

SENATE CS FOR CS FOR HOUSE BILL NO. 265(FIN)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-SECOND LEGISLATURE - SECOND SESSION

BY THE SENATE FINANCE COMMITTEE

Offered: 5/15/22

Referred: Rules

Sponsor(s): REPRESENTATIVES SPOHNHOLZ, Gillham, McCarty, Rasmussen, Schrage, Ortiz, Tarr, Merrick, Fields, Story, Hannan, Drummond, Josephson, Patkotak, Nelson, LeBon, McCabe

SENATORS Wilson, Kiehl

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to telehealth; relating to the practice of medicine and the practice of
2 nursing; relating to medical assistance coverage for services provided by telehealth; and
3 providing for an effective date."

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

5 * **Section 1.** AS 08.01 is amended by adding a new section to read:

6 **Sec. 08.01.085. Telehealth.** (a) A health care provider licensed in this state
7 may provide health care services within the health care provider's authorized scope of
8 practice to a patient in this state through telehealth without first conducting an in-
9 person visit.

10 (b) A physician licensed in another state may provide health care services
11 through telehealth to a patient located in the state as provided in this subsection,
12 subject to the investigative and enforcement powers of the department under
13 AS 08.01.087, and subject to disciplinary action by the State Medical Board under
14 AS 08.64.333. The privilege to practice under this subsection extends only to

1 (1) ongoing treatment or follow-up care related to health care services
2 previously provided by the physician to the patient and applies only if

3 (A) the physician and the patient have an established physician-
4 patient relationship; and

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

7 (2) a visit regarding a suspected or diagnosed life-threatening
8 condition for which

9 (A) the patient has been referred to the physician licensed in
10 another state by a physician licensed in this state and that referral has been
11 documented by the referring physician; and

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

15 (c) If a health care provider determines in the course of a telehealth encounter
16 with a patient under this section that some or all of the encounter will extend beyond
17 the health care provider's authorized scope of practice, the health care provider shall
18 advise the patient that the health care provider is not authorized to provide some or all
19 of the services to the patient, recommend that the patient contact an appropriate
20 provider for the services the health care provider is not authorized to provide, and limit
21 the encounter to only those services the health care provider is authorized to provide.
22 The health care provider may not charge for any portion of an encounter that extends
23 beyond the health care provider's authorized scope of practice.

24 (d) A fee for a service provided through telehealth under this section must be
25 reasonable and consistent with the ordinary fee typically charged for that service and
26 may not exceed the fee typically charged for that service.

27 (e) A physician, podiatrist, osteopath, or physician assistant licensed under
28 AS 08.64 may prescribe, dispense, or administer through telehealth under this section
29 a prescription for a controlled substance listed in AS 11.71.140 - 11.71.190 if the
30 physician, podiatrist, osteopath, or physician assistant complies with state and federal
31 law governing the prescription, dispensing, or administering of a controlled substance.

1 (f) An advanced practice registered nurse licensed under AS 08.68 may
2 prescribe, dispense, or administer through telehealth under this section a prescription
3 for a controlled substance listed in AS 11.71.140 - 11.71.190 if the advanced practice
4 registered nurse complies with state and federal law governing the prescription,
5 dispensing, or administering of a controlled substance.

6 (g) Except as authorized under (e) and (f) of this section, a health care
7 provider licensed under this title may not prescribe, dispense, or administer through
8 telehealth under this section a controlled substance listed in AS 11.71.140 - 11.71.190.

9 (h) A health care provider may not be required to document a barrier to an in-
10 person visit to provide health care services through telehealth. The department or a
11 board may not limit the physical setting from which a health care provider may
12 provide health care services through telehealth.

13 (i) Nothing in this section requires the use of telehealth when a health care
14 provider determines that providing health care services through telehealth is not
15 appropriate or when a patient chooses not to receive health care services through
16 telehealth.

