

HOUSE BILL NO. 96

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-FOURTH LEGISLATURE - FIRST SESSION

BY REPRESENTATIVES PRAX, Fields, Kopp, Jimmie, Dibert

Introduced: 2/12/25

Referred: Health and Social Services, Labor and Commerce

A BILL

FOR AN ACT ENTITLED

1 **"An Act establishing the Home Care Employment Standards Advisory Board; relating**
2 **to payment for personal care services; and providing for an effective date."**

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

4 * **Section 1.** AS 44.29 is amended by adding new sections to read:

5 **Article 10. Home Care Employment Standards Advisory Board.**

6 **Sec. 44.29.900. Home Care Employment Standards Advisory Board.** The
7 Home Care Employment Standards Advisory Board is established in the department.

8 **Sec. 44.29.905. Composition of the board.** The board consists of

9 (1) the commissioner of health or the commissioner's designee, who
10 shall serve as the chair and is a nonvoting member, except in the case of a tie;

11 (2) the commissioner of labor and workforce development or the
12 commissioner's designee, who is a nonvoting member; and

13 (3) eight members appointed by the commissioner of health, as
14 follows:

1 (A) two voting members who represent covered providers,
 2 including at least one agency that provided at least 700,000 units of personal
 3 care services during the previous calendar year and one agency that provides
 4 habilitation services;

5 (B) two voting members who represent direct care workers, at
 6 least one of whom is a labor representative of at least 300 direct care workers;
 7 a member appointed under this subparagraph may not be a representative of an
 8 organization or association that advocates for the interests of covered providers
 9 or agencies that provide covered services;

10 (C) one voting member who is an enrollee or a representative
 11 of enrollees receiving covered services;

12 (D) one voting member who represents the office within the
 13 department with responsibility for rate review;

14 (E) one nonvoting member who represents the Alaska
 15 Commission on Aging or another organization that represents seniors in the
 16 state; and

17 (F) one nonvoting member who represents the Governor's
 18 Council on Disabilities and Special Education established under AS 44.29.600
 19 or another organization that represents people with disabilities in the state.

20 **Sec. 44.29.910. Term of office, vacancies, and removal of appointed**
 21 **members.** (a) The members of the board appointed under AS 44.29.905(3) serve two-
 22 year terms and may be reappointed.

23 (b) A member of the board appointed under AS 44.29.905(3) serves at the
 24 pleasure of the commissioner, except that the commissioner shall remove a member
 25 who no longer meets the qualifications of the seat for which the member was
 26 appointed.

27 (c) The commissioner may appoint an individual to fill a vacancy under
 28 AS 44.29.905(3) only after providing public notice of the vacancy and soliciting
 29 applications for the appointment. The commissioner shall fill the vacancy within six
 30 months after the date the vacancy occurs. An appointment to fill the vacancy is for the
 31 remainder of the unexpired term.

1 **Sec. 44.29.915. Meetings.** The board shall meet at the call of the chair. The
 2 board shall meet at least three times each year and shall hold additional meetings as
 3 often as necessary to accomplish the duties of the board. A meeting may be held in
 4 person or by teleconference or other electronic means. At each meeting, the board
 5 shall provide time for public testimony.

6 **Sec. 44.29.920. Quorum.** A majority of the voting members of the board
 7 constitute a quorum for the transaction of business, and a majority of a quorum present
 8 at a meeting is sufficient to approve a recommendation of the board.

9 **Sec. 44.29.925. Compensation.** Members of the board receive no
 10 compensation for service on the board but are entitled to per diem and travel expenses
 11 authorized for boards and commissions under AS 39.20.180.

12 **Sec. 44.29.930. Powers and duties of the board.** (a) The board shall

13 (1) advise and consult with the department on the medical assistance
 14 program payment rates for covered services and payment rate adequacy and
 15 compliance with federal requirements regarding reporting of payment adequacy data;

16 (2) investigate matters related to the wages, working conditions, and
 17 workforce adequacy of workers providing covered services in the state, including

18 (A) the adequacy of wages, benefits, and other compensation to
 19 ensure the provision of quality services and sufficient levels of recruitment and
 20 retention;

21 (B) the sufficiency of levels of recruitment for and retention of
 22 workers, particularly in an area that is not on a road system;

