

HOUSE BILL NO. 242

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-FIRST LEGISLATURE - SECOND SESSION

BY REPRESENTATIVE JOSEPHSON

Introduced: 2/7/20

Referred: Health & Social Services, Labor & Commerce

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the prescription of opioids; relating to the practice of dentistry;
2 relating to the practice of medicine; relating to the practice of podiatry; relating to the
3 practice of osteopathy; relating to the practice of nursing; relating to the practice of
4 optometry; relating to the practice of pharmacy; relating to the practice of veterinary
5 medicine; relating to the state medical examiner; relating to the controlled substance
6 prescription database; relating to the duties of the Board of Pharmacy; and providing
7 for an effective date."

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

9 * **Section 1.** AS 08.36.070(a) is amended to read:

10 (a) The board shall

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

13 (2) maintain a registry of licensed dentists, licensed dental hygienists,

1 and registered dental assistants who are in good standing;

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

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

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

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

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

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

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

25 (10) require that a licensed dentist who has a federal Drug
26 Enforcement Administration registration number register with the controlled substance
27 prescription database under AS 17.30.200(n);

28 **(11) adopt regulations that establish opioid prescription dosage**
29 **standards based on morphine milligram equivalents; in this paragraph,**
30 **"morphine milligram equivalent" means the conversion factor used to calculate**
31 **the strength of an opioid using morphine dosage as the comparative unit of**

1 measure.

2 * **Sec. 2.** AS 08.64.101(a) is amended to read:

3 (a) The board shall

4 (1) except as provided in regulations adopted by the board under (b) of
5 this section, examine and issue licenses to applicants;

6 (2) develop written guidelines to ensure that licensing requirements are
7 not unreasonably burdensome and the issuance of licenses is not unreasonably
8 withheld or delayed;

9 (3) after a hearing, impose disciplinary sanctions on persons who
10 violate this chapter or the regulations or orders of the board;

11 (4) adopt regulations ensuring that renewal of licenses is contingent on
12 proof of continued competency on the part of the licensee;

13 (5) under regulations adopted by the board, contract with private
14 professional organizations to establish an impaired medical professionals program to
15 identify, confront, evaluate, and treat persons licensed under this chapter who abuse
16 alcohol, other drugs, or other substances or are mentally ill or cognitively impaired;

17 (6) adopt regulations that establish guidelines for a physician or
18 physician assistant who is rendering a diagnosis, providing treatment, or prescribing,
19 dispensing, or administering a prescription drug to a person without conducting a
20 physical examination under AS 08.64.364; the guidelines must include a nationally
21 recognized model policy for standards of care of a patient who is at a different location
22 than the physician or physician assistant;

23 (7) require that a licensee who has a federal Drug Enforcement
24 Administration registration number register with the controlled substance prescription
25 database under AS 17.30.200(n);

26 **(8) adopt regulations that establish opioid prescription dosage**
27 **standards based on morphine milligram equivalents; in this paragraph,**
28 **"morphine milligram equivalent" means the conversion factor used to calculate**
29 **the strength of an opioid using morphine dosage as the comparative unit of**
30 **measure.**

31 * **Sec. 3.** AS 08.68.100(a) is amended to read:

1 (a) The board shall

2 (1) adopt regulations necessary to implement this chapter, including
3 regulations

4 (A) pertaining to practice as an advanced practice registered
5 nurse, including requirements for an advanced practice registered nurse to
6 practice as a certified registered nurse anesthetist, certified clinical nurse
7 specialist, certified nurse practitioner, or certified nurse midwife; regulations
8 for an advanced practice registered nurse who holds a valid federal Drug
9 Enforcement Administration registration number must address training in pain
10 management and opioid use and addiction;

11 (B) necessary to implement AS 08.68.331 - 08.68.336 relating
12 to certified nurse aides in order to protect the health, safety, and welfare of
13 clients served by nurse aides;

14 (C) pertaining to retired nurse status; [AND]

15 (D) establishing criteria for approval of practical nurse
16 education programs that are not accredited by a national nursing accrediting
17 body; **and**

18 **(E) establishing opioid prescription dosage standards based**
19 **on morphine milligram equivalents; in this subparagraph, "morphine**
20 **milligram equivalent" means the conversion factor used to calculate the**
21 **strength of an opioid using morphine dosage as the comparative unit of**
22 **measure;**

