

CS FOR SENATE BILL NO. 135(JUD)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SECOND LEGISLATURE - FIRST SESSION

BY THE SENATE JUDICIARY COMMITTEE

Offered: 4/26/01

Referred: Rules

Sponsor(s): SENATE RULES COMMITTEE BY REQUEST OF THE LEGISLATIVE BUDGET AND
AUDIT COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to mental health records, communications, and information; and**
2 **providing for an effective date."**

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

4 * **Section 1.** AS 08.02 is amended by adding a new section to read:

5 **Sec. 08.02.040. Access to certain mental health information and records**
6 **by the state.** (a) Notwithstanding AS 08.29.200, AS 08.63.200, AS 08.86.200,
7 AS 08.95.900, another provision of this title, or a regulation adopted under this title, a
8 licensee or an entity employing or contracting with a licensee may disclose
9 confidential patient mental health information, communications, and records to the
10 Department of Health and Social Services when disclosure is authorized under
11 AS 47.30.540, 47.30.590, 47.30.845, or AS 47.31.032. Information, communications,
12 and records received by the Department of Health and Social Services under this
13 section are confidential medical records of patients and are not open to public
14 inspection and copying under AS 40.25.110 - 40.25.120.

1 (b) In this section, "licensee" has the meaning given in AS 08.01.110.

2 * **Sec. 2.** AS 47.30.540(b) is amended to read:

3 (b) An entity designated by the department to receive money under
4 AS 47.30.520 - 47.30.620 shall ensure a broad base of community support as
5 evidenced by a governing board reasonably representative of the professional, civic,
6 and citizen groups in the community and including persons with mental disorders or
7 family members of persons with mental disorders. No more than two members, or 40
8 percent of the membership, whichever is greater, may be providers of services under
9 the program. In order to receive money [FUNDS] under AS 47.30.520 - 47.30.620, a
10 local community entity shall agree [TO]

11 (1) to give priority to mental health programs and services consistent
12 with the priorities set out in AS 47.30.056 and that provide the maximum services for
13 the least expenditure of money from the mental health trust settlement income
14 account;

15 (2) to furnish services through a qualified staff meeting reasonable
16 standards of experience and training;

17 (3) to conform to a state cost accounting system showing the true cost
18 of services rendered, collect fees for services according to a schedule based on an
19 analysis of reasonable ability to pay, and provide that a person may not be refused
20 services because of inability to pay for those services;

21 (4) to maintain adequate clinical and administrative records and
22 furnish periodic reports to the department;

23 (5) to furnish the authority and the department an annual report of the
24 preceding fiscal year, including an evaluation of the effectiveness of the previous
25 year's programs and their costs; [AND]

26 (6) to furnish the authority and the department satisfactory needs
27 assessments for the population and area it serves and an annual update of a long-range
28 planning and budget statement that describes program goals for the coming year, the
29 steps and resources necessary to implement the goals, the projected means by which
30 these resources will be secured, and the procedures necessary to evaluate the program;

31 (7) to furnish the department with confidential and other

information about recipients of services paid for, in whole or part, under AS 47.30.520 - 47.30.620 and comply with regulations of the department regarding the submission of this information; and

(8) to notify the department immediately of emergency situations involving recipients of services paid for, in whole or in part, under AS 47.30.520 - 47.30.620 and comply with regulations of the department regarding this notification; for purposes of this paragraph, "emergency situations" include the disappearance, injury, or death of a recipient.

* **Sec. 3.** AS 47.30.590 is amended by adding a new subsection to read:

(b) Notwithstanding (a) of this section, the department is authorized to review, obtain, and copy confidential and other records and information about the clients of services requested or furnished under AS 47.30.520 - 47.30.620 to evaluate compliance with those statutes. The department may obtain the records and information regarding clients from the client or directly from an entity designated by the department under AS 47.30.520 - 47.30.620 that furnished those services. Records obtained by the department under this subsection are medical records, shall be handled confidentially, and are exempt from public inspection and copying under AS 40.25.110 - 40.25.120.

