

CS FOR SENATE BILL NO. 91(HSS)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-THIRD LEGISLATURE - FIRST SESSION

BY THE SENATE HEALTH AND SOCIAL SERVICES COMMITTEE

Offered: 4/14/23

Referred: Finance

Sponsor(s): SENATOR CLAMAN

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to telehealth; relating to multidisciplinary care teams; and relating to**
2 **the practice of medicine."**

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

4 * **Section 1.** AS 08.02.130(b) is amended to read:

5 (b) A physician licensed in another state or an out-of-state member of the
6 physician's multidisciplinary care team may provide health care services through
7 telehealth to a patient located in the state as provided in this subsection, subject to the
8 investigative and enforcement powers of the department under AS 08.01.087. A
9 member of a physician's multidisciplinary care team may provide a health care
10 service through telehealth to a patient located in this state only if the health care
11 service is not reasonably available in the state. A physician shall be [, AND]
12 subject to disciplinary action by the State Medical Board under AS 08.64.333, and a
13 member of the physician's multidisciplinary care team shall be subject to
14 disciplinary action by the department under AS 08.02.140. The privilege to

1 practice under this subsection extends only to

2 (1) ongoing treatment or follow-up care **provided by a physician**
 3 **licensed in another state, or a member of the physician's multidisciplinary care**
 4 **team, that is** related to health care services previously provided by the physician to
 5 the patient and applies only if

6 (A) the physician and the patient have an established physician-
 7 patient relationship; and

8 (B) the physician has previously conducted an in-person visit
 9 with the patient; or

10 (2) a visit **with a physician licensed in another state, or a member**
 11 **of the physician's multidisciplinary care team,** regarding a suspected or diagnosed
 12 life-threatening condition for which

13 (A) the patient has been referred to the physician licensed in
 14 another state, **or a member of the physician's multidisciplinary care team,**
 15 by a physician licensed in this state **or by a physician licensed in another**
 16 **state who meets the requirements of (1) of this subsection** and that referral
 17 has been documented by the referring physician; and

18 (B) the visit involves communication with the patient regarding
 19 diagnostic or treatment plan options or analysis of test results for the life-
 20 threatening condition.

21 * **Sec. 2.** AS 08.02.130(j)(1) is amended to read:

22 (1) "health care provider" means

23 (A) an audiologist or speech-language pathologist licensed
 24 under AS 08.11; a behavior analyst licensed under AS 08.15; a chiropractor
 25 licensed under AS 08.20; a professional counselor licensed under AS 08.29; a
 26 dental hygienist licensed under AS 08.32; a dentist licensed under AS 08.36; a
 27 dietitian or nutritionist licensed under AS 08.38; a naturopath licensed under
 28 AS 08.45; a marital and family therapist licensed under AS 08.63; a physician
 29 licensed under AS 08.64; a podiatrist, osteopath, or physician assistant licensed
 30 under AS 08.64; a direct-entry midwife certified under AS 08.65; a nurse
 31 licensed under AS 08.68; a dispensing optician licensed under AS 08.71; an

1 optometrist licensed under AS 08.72; a pharmacist licensed under AS 08.80; a
 2 physical therapist or occupational therapist licensed under AS 08.84; a
 3 psychologist or psychological associate licensed under AS 08.86; or a social
 4 worker licensed under AS 08.95; [OR]

5 (B) a physician licensed in another state; or

6 **(C) a member of a multidisciplinary care team;**

7 * **Sec. 3.** AS 08.02.130(j) is amended by adding a new paragraph to read:

8 (5) "member of a multidisciplinary care team" means an audiologist,
 9 speech-language pathologist, behavior analyst, professional counselor, dietitian,
 10 nutritionist, naturopath, marital and family therapist, podiatrist, osteopath, physician
 11 assistant, nurse, pharmacist, physical therapist, occupational therapist, psychologist or
 12 psychological associate, or a social worker who is a member of a team that includes a
 13 physician licensed in another state who meets the requirements of (b)(1) of this
 14 section.

15 * **Sec. 4.** AS 08.02.130 is amended by adding a new subsection to read:

16 (k) A member of a multidisciplinary care team shall register with the
 17 department before providing telehealth services to a patient located in the state. To
 18 register with the department, a member of a multidisciplinary care team shall submit

19 (1) the name of the physician leading the multidisciplinary care team;

20 (2) the area of health care in which the member of the
 21 multidisciplinary care team will be practicing and proof of licensure in a state or
 22 territory of the United States in that area;

23 (3) any applicable fees, as determined by the department.