17 (j) In this section,

18 (1) "health care provider" means

19 (A) an audiologist or speech-language pathologist licensed
20 under AS 08.11; a behavior analyst licensed under AS 08.15; a chiropractor
21 licensed under AS 08.20; a professional counselor licensed under AS 08.29; a
22 dental hygienist licensed under AS 08.32; a dentist licensed under AS 08.36; a
23 dietitian or nutritionist licensed under AS 08.38; a naturopath licensed under
24 AS 08.45; a marital and family therapist licensed under AS 08.63; a physician
25 licensed under AS 08.64; a podiatrist, osteopath, or physician assistant licensed
26 under AS 08.64; a direct-entry midwife certified under AS 08.65; a nurse
27 licensed under AS 08.68; a dispensing optician licensed under AS 08.71; an
28 optometrist licensed under AS 08.72; a pharmacist licensed under AS 08.80; a
29 physical therapist or occupational therapist licensed under AS 08.84; a
30 psychologist or psychological associate licensed under AS 08.86; or a social
31 worker licensed under AS 08.95; or

1 (B) a physician licensed in another state;

2 (2) "licensed" means holding a current license in good standing;

3 (3) "life-threatening condition" means any disease or condition from
4 which the likelihood of death is probable unless the course of the disease or condition
5 is interrupted;

6 (4) "telehealth" has the meaning given in AS 47.05.270(e).

7 * **Sec. 2.** AS 08.64 is amended by adding a new section to read:

8 **Sec. 08.64.333. Disciplinary sanctions: physician licensed in another state.**

9 (a) The board may sanction a physician licensed in another state who provides health
10 care services through telehealth under AS 08.01.085(b) if the board finds after a
11 hearing that

12 (1) one or more of the grounds listed in AS 08.64.326(a)(1) - (13) exist
13 with respect to that physician;

14 (2) the physician exceeded the scope of the physician's privilege to
15 practice in this state under AS 08.01.085; or

16 (3) the physician prescribed, dispensed, or administered through
17 telehealth to a patient located in the state a controlled substance listed in AS 11.71.140
18 - 11.71.190.

19 (b) If the board finds grounds to sanction a physician under (a) of this section,
20 the board may

21 (1) permanently prohibit the physician from practicing in the state;

22 (2) prohibit the physician from practicing in the state for a determinate
23 period;

24 (3) censure the physician;

25 (4) issue a letter of reprimand to the physician;

26 (5) place the physician on probationary status under (d) of this section;

27 (6) limit or impose conditions on the physician's privilege to practice
28 in the state;

29 (7) impose a civil fine of not more than \$25,000;

30 (8) issue a cease and desist order prohibiting the physician from
31 providing health care services through telehealth under AS 08.01.085(b); an order

1 issued under this paragraph remains in effect until the physician submits evidence
2 acceptable to the board showing that the violation has been corrected;

3 (9) promptly notify the licensing authority in each state in which the
4 physician is licensed of a sanction imposed under this subsection.

5 (c) In a case finding grounds for sanction under AS 08.64.326(a)(13), the final
6 findings of fact, conclusions of law, and order of the authority that suspended or
7 revoked a license or certificate constitute a prima facie case that the license or
8 certificate was suspended or revoked and the grounds under which the suspension or
9 revocation was granted.

10 (d) The board may place a physician on probation under this section until the
11 board finds that the deficiencies that required the imposition of a sanction have been
12 remedied. The board may require a physician on probation to

13 (1) report regularly to the board on matters involving the reason for
14 which the physician was placed on probation;

15 (2) limit the physician's practice in the state to those areas prescribed
16 by the board;

17 (3) participate in professional education until the board determines that
18 a satisfactory degree of skill has been attained in areas identified by the board as
19 needing improvement.

20 (e) The board may summarily prohibit a physician from practicing in the state
21 under AS 08.01.085(b) if the board finds that the physician, by continuing to practice,
22 poses a clear and immediate danger to public health and safety. A physician prohibited
23 from practicing under this subsection is entitled to a hearing conducted by the office of
24 administrative hearings (AS 44.64.010) not later than seven days after the effective
25 date of the order prohibiting the physician from practicing. The board may lift an order
26 prohibiting a physician from practicing if the board finds after a hearing that the
27 physician is able to practice with reasonable skill and safety. The physician may
28 appeal a decision of the board under this subsection to the superior court.