23 (C) the sufficiency of service levels of and the effect of service
 24 level reductions on covered services, as the services pertain to wages and
 25 working conditions;

26 (D) the adequacy and enforcement of training requirements;

27 (E) the effect of workforce shortages on service recipients and
 28 on family members and friends of service recipients providing unpaid care,
 29 including compliance with federal requirements to report information to the
 30 United States Department of Health and Human Services, Centers for
 31 Medicare and Medicaid Services, regarding wait times for covered services

1 and the percentage of authorized hours for covered services;

2 (F) the economic impact of achieving a living wage for direct
3 care workers and reducing levels of unpaid care;

4 (G) the adequacy of payment practices and policies related to
5 the payment rates of certified providers of covered services; and

6 (H) the effect of the state's long-term care system on wages and
7 working conditions.

8 (b) A state agency that receives a reasonable request for information or
9 testimony from the board shall comply with the request as soon as is reasonably
10 practicable, and, when the board requests direct testimony for a board meeting, the
11 head of the agency or the designee of the head of the agency shall appear at the
12 meeting and provide testimony.

13 (c) The department shall ensure the board has access to current and proposed
14 payment rates, payment adequacy reporting information for covered services that is
15 provided by the state to the United States Department of Health and Human Services,
16 Centers for Medicare and Medicaid Services, as required by federal law, and access to
17 metrics created by the state that contain information regarding wait times for covered
18 services and the percentage of authorized hours for covered services.

19 **Sec. 44.29.935. Biennial report.** (a) The board shall biennially prepare a
20 written report, submit the report to the commissioner, the legislative committees
21 having jurisdiction over health and social services, and the chief clerk of the house of
22 representatives and the senate secretary, and notify the legislature that the report is
23 available. The commissioner shall make the report and all materials presented before
24 the board available to the public on the department's Internet website.

25 (b) The biennial report must be based on the results of the board's
26 investigation under AS 44.29.930(a)(2) and must include key findings and
27 recommendations regarding

28 (1) rates and service levels of covered services;

29 (2) adequacy of rates and service levels of covered services to ensure
30 the provision of quality services, improved recruitment and retention, and compliance
31 with federal standards;

(3) safe and healthy working conditions for workers providing covered services;

(4) reducing any barrier to recruiting for and retaining workers providing covered services throughout the state, particularly in an area that is not on a road system;

(5) reducing the level of unpaid care in the state and systemic overreliance on family members and friends of service recipients who provide unpaid care; and

(6) sufficiency of covered services payment adequacy data and access to care metrics.

(c) Upon receiving the biennial report, the commissioner shall review the board's findings and recommendations. The commissioner may

(1) accept or reject a recommendation; and

(2) require the board to conduct new or further investigations and develop new recommendations.

(d) If the commissioner accepts a recommendation in the biennial report, the department shall adopt regulations necessary to implement the recommendation. If the commissioner rejects a recommendation in the biennial report, the commissioner shall provide a written explanation of the commissioner's decision to all board members and the legislative committees having jurisdiction over health and social services. If the reason for rejection includes budgetary constraints, the commissioner shall work with the Office of the Governor and the legislature to develop a budget proposal that would allow the commissioner to accept the recommendation.

Sec. 44.29.940. Publication of reports. On July 1 of each year, or within 30 days after receiving the biennial report from the board, the department shall publish on the department's publicly available Internet website an annual report containing the weighted average of and median hourly wages, by agency, for workers providing covered services.

Sec. 44.29.945. Definitions. In AS 44.29.900 - 44.29.945,

(1) "board" means the Home Care Employment Standards Advisory Board;

- 1 (2) "commissioner" means the commissioner of health;
- 2 (3) "covered provider" means an eligible Medicaid provider enrolled
- 3 with the department to provide one or more covered services;
- 4 (4) "covered services" means
- 5 (A) chore services provided under a section 1915(k) option
- 6 under 42 U.S.C. 1396n;
- 7 (B) hourly respite services provided under a waiver in
- 8 accordance with 42 U.S.C. 1396 - 1396p;
- 9 (C) personal care services;
- 10 (D) habilitation services;
- 11 (5) "department" means the Department of Health;
- 12 (6) "direct care worker" means an individual who is employed by a
- 13 covered provider to provide one or more covered services;
- 14 (7) "habilitation services" means services designed to assist individuals
- 15 in acquiring, retaining, and improving the self-help, socialization, and adaptive skills
- 16 necessary to reside successfully in home and community-based settings, provided
- 17 under a waiver in accordance with 42 U.S.C. 1396 - 1396p;
- 18 (8) "personal care services" means services provided under a section
- 19 1915(k) option under 42 U.S.C. 1396n, under AS 47.07.030, or under a waiver in
- 20 accordance with 42 U.S.C. 1396 - 1396p.