23 (2) approve curricula and adopt standards for basic education programs
24 that prepare persons for licensing under AS 08.68.190;

25 (3) provide for surveys of the basic nursing education programs in the
26 state at the times it considers necessary;

27 (4) approve education programs that meet the requirements of this
28 chapter and of the board, and deny, revoke, or suspend approval of education
29 programs for failure to meet the requirements;

30 (5) examine, license, and renew the licenses of qualified applicants;

31 (6) prescribe requirements for competence before a former registered,

1 advanced practice registered, or licensed practical nurse may resume the practice of
2 nursing under this chapter;

3 (7) define by regulation the qualifications and duties of the executive
4 administrator and delegate authority to the executive administrator that is necessary to
5 conduct board business;

6 (8) develop reasonable and uniform standards for nursing practice;

7 (9) publish advisory opinions regarding whether nursing practice
8 procedures or policies comply with acceptable standards of nursing practice as defined
9 under this chapter;

10 (10) require applicants under this chapter to submit fingerprints and the
11 fees required by the Department of Public Safety under AS 12.62.160 for criminal
12 justice information and a national criminal history record check; the department shall
13 submit the fingerprints and fees to the Department of Public Safety for a report of
14 criminal justice information under AS 12.62 and a national criminal history record
15 check under AS 12.62.400;

16 (11) require that a licensed advanced practice registered nurse who has
17 a federal Drug Enforcement Administration registration number register with the
18 controlled substance prescription database under AS 17.30.200(n).

19 * **Sec. 4.** AS 08.72.050 is amended to read:

20 **Sec. 08.72.050. Regulations.** The board shall adopt regulations

21 (1) necessary for the proper performance of its duties;

22 (2) governing the applicants and applications for licensing;

23 (3) for the licensing of optometrists;

24 (4) necessary to govern the practice of optometry, including the
25 prescription and use of pharmaceutical agents for the treatment of eye disease;

26 (5) prescribing requirements that a person licensed under this chapter
27 must meet to demonstrate continued professional competency;

28 (6) developing uniform standards for the practice of optometry;

29 (7) establishing opioid prescription dosage standards based on
30 morphine milligram equivalents; in this paragraph, "morphine milligram
31 equivalent" means the conversion factor used to calculate the strength of an

1 **opioid using morphine dosage as the comparative unit of measure.**

2 * **Sec. 5.** AS 08.80.335 is amended by adding a new subsection to read:

3 (c) Before filling a prescription for and dispensing an opioid that is a schedule
4 II, III, or IV controlled substance under federal law, a pharmacist shall confirm that
5 the prescribing practitioner reviewed the patient's prescription records in the controlled
6 substance prescription database as provided in AS 17.30.200 before prescribing the
7 opioid.

8 * **Sec. 6.** AS 08.98.050(a) is amended to read:

9 (a) The board shall

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

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

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

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

18 (5) conduct disciplinary proceedings in accordance with this chapter;

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

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

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

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

28 (A) the issuance of student permits; and

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

31 (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(n);

(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;

(12) adopt regulations that establish opioid prescription dosage standards based on morphine milligram equivalents; in this paragraph, "morphine milligram equivalent" means the conversion factor used to calculate the strength of an opioid using morphine dosage as the comparative unit of measure.

* Sec. 7. AS 12.65.020 is amended by adding a new subsection to read:

(h) If the state medical examiner or deputy medical examiner determines a person's death was caused by an overdose of a schedule II, III, or IV controlled substance under federal law, the state medical examiner or deputy medical examiner shall report to the Board of Pharmacy the person's name, address, and date of birth.

* Sec. 8. AS 17.30.200(c) is amended to read:

(c) The board shall maintain the database in an electronic file or by other means established by the board to facilitate use of the database for identification of

(1) prescribing practices and patterns of prescribing and dispensing controlled substances;

(2) practitioners who

(A) prescribe controlled substances in an unprofessional or unlawful manner; or

(B) fail to review the information in the database to check a patient's prescription records before dispensing, prescribing, or administering a schedule II, III, or IV controlled substance under federal law to the patient as required under this section or board regulations;

(3) individuals who receive prescriptions for controlled substances from licensed practitioners and who subsequently obtain dispensed controlled substances from a drug outlet in quantities or with a frequency inconsistent with generally recognized standards of dosage for that controlled substance; [AND]

(4) individuals who present forged or otherwise false or altered prescriptions for controlled substances to a pharmacy; and

(5) each occurrence for which a practitioner failed to review the information in the database to check a patient's prescription records before dispensing, prescribing, or administering a schedule II, III, or IV controlled substance under federal law to the patient as required under this section or board regulations.