29 (f) The board shall take measures to recover from a physician the cost of
30 proceedings resulting in a sanction under (b) of this section, including the costs of
31 investigation by the board and department, and hearing costs.

1 (g) The board may prohibit a physician from practicing in the state upon
 2 receipt of a certified copy of evidence that a license to practice medicine in another
 3 state or territory of the United States or province or territory of Canada has been
 4 suspended or revoked. The prohibition remains in effect until a hearing can be held by
 5 the board.

6 (h) The board shall be consistent in the application of disciplinary sanctions. A
 7 significant departure from earlier decisions of the board involving similar situations
 8 must be explained in findings of fact or orders made by the board.

9 * **Sec. 3.** AS 08.64.364(b) is amended to read:

10 (b) The board may not impose disciplinary sanctions on a physician or
 11 physician assistant for prescribing, dispensing, or administering a prescription drug
 12 that is a controlled substance [OR BOTULINUM TOXIN] if the requirements under
 13 (a) of this section and AS 08.64.363 are met [AND THE PHYSICIAN OR
 14 PHYSICIAN ASSISTANT PRESCRIBES, DISPENSES, OR ADMINISTERS THE
 15 CONTROLLED SUBSTANCE OR BOTULINUM TOXIN WHEN AN
 16 APPROPRIATE LICENSED HEALTH CARE PROVIDER IS PRESENT WITH
 17 THE PATIENT TO ASSIST THE PHYSICIAN OR PHYSICIAN ASSISTANT
 18 WITH EXAMINATION, DIAGNOSIS, AND TREATMENT].

19 * **Sec. 4.** AS 08.64.370 is amended to read:

20 **Sec. 08.64.370. Exceptions to application of chapter.** This chapter does not
 21 apply to

22 (1) officers in the regular medical service of the armed services of the
 23 United States or the United States Public Health Service while in the discharge of their
 24 official duties;

25 (2) a physician or osteopath **licensed in another state** [, WHO IS
 26 NOT A RESIDENT OF THIS STATE,] who is asked by a physician or osteopath
 27 licensed in this state to help in the diagnosis or treatment of a case, **unless the**
 28 **physician is practicing under AS 08.01.085(b)**;

29 (3) the practice of the religious tenets of a church;

30 (4) a physician in the regular medical service of the United States
 31 Public Health Service or the armed services of the United States volunteering services

1 without pay or other remuneration to a hospital, clinic, medical office, or other
2 medical facility in the state;

3 (5) a person who is certified as a direct-entry midwife by the
4 department under AS 08.65 while engaged in the practice of midwifery whether or not
5 the person accepts compensation for those services;

6 (6) a physician licensed in another state who, under a written
7 agreement with an athletic team located in the state in which the physician is licensed,
8 provides medical services to members of the athletic team while the athletic team is
9 traveling to or from or participating in a sporting event in this state.

10 * **Sec. 5.** AS 08.68.100(a) is amended to read:

11 (a) The board shall

12 (1) adopt regulations necessary to implement this chapter, including
13 regulations

14 (A) pertaining to practice as an advanced practice registered
15 nurse, including requirements for an advanced practice registered nurse to
16 practice as a certified registered nurse anesthetist, certified clinical nurse
17 specialist, certified nurse practitioner, or certified nurse midwife; regulations
18 for an advanced practice registered nurse who holds a valid federal Drug
19 Enforcement Administration registration number must address training in pain
20 management and opioid use and addiction;

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

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

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

28 **(E) establishing guidelines for rendering a diagnosis,**
29 **providing treatment, or prescribing, dispensing, or administering a**
30 **prescription drug to a person without conducting a physical examination**
31 **under AS 08.68.710; the guidelines must include a nationally recognized**

1 **model policy for standards of care of a patient who is at a different**
 2 **location than the advanced practice registered nurse;**