21 * **Sec. 2.** AS 47.07.045 is amended by adding new subsections to read:

22 (f) Except as provided in (g) of this section, an agency providing home and

23 community-based services shall pay as compensation and benefits to its employees

24 performing personal care services,

25 (1) beginning July 1, 2026, at least 70 percent of the total annual

26 amount of funding the agency receives for personal care services from the department;

27 and

28 (2) beginning July 1, 2030, at least 80 percent of the total annual

29 amount of funding the agency receives for personal care services from the department.

30 (g) The department may grant to an agency providing home and community-

31 based services a hardship exemption from the requirements of (f) of this section if the

agency is facing extraordinary circumstances or is a small provider, as defined by the department. The department shall adopt regulations establishing procedures and objective criteria for granting a hardship exemption under this subsection. An agency that is granted a hardship exemption shall pay as compensation and benefits to its employees performing personal care services,

(1) beginning July 1, 2026, at least 60 percent of the total annual amount of funding the agency receives for personal care services from the department; and

(2) beginning July 1, 2036, at least 80 percent of the total annual amount of funding the agency receives for personal care services from the department.

(h) The amount calculated under (f) and (g) of this section for compensation and benefits paid to employees may not include costs expended on employees by an agency for personal protective equipment, required training, and travel costs such as mileage reimbursement or public transportation.

(i) In this section, "personal care services" has the meaning given in AS 44.29.945.

*** Sec. 3.** The uncodified law of the State of Alaska is amended by adding a new section to read:

APPOINTMENTS, FIRST MEETING, AND PRELIMINARY REPORT. (a) The first meeting of the Home Care Employment Standards Advisory Board established under AS 44.29.900, added by sec. 1 of this Act, must take place on or before October 1, 2025.

(b) The commissioner of health shall appoint all board members under AS 44.29.905(3), added by sec. 1 of this Act, before the board's first meeting.

(c) The commissioner of health or the commissioner's designee and the commissioner of labor and workforce development or the commissioner's designee shall conduct a preliminary investigation into the wages, working conditions, and adequacy of the Medicaid workforce providing covered services in the state and present the results of the preliminary investigation to the board at the board's first meeting.

*** Sec. 4.** The uncodified law of the State of Alaska is amended by adding a new section to read:

PRELIMINARY INTERNET WEBSITE PUBLICATION. Notwithstanding

AS 44.29.940, added by sec. 1 of this Act, the Department of Health shall make the first publication of the reports required by AS 44.29.940, added by sec. 1 of this Act, on the department's Internet website not later than July 1, 2026.

* **Sec. 5.** The uncodified law of the State of Alaska is amended by adding a new section to read:

MEDICAID STATE PLAN. To the extent necessary to implement this Act, the Department of Health shall amend and submit for approval by the United States Department of Health and Human Services the state plan under AS 47.07.045, as amended by sec. 2 of this Act.

* **Sec. 6.** The uncodified law of the State of Alaska is amended by adding a new section to read:

CONDITIONAL EFFECT; NOTIFICATION. (a) Section 2 of this Act takes effect only if, and to the extent that, on or before January 1, 2026, the United States Department of Health and Human Services

(1) approves amendments submitted in accordance with sec. 5 of this Act; or

(2) determines that approval of the amendments to the state plan under AS 47.07.045 is not necessary.

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

* **Sec. 7.** If sec. 2 of this Act takes effect, it takes effect on the day after the date on which the United States Department of Health and Human Services approves the amendments to the state plan submitted under sec. 5 of this Act or determines that approval is not necessary under sec. 6 of this Act.

* **Sec. 8.** Except as provided in sec. 7 of this Act, this Act takes effect July 1, 2025.