* **Sec. 9.** AS 17.30.200(d) is amended to read:

(d) The database and the information contained within the database are confidential, are not public records, are not subject to public disclosure, and may not be shared with the federal government. The board shall [UNDETAKE 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

1 must be licensed or registered under AS 08;

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

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

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

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

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

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

28 (11) a practitioner, pharmacist, or clinical staff employed by an Alaska
29 tribal health organization, including commissioned corps officers of the United States
30 Public Health Service employed under a memorandum of agreement; in this
31 paragraph, "Alaska tribal health organization" has the meaning given to "tribal health

1 program" in 25 U.S.C. 1603.

2 * **Sec. 10.** AS 17.30.200(e) is amended to read:

3 (e) The failure of a pharmacist-in-charge or a pharmacist to register **with** or
 4 submit information to the database as required under this section is grounds for the
 5 board to take disciplinary action against the license or registration of the pharmacy or
 6 pharmacist. **After a hearing, and upon a finding by a practitioner's licensing**
 7 **board that the** [THE FAILURE OF A] practitioner **has failed** to register **with** or
 8 review the database as required under this section, [IS GROUNDS FOR] the
 9 practitioner's licensing board **shall** [TO] take disciplinary action against the
 10 practitioner.

11 * **Sec. 11.** AS 17.30.200(h) is amended to read:

12 (h) An individual who has submitted information to the database in
 13 accordance with this section may not be held civilly liable for having submitted the
 14 information. Dispensers or practitioners may not be held civilly liable for damages for
 15 accessing [OR FAILING TO ACCESS] the information in the database.

16 * **Sec. 12.** AS 17.30.200(k) is amended to read:

17 (k) In the regulations adopted under this section, the board shall provide

18 (1) [THAT PRESCRIPTION INFORMATION IN THE DATABASE
 19 SHALL BE PURGED FROM THE DATABASE AFTER TWO YEARS HAVE
 20 ELAPSED FROM THE DATE THE PRESCRIPTION WAS DISPENSED;

21 (2)] a method for an individual to challenge information in the
 22 database about the individual that the **individual** [PERSON] believes is incorrect or
 23 was incorrectly entered by a dispenser;

24 **(2)** [(3)] a procedure [AND TIME FRAME] for registration with the
 25 database;

26 **(3)** [(4)] that a practitioner review the information in the database to
 27 check a patient's prescription records before dispensing, prescribing, or administering
 28 a schedule II or III controlled substance under federal law to the patient; the
 29 regulations must provide that a practitioner is not required to review the information in
 30 the database before dispensing, prescribing, or administering

31 (A) a controlled substance to a person who is receiving

1 treatment

2 (i) in an inpatient setting;

3 (ii) at the scene of an emergency or in an ambulance; in
4 this sub-subparagraph, "ambulance" has the meaning given in
5 AS 18.08.200;

6 (iii) in an emergency room;

7 (iv) immediately before, during, or within the first 48
8 hours after surgery or a medical procedure;

9 (v) in a hospice or nursing home that has an in-house
10 pharmacy; or

11 (B) a nonrefillable prescription of a controlled substance in a
12 quantity intended to last for not more than three days.

13 * **Sec. 13.** AS 17.30.200(p) is amended to read:

14 (p) The board **shall** [IS AUTHORIZED TO] provide unsolicited notification
15 to a **patient's** pharmacist **and practitioner, as well as the** [,] practitioner's licensing
16 board, [OR PRACTITIONER] if a patient has received one or more prescriptions for
17 controlled substances in quantities or with a frequency inconsistent with generally
18 recognized standards of safe practice. An unsolicited notification to a practitioner's
19 licensing board under this section

20 (1) must be provided to the practitioner;

21 (2) is confidential;

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

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

25 * **Sec. 14.** AS 17.30.200(s) is amended to read:

26 (s) Notwithstanding (p) of this section, the board **shall, at least once a year,**
27 [MAY] issue to a practitioner periodic unsolicited reports that detail and compare the
28 practitioner's opioid prescribing practice with other practitioners of the same
29 occupation and similar specialty. **The board shall simultaneously send to the**
30 **practitioner's licensing board and, if the practitioner is in a group practice, to a**
31 **director of the practice who is licensed under AS 08 a copy of the report that**

1 **excludes personally identifiable information of patients.** A report issued under this
 2 subsection is confidential and **a recipient may not disclose information in the**
 3 **report to a person who does not have access to the database under this section**
 4 [THE BOARD SHALL ISSUE THE REPORT ONLY TO A PRACTITIONER]. The
 5 board may adopt regulations to implement this subsection. The regulations **must**
 6 [MAY] address the types of controlled substances to be included in an unsolicited
 7 report, the quantities dispensed, the medication strength, and other factors determined
 8 by the board.

9 * **Sec. 15.** AS 17.30.200 is amended by adding a new subsection to read:

10 (v) If the board receives notice from the state medical examiner or deputy
 11 medical examiner under AS 12.65.020(h) that a person's death was caused by an
 12 overdose of a schedule II, III, or IV controlled substance under federal law, the board
 13 shall

14 (1) review the database and identify practitioners who prescribed a
 15 schedule II, III, or IV controlled substance under federal law to the person during the
 16 three-month period preceding the person's death; and

17 (2) promptly notify the practitioner and the practitioner's licensing
 18 board of the determination by the state medical examiner or deputy medical examiner
 19 regarding the person's cause of death.

20 * **Sec. 16.** The uncodified law of the State of Alaska is amended by adding a new section to
 21 read:

22 TRANSITION: REGULATIONS. Not later than one year after the effective date of
 23 secs. 1 - 15 of this Act,

24 (1) the Board of Dental Examiners shall adopt regulations necessary to
 25 implement sec. 1 of this Act; the regulations take effect under AS 44.62 (Administrative
 26 Procedure Act), but not before the effective date of sec. 1 of this Act;

27 (2) the State Medical Board shall adopt regulations necessary to implement
 28 sec. 2 of this Act; the regulations take effect under AS 44.62 (Administrative Procedure Act),
 29 but not before the effective date of sec. 2 of this Act;

30 (3) the Board of Nursing shall adopt regulations necessary to implement sec. 3
 31 of this Act; the regulations take effect under AS 44.62 (Administrative Procedure Act), but

1 not before the effective date of sec. 3 of this Act;

2 (4) the Board of Examiners in Optometry shall adopt regulations necessary to
3 implement sec. 4 of this Act; the regulations take effect under AS 44.62 (Administrative
4 Procedure Act), but not before the effective date of sec. 4 of this Act;

5 (5) the Board of Pharmacy shall adopt regulations necessary to implement
6 secs. 5 and 8 - 15 of this Act; the regulations take effect under AS 44.62 (Administrative
7 Procedure Act), but not before the effective date of secs. 5 and 8 - 15 of this Act;

8 (6) the Board of Veterinary Examiners shall adopt regulations necessary to
9 implement sec. 6 of this Act; the regulations take effect under AS 44.62 (Administrative
10 Procedure Act), but not before the effective date of sec. 6 of this Act;

11 (7) the Department of Commerce, Community, and Economic Development
12 and a board that regulates an occupation that includes a practitioner required to register with
13 the controlled substance prescription database under AS 17.30.200 shall adopt regulations to
14 implement the changes made by AS 17.30.200(c), as amended by sec. 8 of this Act, and
15 AS 17.30.200(e), as amended by sec. 10 of this Act; the regulations take effect under
16 AS 44.62 (Administrative Procedure Act), but not before the effective date of secs. 8 and 10
17 of this Act; in this paragraph,

18 (A) "board" has the meaning given in AS 08.01.110;

19 (B) "occupation" has the meaning given in AS 08.01.110;

20 (C) "practitioner" has the meaning given in AS 11.71.900.

21 * **Sec. 17.** Section 16 of this Act takes effect immediately under AS 01.10.070(c).

22 * **Sec. 18.** Except as provided in sec. 17 of this Act, this Act takes effect January 1, 2021.