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

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

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

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

11 (6) prescribe requirements for competence before a former registered,
 12 advanced practice registered, or licensed practical nurse may resume the practice of
 13 nursing under this chapter;

14 (7) define by regulation the qualifications and duties of the executive
 15 administrator and delegate authority to the executive administrator that is necessary to
 16 conduct board business;

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

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

21 (10) require applicants under this chapter to submit fingerprints and the
 22 fees required by the Department of Public Safety under AS 12.62.160 for criminal
 23 justice information and a national criminal history record check; the department shall
 24 submit the fingerprints and fees to the Department of Public Safety for a report of
 25 criminal justice information under AS 12.62 and a national criminal history record
 26 check under AS 12.62.400;

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

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

31 **Sec. 08.68.710. Prescription of drugs without physical examination.** (a) The

1 board may not impose disciplinary sanctions on an advanced practice registered nurse
 2 for rendering a diagnosis, providing treatment, or prescribing, dispensing, or
 3 administering a prescription drug that is not a controlled substance to a person without
 4 conducting a physical examination if

5 (1) the advanced practice registered nurse or another licensed health
 6 care provider in the medical practice is available to provide follow-up care; and

7 (2) the advanced practice registered nurse requests that the person
 8 consent to sending a copy of all records of the encounter to the person's primary care
 9 provider if the prescribing advanced practice registered nurse is not the person's
 10 primary care provider and, if the person consents, the advanced practice registered
 11 nurse sends the records to the person's primary care provider.

12 (b) The board may not impose disciplinary sanctions on an advanced practice
 13 registered nurse for prescribing, dispensing, or administering a prescription drug that
 14 is a controlled substance if the requirements under (a) of this section and
 15 AS 08.68.705 are met and the advanced practice registered nurse prescribes,
 16 dispenses, or administers the controlled substance.

17 (c) Notwithstanding (a) and (b) of this section, an advanced practice registered
 18 nurse may not prescribe, dispense, or administer a prescription drug in response to an
 19 Internet questionnaire or electronic mail message to a person with whom the advanced
 20 practice registered nurse does not have a prior provider-patient relationship.

21 (d) In this section,

22 (1) "controlled substance" has the meaning given in AS 11.71.900;

23 (2) "prescription drug" has the meaning given in AS 08.80.480;

24 (3) "primary care provider" has the meaning given in AS 21.07.250.

25 * **Sec. 7.** AS 18.08 is amended by adding a new section to read:

26 **Sec. 18.08.100. Telehealth.** (a) An individual certified or licensed under this
 27 chapter may practice within the individual's authorized scope of practice under this
 28 chapter through telehealth with a patient in this state if the individual's certification or
 29 license is in good standing.

30 (b) If an individual certified or licensed under this chapter determines in the
 31 course of a telehealth encounter with a patient that some or all of the encounter will

1 extend beyond the individual's authorized scope of practice, the individual shall advise
 2 the patient that the individual is not authorized to provide some or all of the services to
 3 the patient, recommend that the patient contact an appropriate provider for the services
 4 the individual is not authorized to provide, and limit the encounter to only those
 5 services the individual is authorized to provide. The individual certified or licensed
 6 under this chapter may not charge for any portion of an encounter that extends beyond
 7 the individual's authorized scope of practice.

8 (c) A fee for a service provided through telehealth under this section must be
 9 reasonable and consistent with the ordinary fee typically charged for that service and
 10 may not exceed the fee typically charged for that service.

11 (d) An individual certified or licensed under this chapter may not be required
 12 to document a barrier to an in-person visit to provide health care services through
 13 telehealth. The department or the council may not limit the physical setting from
 14 which an individual certified or licensed under this chapter may provide health care
 15 services through telehealth.

16 (e) Nothing in this section requires the use of telehealth when an individual
 17 certified or licensed under this chapter determines that providing services through
 18 telehealth is not appropriate or when a patient chooses not to receive services through
 19 telehealth.

20 (f) In this section, "telehealth" has the meaning given in AS 47.05.270(e).