24 * **Sec. 5.** AS 08.02 is amended by adding new sections to read:

25 **Sec. 08.02.135. Grounds for imposition of disciplinary sanctions of out-of-**
 26 **state multidisciplinary care team members.** The department may sanction a member
 27 of an out-of-state physician's multidisciplinary care team who provides health care
 28 services through telehealth under AS 08.02.130 if the department finds after a hearing
 29 that the member

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

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

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

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

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

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

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

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

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

20 (7) failed to comply with AS 08.02.130 - 08.02.140, a regulation
21 adopted under AS 08.02.130 - 08.02.140, or an order of the department;

22 (8) has demonstrated

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

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

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

30 (9) engaged in unprofessional conduct, in sexual misconduct, or in
31 lewd or immoral conduct in connection with the delivery of professional services to

patients; in this paragraph, "sexual misconduct" includes sexual contact, 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 health care provider-patient relationship, unless the patient was the member's spouse at the time of the contact or, immediately preceding the health care provider-patient relationship, was in a dating, courtship, or engagement relationship with the member;

(10) has violated any code of ethics adopted imposed by the department;

(11) has denied care or treatment to a patient or person seeking assistance from the member 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);

(12) has had a license or certificate to practice health care 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 member to pay fees to that state, territory, or province;

(13) exceeded the scope of the member's privilege to practice in this state under AS 08.02.130; or

(14) prescribed, dispensed, or administered through telehealth to a patient located in the state a controlled substance listed in AS 11.71.140 - 11.71.190.

Sec. 08.02.140. Disciplinary sanctions for an out-of-state multidisciplinary care team member. (a) If the department finds grounds to sanction a member of an out-of-state physician's multidisciplinary care team under AS 08.02.135, the department may

(1) permanently prohibit the member from practicing in the state;

(2) prohibit the member from practicing in the state for a determinate period;

(3) censure the member;

(4) issue a letter of reprimand to the member;

- 1 (5) place the member on probationary status under (c) of this section;
2 (6) limit or impose conditions on the member's privilege to practice in
3 the state;
4 (7) impose a civil penalty of not more than \$25,000;
5 (8) issue a cease and desist order prohibiting the member from
6 providing health care services through telehealth under AS 08.02.130; an order issued
7 under this paragraph remains in effect until the member submits evidence acceptable
8 to the department showing that the violation has been corrected;
9 (9) promptly notify the licensing authority in each state in which the
10 member is licensed of a sanction imposed under this subsection.

11 (b) In a case finding grounds for sanction under AS 08.02.135(12), the final
12 findings of fact, conclusions of law, and order of the authority that suspended or
13 revoked a license or certificate constitute a prima facie case that the license or
14 certificate was suspended or revoked and the grounds under which the suspension or
15 revocation was granted.

16 (c) The department may place a member on probation under this section until
17 the department finds that the deficiencies that required the imposition of a sanction
18 have been remedied. The department may require a member on probation to

19 (1) report regularly to the department on matters involving the reason
20 for which the member was placed on probation;

21 (2) limit the member's practice in the state to those areas prescribed by
22 the department;

23 (3) participate in professional education until the department
24 determines that a satisfactory degree of skill has been attained in areas identified by
25 the department as needing improvement.

26 (d) The department may summarily prohibit a member from practicing in the
27 state under AS 08.02.130 if the department finds that the member, by continuing to
28 practice, poses a clear and immediate danger to public health and safety. A member
29 prohibited from practicing under this subsection is entitled to a hearing conducted by
30 the office of administrative hearings (AS 44.64.010) not later than seven days after the
31 effective date of the order prohibiting the member from practicing. The department

1 may lift an order prohibiting a member from practicing if the department finds after a
 2 hearing that the member is able to practice with reasonable skill and safety. The
 3 member may appeal a decision of the department under this subsection to the superior
 4 court.

5 (e) The department shall take measures to recover from a member the cost of
 6 proceedings resulting in a sanction under (a) of this section, including the costs of
 7 investigation by the department, and hearing costs.

8 (f) The department may prohibit a member from practicing in the state upon
 9 receiving a certified copy of evidence that a license or certificate to practice within the
 10 member's scope of practice in another state or territory of the United States or
 11 province or territory of Canada has been suspended or revoked. The prohibition
 12 remains in effect until a hearing can be held by the department.

13 (g) The department shall be consistent in the application of disciplinary
 14 sanctions. A significant departure from earlier decisions of the department involving
 15 similar situations must be explained in findings of fact or orders made by the
 16 department.

17 * **Sec. 6.** AS 44.33.381(b) is amended to read:

18 (b) The department shall maintain the registry of businesses performing
 19 telemedicine services in the state. The registry must include the name, address, and
 20 contact information of businesses performing telemedicine services in the state. **The**
 21 **department may renew every two years the registration of a business that meets**
 22 **all renewal requirements established by regulation and pays a renewal fee every**
 23 **two years.**

24 * **Sec. 7.** AS 44.33.381 is amended by adding a new subsection to read:

25 (d) The department shall charge the following fees for businesses performing
 26 telemedicine services in the state:

27 (1) initial registration fee, \$100, adjusted for inflation in a manner
 28 determined by the department;

29 (2) renewal fee, \$100, adjusted for inflation in a manner determined by
 30 the department;

31 (3) fee to report changes in the business's registration information, \$50.