* **Sec. 4.** AS 47.30.845 is amended to read:

Sec. 47.30.845. Confidential records. Information and records obtained in the course of a screening investigation, evaluation, examination, or treatment are confidential and are not public records, except as the requirements of a hearing under AS 47.30.660 - 47.30.915 may necessitate a different procedure. Information and records may be copied and disclosed under regulations established by the department only to

(1) a physician or a provider of health, mental health, or social and welfare services involved in caring for, treating, or rehabilitating the patient;

(2) the patient or an individual to whom the patient has given written consent to have information disclosed;

(3) a person authorized by a court order;

(4) a person doing research or maintaining health statistics [,] if the

1 anonymity of the patient is assured [,] and the facility recognizes the project as a bona
2 fide research or statistical undertaking;

3 (5) the Department of Corrections in a case in which a prisoner
4 confined to the state prison is a patient in the state hospital on authorized transfer
5 either by voluntary admission or by court order;

6 (6) a governmental or law enforcement agency when necessary to
7 secure the return of a patient who is on unauthorized absence from a facility where the
8 patient was undergoing evaluation or treatment;

9 (7) a law enforcement agency when there is substantiated concern over
10 imminent danger to the community by a presumed mentally ill person;

11 **(8) the department in a case in which services provided under**
12 **AS 47.30.660 - 47.30.915 are paid for, in whole or in part, by the department or in**
13 **which a person has applied for or has received assistance from the department**
14 **for those services.**

15 * **Sec. 5.** AS 47.31 is amended by adding a new section to read:

16 **Sec. 47.31.032. Access to records and information by the department.** The
17 department is authorized to review, obtain, and copy confidential and other records
18 and information about the patients who were eligible for or were provided financial
19 assistance under this chapter to evaluate compliance with this chapter. The
20 department may obtain the records and information from the patient or directly from
21 the evaluation facility or the designated treatment facility. Records obtained by the
22 department under this section are medical records, shall be handled confidentially, and
23 are exempt from public inspection and copying under AS 40.25.110 - 40.25.120.

24 * **Sec. 6.** Section 6, ch. 87, SLA 1999, is amended to read:

25 Sec. 6. AS 47.31.005, 47.31.010, 47.31.015, 47.31.020, 47.31.025, 47.31.030,
26 **47.31.032**, 47.31.035, 47.31.900, and 47.31.990 are repealed.

27 * **Sec. 7.** The uncodified law of the State of Alaska is amended by adding a new section to
28 read:

29 **DATA FROM PRIOR YEARS.** (a) As a condition of receiving state money for state
30 fiscal year 2002 under AS 47.30.520 - 47.30.620, 47.30.660 - 47.30.915, or AS 47.31, the
31 entity eligible for the state money shall agree to furnish the Department of Health and Social

1 Services with confidential and other information about recipients of services paid for, in
2 whole or part, with state money during state fiscal years 2000 and 2001 under AS 47.30.520 -
3 47.30.620, 47.30.660 - 47.30.915, or AS 47.31. The entities governed by this subsection shall
4 comply with regulations of the department regarding the submission of the information
5 required under this subsection.

6 (b) The department may review, obtain, and copy the information submitted under (a)
7 of this section. The department may also obtain information of the type described in (a) of
8 this section from the patient who received the services described in (a) of this section and
9 review or copy that information.

10 (c) Records and information obtained by the department under this section are
11 medical records, shall be handled confidentially, and are exempt from public inspection and
12 copying under AS 40.25.110 - 40.25.120. The records and information may be copied and
13 disclosed under regulations established by the department only under the same circumstances
14 as provided for confidential records under AS 47.30.845, as amended by sec. 4 of this Act.

15 (d) The department may review the information obtained under this section to
16 evaluate compliance with the applicable statutes and grant contracts. However, the
17 department may not use the information furnished under this section to impose civil or
18 administrative penalties for failure to comply with applicable statutes and contracts. The
19 department may use the information to establish a database on which to base future
20 management practices and to impose restrictions and conditions on use of state money in
21 fiscal year 2002 and later.

22 (e) In this section, "department" means the Department of Health and Social Services.

23 * **Sec. 8.** This Act takes effect immediately under AS 01.10.070(c).