21 * **Sec. 8.** AS 47.07 is amended by adding a new section to read:

22 **Sec. 47.07.069. Payment for telehealth.** (a) The department shall pay for all
 23 services covered by the medical assistance program provided through telehealth in the
 24 same manner as if the services had been provided in person, including

25 (1) behavioral health services;

26 (2) services covered under home and community-based waivers;

27 (3) services covered under state plan options under 42 U.S.C. 1396 -
 28 1396p (Title XIX, Social Security Act);

29 (4) services provided by a community health aide or a community
 30 health practitioner certified by the Community Health Aide Program Certification
 31 Board;

1 (5) services provided by a behavioral health aide or behavioral health
2 practitioner certified by the Community Health Aide Program Certification Board;

3 (6) services provided by a dental health aide therapist certified by the
4 Community Health Aide Program Certification Board;

5 (7) services provided by a chemical dependency counselor certified by
6 a certifying entity for behavioral health professionals in the state specified by the
7 department in regulation;

8 (8) services provided by a rural health clinic or a federally qualified
9 health center;

10 (9) services provided by an individual or entity that is required by
11 statute or regulation to be licensed or certified by the department or that is eligible to
12 receive payments, in whole or in part, from the department;

13 (10) services provided through audio, visual, or data communications,
14 alone or in any combination, or through communications over the Internet or by
15 telephone, including a telephone that is not part of a dedicated audio conference
16 system, electronic mail, text message, or two-way radio;

17 (11) assessment, evaluation, consultation, planning, diagnosis,
18 treatment, case management, and the prescription, dispensing, and administration of
19 medications, including controlled substances; and

20 (12) services covered under federal waivers or demonstrations other
21 than home and community-based waivers.

22 (b) The department shall adopt regulations for services provided by telehealth,
23 including setting rates of payment. Regulations calculating the rate of payment for a
24 rural health clinic or federally qualified health center must treat services provided
25 through telehealth in the same manner as if the services had been provided in person,
26 including calculations based on the rural health clinic or federally qualified health
27 center's reasonable costs or on the number of visits for recipients provided services,
28 and must define "visit" to include a visit provided by telehealth. The department may
29 not decrease the rate of payment for a telehealth service based on the location of the
30 person providing the service, the location of the eligible recipient of the service, the
31 communication method used, or whether the service was provided asynchronously or

1 synchronously. The department may exclude or limit coverage or reimbursement for a
 2 service provided by telehealth, or limit the telehealth modes that may be used for a
 3 particular service, only if the department

4 (1) specifically excludes or limits the service from telehealth coverage
 5 or reimbursement by regulations adopted under this subsection;

6 (2) determines, based on substantial medical evidence, that the service
 7 cannot be safely provided using telehealth or using the specified mode; or

8 (3) determines that providing the service using the specified mode
 9 would violate federal law or render the service ineligible for federal financial
 10 participation under applicable federal law.

11 (c) All services delivered through telehealth under this section must comply
 12 with the Health Insurance Portability and Accountability Act of 1996 (P.L. 104-191).

13 (d) In this section,

14 (1) "federally qualified health center" has the meaning given in 42
 15 U.S.C. 1396d(l)(2)(B);

16 (2) "rural health clinic" has the meaning given in 42 U.S.C.
 17 1396d(l)(1);

18 (3) "state plan" means the state plan for medical assistance coverage
 19 developed under AS 47.07.040;

20 (4) "telehealth" has the meaning given AS 47.05.270(e).

21 * **Sec. 9.** AS 47.07.069(a), enacted by sec. 8 of this Act, is amended to read:

22 (a) The department shall pay for services covered by the medical assistance
 23 program provided through telehealth **if the department pays for those services when**
 24 **[IN THE SAME MANNER AS IF THE SERVICES HAD BEEN]** provided in person,
 25 including

26 (1) behavioral health services;

27 (2) services covered under home and community-based waivers;

28 (3) services covered under state plan options under 42 U.S.C. 1396 -
 29 1396p (Title XIX, Social Security Act);

30 (4) services provided by a community health aide or a community
 31 health practitioner certified by the Community Health Aide Program Certification

