



THE STATE
of **ALASKA**
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STATE MEDICAL BOARD

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STATE MEDICAL BOARD PROPOSED AMENDMENTS/EDITS FOR SB175 / HB 265

March 3, 2022

The Alaska State Medical Board held a special meeting on March 3, 2022 to discuss current bills under consideration by the legislature relating to telemedicine. The proposed legislation identifies a subset of physicians for whom licensure in the state of Alaska would not be required to provide telehealth services to Alaskans if 1) the physician and the patient have an established physician-patient relationship; 2) the physician had previously conducted a physician examination of the patient; and 3) the health care services provided through telehealth consist of ongoing treatment of follow-up care related to health care services previously provided by the physician to the patient.

The Board's preference and overwhelmingly first choice would be for all physicians and physician assistants who provide health care services to Alaskans to hold some form of Alaska licensure. The Board would endorse and create a modified, simplified license type for the subset of physicians described above.

However, if the concept of licensure is rejected by the legislature, the board adopted the following proposed amendments to SB175 / HB 265:

Amendment #1

Amend Section 1 to read:

Sec. 08.01.085. Telehealth for ongoing treatment and follow-up care

Explanation:

The Board would like to call attention to this type of telehealth as being in a specific category. The Board agrees that it is necessary and beneficial for Alaskans to receive specialty health care services outside of Alaska. The Board supports there being an expeditious and simplified pathway way for such providers to be authorized to provide this care to Alaskans. However, the Board also supports a sunset date for these providers' authorization to practice without holding a license.

By identifying and labeling this as a specific type of telehealth services, it allows for the acknowledgement that there is another category of telehealth service – for which the board believes there will need to be a higher level of scrutiny and regulation. This category is addressed by proposed Amendment 2.

Amendment #2

Add a new section to 08.01 to read:

Sec.08.01. Telehealth for initial and ongoing treatment, no previous in-person contact

(a) A health care provider located outside of Alaska may not provide treatment or services to a patient in the state through telehealth without first conducting a physical examination unless they meet requirements as set forth in regulations by the Alaska State Medical Board.

Explanation:

Out-of-state practitioners in this category, for many reasons, represent a group of providers for which it would appear prudent to have in place a more robust set of expectations. For example, these practitioners should be required to attest to and provide written proof that the practitioner maintains practice standards that are consistent with section set out in the 2014 (2022) FSMB Guidelines for the Appropriate Use of Telemedicine Technologies in Medical Practice adopted by the ASMB. These guidelines include standards related to:

- Licensure of the physician;
- Establishment of a Physician-Patient Relationship;
- Evaluation and Treatment of the Patient
- Informed Consent;
- Continuity of Care;
- Referrals for Emergency Services;
- Medical Records;
- Privacy and Security of Patient Records & Exchange of Information;
- Disclosures (Physician Contact Information, Fees, Patient Rights, Limitation of Services, etc.)
- Clear identification of whom they work for

For public safety reasons, it would appear prudent for the state legislature to endorse a higher level of expectation for these providers and support the ASMB in adopting regulations that provide oversight for these telemedical clinical activities.

Amendment #3

Amend AS 44.33. Telehealth business registry:

AS 44.33.381(b). The department shall maintain the registry of businesses performing telemedicine services in the state. The registry must include the name, address, and contact information of the businesses and their associated health care providers performing telemedicine services in the state. Health care providers must also provide verification of an unencumbered license in the state, United States territory, or district, from which their services are provided.

Explanation:

Under the current statute, the telemedicine business registry only tracks the business name, address, and contact information. The business could have one doctor, or it could have 100. In order to provide proposed enforcement activities, the telemedicine business registry will need to collect more specific information about individual health care providers.

Other Proposed edits:

Definitions for these terms should be included in the bills: "patient-physician relationship" and "ongoing patient relationship"

Again, licensure is the preferred way of enforcing patient care standards. However, if licensure is not supported by the legislature, the board is in support of the following enforcement language/strategies:

The department or appropriate board shall have the authority to:

- (1) Take adverse action against a provider's privilege to practice under this section.
- (2) Issue cease and desist orders or impose an encumbrance on a provider's authority to practice under this section.
- (3) Promptly notify the licensing authority of the state in which the provider is licensed with of any such actions.
- (4) The department may set fees for practitioners under this section that are equal to the fee for a full practitioner license under AS 08. The fee may be assessed through the registry established in AS 44.33.381.