kawasaki for introducing the bill to preserve the rights of Alaska women to have access to safe, out-of-hospital providers, high-quality care, and guaranteed insurance coverage.

MS. BELISLE indicated that SB 192 resulted from a legislative audit that began in 2016. The audit recommended that the Board of Certified Direct-Entry Midwives pursue statutory changes that benefit the public. However, due to a perceived financial concern, the previous board did not make the recommended changes. She said the 2020 audit noted, "The board identified a

need to change certification statutes to align Alaska's midwifery laws with national standards."

2:59:24 PM
MS. BELISLE stated that the first legislative audit recommendation indicated that the board identified a need to change certification statutes to align Alaska's midwifery laws with national standards. However, due to the legal costs involved with the project, the board did not recommend statutory changes.

MS. BELISLE stated she joined the board and became chair in 2020, and the board worked on that recommendation. The board also reviewed the peer review process and fiscal responsibility. The legislature passed a peer review bill in 2021. The board now operates "in the black."

MS. BELISLE stated that SB 192 provides the final piece to complete the 2020 audit recommendations because the bill would align Alaska's law with national standards, which are currently the Certified Professional Midwife Standards. SB 192 would increase fiscal responsibility by requiring applicants to be vetted by a national organization, thereby streamlining the licensure process in Alaska.

MS. BELISLE listed numerous ways SB 192 will benefit midwives and patient health. It would extend well-baby visits from four weeks to six weeks, thus helping to reduce neonatal morbidity. It would extend postpartum care to one year, reducing maternal morbidity and mortality by having a trusted provider helping with maternal mental health concerns and providing referrals as needed. It would allow for preconception counseling, which could increase the health of the next generation of Alaskans. She offered her view that this bill would stand for women's rights to choose where and with whom they feel most comfortable birthing, knowing that their midwifery providers are trained to national standards. She related that the bill would complete the legislative audit and provide lower costs, including that midwifery births have a 40 percent lower cesarean rate, fewer low birthweight babies, and babies were 26 percent less likely to be born prematurely. At a recent board meeting, the board gave unanimous approval for SB 192. The board acknowledges that change is hard but emphasizes the importance of protecting public safety and abiding by the legislative audit. She urged members to support SB 192.

3:01:27 PM

CHAIR WILSON held SB 192 in committee.

3:02:29 PM
There being no further business to come before the committee, Chair Wilson adjourned the Senate Health and Social Services Standing Committee meeting at 3:02 p.m.