1 Board;

2 (5) services provided by a behavioral health aide or behavioral health
3 practitioner certified by the Community Health Aide Program Certification Board;

4 (6) services provided by a dental health aide therapist certified by the
5 Community Health Aide Program Certification Board;

6 (7) services provided by a chemical dependency counselor certified by
7 a certifying entity for behavioral health professionals in the state specified by the
8 department in regulation;

9 (8) services provided by a rural health clinic or a federally qualified
10 health center;

11 (9) services provided by an individual or entity that is required by
12 statute or regulation to be licensed or certified by the department or that is eligible to
13 receive payments, in whole or in part, from the department;

14 (10) services provided through audio, visual, or data communications,
15 alone or in any combination, or through communications over the Internet or by
16 telephone, including a telephone that is not part of a dedicated audio conference
17 system, electronic mail, text message, or two-way radio;

18 (11) assessment, evaluation, consultation, planning, diagnosis,
19 treatment, case management, and the prescription, dispensing, and administration of
20 medications, including controlled substances; and

21 (12) services covered under federal waivers or demonstrations other
22 than home and community-based waivers.

23 * **Sec. 10.** AS 47.07.069(b), enacted by sec. 8 of this Act, is amended to read:

24 (b) The department shall adopt regulations for services provided by telehealth,
25 including setting rates of payment. **The department may set a rate of payment for a**
26 **service provided through telehealth that is different from the rate of payment for**
27 **the same service provided in person.** [REGULATIONS CALCULATING THE
28 RATE OF PAYMENT FOR A RURAL HEALTH CLINIC OR FEDERALLY
29 QUALIFIED HEALTH CENTER MUST TREAT SERVICES PROVIDED
30 THROUGH TELEHEALTH IN THE SAME MANNER AS IF THE SERVICES
31 HAD BEEN PROVIDED IN PERSON, INCLUDING CALCULATIONS BASED

1 ON THE RURAL HEALTH CLINIC OR FEDERALLY QUALIFIED HEALTH
 2 CENTER'S REASONABLE COSTS OR ON THE NUMBER OF VISITS FOR
 3 RECIPIENTS PROVIDED SERVICES, AND MUST DEFINE "VISIT" TO
 4 INCLUDE A VISIT PROVIDED BY TELEHEALTH. THE DEPARTMENT MAY
 5 NOT DECREASE THE RATE OF PAYMENT FOR A TELEHEALTH SERVICE
 6 BASED ON THE LOCATION OF THE PERSON PROVIDING THE SERVICE,
 7 THE LOCATION OF THE ELIGIBLE RECIPIENT OF THE SERVICE, THE
 8 COMMUNICATION METHOD USED, OR WHETHER THE SERVICE WAS
 9 PROVIDED ASYNCHRONOUSLY OR SYNCHRONOUSLY.] The department may
 10 exclude or limit coverage or reimbursement for a service provided by telehealth, or
 11 limit the telehealth modes that may be used for a particular service, only if the
 12 department

13 (1) specifically excludes or limits the service from telehealth coverage
 14 or reimbursement by regulations adopted under this subsection;

15 (2) determines, based on substantial medical evidence, that the service
 16 cannot be safely provided using telehealth or using the specified mode; or

17 (3) determines that providing the service using the specified mode
 18 would violate federal law or render the service ineligible for federal financial
 19 participation under applicable federal law.

20 * **Sec. 11.** AS 47.30 is amended by adding a new section to read:

21 **Sec. 47.30.585. Telehealth.** (a) An entity designated by the department under
 22 AS 47.30.520 - 47.30.620 may provide community mental health services authorized
 23 under AS 47.30.520 - 47.30.620 through telehealth to a patient in this state.

24 (b) If an individual employed by an entity designated by the department under
 25 AS 47.30.520 - 47.30.620, in the course of a telehealth encounter with a patient,
 26 determines that some or all of the encounter will extend beyond the community mental
 27 health services authorized under AS 47.30.520 - 47.30.620, the individual shall advise
 28 the patient that the entity is not authorized to provide some or all of the services to the
 29 patient, recommend that the patient contact an appropriate provider for the services the
 30 entity is not authorized to provide, and limit the encounter to only those services the
 31 entity is authorized to provide. The entity may not charge a patient for any portion of

1 an encounter that extends beyond the community mental health services authorized
2 under AS 47.30.520 - 47.30.620.

3 (c) A fee for a service provided through telehealth under this section must be
4 reasonable and consistent with the ordinary fee typically charged for that service and
5 may not exceed the fee typically charged for that service.

6 (d) An entity permitted to provide telehealth under this section may not be
7 required to document a barrier to an in-person visit to provide health care services
8 through telehealth. The department may not limit the physical setting from which an
9 entity may provide health care services through telehealth.

10 (e) Nothing in this section requires the use of telehealth when an individual
11 employed by an entity designated by the department under AS 47.30.520 - 47.30.620
12 determines that providing services through telehealth is not appropriate or when a
13 patient chooses not to receive services through telehealth.

14 (f) In this section, "telehealth" has the meaning given in AS 47.05.270(e).

15 * **Sec. 12.** AS 47.37 is amended by adding a new section to read:

16 **Sec. 47.37.145. Telehealth.** (a) A public or private treatment facility approved
17 under AS 47.37.140 may provide health care services authorized under AS 47.37.030 -
18 47.37.270 through telehealth to a patient in this state.

19 (b) If an individual employed by a public or private treatment facility
20 approved under AS 47.37.140, in the course of a telehealth encounter with a patient,
21 determines that some or all of the encounter will extend beyond the health care
22 services authorized under AS 47.37.030 - 47.37.270, the individual shall advise the
23 patient that the facility is not authorized to provide some or all of the services to the
24 patient, recommend that the patient contact an appropriate provider for the services the
25 facility is not authorized to provide, and limit the encounter to only those services the
26 facility is authorized to provide. The facility may not charge a patient for any portion
27 of an encounter that extends beyond the authorized health care services under
28 AS 47.37.030 - 47.37.270.

29 (c) A fee for a service provided through telehealth under this section must be
30 reasonable and consistent with the ordinary fee typically charged for that service and
31 may not exceed the fee typically charged for that service.

1 (d) A facility permitted to practice telehealth under this section may not be
 2 required to document a barrier to an in-person visit to provide health care services
 3 through telehealth. The department may not limit the physical setting from which a
 4 facility may provide health care services through telehealth.

5 (e) Nothing in this section requires the use of telehealth when an individual
 6 employed by a facility approved under AS 47.37.140 determines that providing
 7 services through telehealth is not appropriate or when a patient chooses not to receive
 8 services through telehealth.

9 (f) In this section, "telehealth" has the meaning given in AS 47.05.270(e).

10 * **Sec. 13.** The uncodified law of the State of Alaska is amended by adding a new section to
 11 read:

12 **CONDITIONAL EFFECT; NOTIFICATION.** (a) Sections 9 and 10 of this Act take
 13 effect only if, on or before June 30, 2030, the United States Department of Health and Human
 14 Services

15 (1) approves amendments to the state plan for medical assistance coverage
 16 under AS 47.07.069(a), as amended by sec. 9 of this Act, and AS 47.07.069(b), as amended
 17 by sec. 10 of this Act; or

18 (2) determines that its approval of the amendments to the state plan for
 19 medical assistance coverage under AS 47.07.069(a), as amended by sec. 9 of this Act, and
 20 AS 47.07.069(b), as amended by sec. 10 of this Act, is not necessary.

21 (b) The commissioner of health shall notify the revisor of statutes in writing within 30
 22 days after the United States Department of Health and Human Services approves amendments
 23 to the state plan or determines that approval is not necessary under (a)(1) or (2) of this section.

24 * **Sec. 14.** If secs. 9 and 10 of this Act take effect under sec. 13 of this Act, they take effect
 25 June 30, 2030.

26 * **Sec. 15.** Except as provided in sec. 14 of this Act, this Act takes effect immediately under
 27 AS 01.10.070(c).