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Glover
4/5/16

HOUSE CS FOR CS FOR SENATE BILL NO. 74(FIN)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-NINTH LEGISLATURE - SECOND SESSION

BY THE HOUSE FINANCE COMMITTEE

Offered:

Referred:

Sponsor(s): SENATORS KELLY, Giessel, Micciche, Bishop, MacKinnon, Hoffman, Costello, McGuire, Stedman, Stevens, Coghill, Egan, Meyer

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to diagnosis, treatment, and prescription of drugs without a physical
2 examination by a physician; relating to the delivery of services by a licensed audiologist,
3 speech-language pathologist, professional counselor, marriage and family therapist,
4 psychologist, psychological associate, social worker, physical therapist, occupational
5 therapist, and registered speech-language pathologist assistant by audio, video, or data
6 communications; relating to the duties of the State Medical Board; relating to
7 limitations of actions; establishing the Alaska Medical Assistance False Claim and
8 Reporting Act; relating to medical assistance programs administered by the Department
9 of Health and Social Services; relating to the controlled substance prescription
10 database; relating to the duties of the Board of Pharmacy; relating to the duties of the
11 Board of Dental Examiners; relating to the duties of the Board of Nursing; relating to
12 the duties of the Board of Examiners in Optometry; relating to the duties of the

1 **Department of Commerce, Community, and Economic Development; relating to the**
2 **duties of the Department of Corrections; relating to accounting for program receipts;**
3 **relating to public record status of records related to the Alaska Medical Assistance False**
4 **Claim and Reporting Act; establishing a telemedicine business registry; relating to**
5 **competitive bidding for medical assistance products and services; relating to verification**
6 **of eligibility for public assistance programs administered by the Department of Health**
7 **and Social Services; relating to annual audits of state medical assistance providers;**
8 **relating to reporting overpayments of medical assistance payments; establishing**
9 **authority to assess civil penalties for violations of medical assistance program**
10 **requirements; relating to the duties of the Department of Health and Social Services;**
11 **establishing medical assistance demonstration projects; relating to Alaska Pioneers'**
12 **Homes and Alaska Veterans' Homes; relating to the duties of the Department of**
13 **Administration; relating to the Alaska Mental Health Trust Authority; relating to**
14 **feasibility studies for the provision of specified state services; relating to a report by the**
15 **Board of Pharmacy, Board of Examiners in Optometry, Board of Dental Examiners,**
16 **Board of Nursing, and State Medical Board; amending Rules 4, 5, 7, 12, 24, 26, 27, 41,**
17 **77, 79, and 82, Alaska Rules of Civil Procedure; and providing for an effective date."**

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

19 * **Section 1.** AS 08.11.080 is amended by adding new subsections to read:

20 (b) The department may not impose disciplinary sanctions on an audiologist
21 for the evaluation, diagnosis, or treatment of a person through audio, video, or data
22 communications when physically separated from the person if the audiologist

23 (1) or another licensed health care provider is available to provide
24 follow-up care;

25 (2) requests that the person consent to sending a copy of all records of

the encounter to a primary care provider if the audiologist is not the person's primary care provider and, if the person consents, the audiologist sends the records to the person's primary care provider; and

(3) meets the requirements established by the department in regulation.

(c) The department shall adopt regulations restricting the evaluation, diagnosis, supervision, and treatment of a person as authorized under (b) of this section by establishing standards of care, including standards for training, confidentiality, supervision, practice, and related issues.

*** Sec. 2.** AS 08.11.083 is amended by adding new subsections to read:

(b) The department may not impose disciplinary sanctions on a speech-language pathologist assistant for the evaluation, diagnosis, or treatment of a person through audio, video, or data communications when physically separated from the person if the speech-language pathologist assistant

(1) or another licensed health care provider is available to provide follow-up care;

(2) requests that the person consent to sending a copy of all records of the encounter to a primary care provider if the speech-language pathologist assistant is not the person's primary care provider and, if the person consents, the speech-language pathologist assistant sends the records to the person's primary care provider; and

(3) meets the requirements established by the board in regulation.

(c) The department shall adopt regulations restricting the evaluation, diagnosis, supervision, and treatment of a person as authorized under (b) of this section by establishing standards of care, including standards for training, confidentiality, supervision, practice, and related issues.

*** Sec. 3.** AS 08.11.085 is amended by adding new subsections to read:

(b) The department may not impose disciplinary sanctions on a speech-language pathologist for the evaluation, diagnosis, or treatment of a person through audio, video, or data communications when physically separated from the person if the speech-language pathologist

(1) or another licensed health care provider is available to provide follow-up care;

(2) requests that the person consent to sending a copy of all records of the encounter to a primary care provider if the speech-language pathologist is not the person's primary care provider and, if the person consents, the speech-language pathologist sends the records to the person's primary care provider; and

(3) meets the requirements established by the board in regulation.

(c) The department shall adopt regulations restricting the evaluation, diagnosis, supervision, and treatment of a person as authorized under (b) of this section by establishing standards of care, including standards for training, confidentiality, supervision, practice, and related issues.

*** Sec. 4.** AS 08.29.400 is amended by adding new subsections to read:

(b) The board may not impose disciplinary sanctions on a licensee for the evaluation, diagnosis, or treatment of a person through audio, video, or data communications when physically separated from the person if

(1) the licensee or another licensed health care provider is available to provide follow-up care;

(2) the licensee requests that the person consent to sending a copy of all records of the encounter to a primary care provider if the licensee is not the person's primary care provider and, if the person consents, the licensee sends the records to the person's primary care provider; and

(3) the licensee meets the requirements established by the board in regulation.

(c) The board shall adopt regulations restricting the evaluation, diagnosis, supervision, and treatment of a person as authorized under (b) of this section by establishing standards of care, including standards for training, confidentiality, supervision, practice, and related issues.

*** Sec. 5.** AS 08.36.070(a) is amended to read:

(a) The board shall

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

(2) maintain a registry of licensed dentists, licensed dental hygienists, and registered dental assistants who are in good standing;

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

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

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

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

(7) adopt regulations ensuring that renewal of a license, registration, or certificate under this chapter or a license, certificate, or endorsement under AS 08.32 is contingent upon proof of continued professional competence;

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

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

(10) require that a licensed dentist who has a federal Drug Enforcement Administration registration number register with the controlled substance prescription database under AS 17.30.200(o).

* **Sec. 6.** AS 08.63.210 is amended by adding new subsections to read:

(c) The board may not impose disciplinary sanctions on a licensee for the evaluation, diagnosis, supervision, or treatment of a person through audio, video, or data communications when physically separated from the person if

(1) the licensee or another licensed health care provider is available to provide follow-up care;

(2) the licensee requests that the person consent to sending a copy of all records of the encounter to a primary care provider if the licensee is not the person's primary care provider and, if the person consents, the licensee sends the records to the person's primary care provider; and

(3) the licensee meets the requirements established by the board in regulation.

(d) The board shall adopt regulations restricting the evaluation, diagnosis, supervision, and treatment of a person as authorized under (c) of this section by establishing standards of care, including standards for training, confidentiality, supervision, practice, and related issues.

* **Sec. 7.** AS 08.64.101 is amended to read:

Sec. 08.64.101. Duties. The board shall

(1) examine and issue licenses to applicants;

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

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

(4) adopt regulations ensuring that renewal of licenses is contingent on [UPON] proof of continued competency on the part of the licensee; and

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

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

(7) 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(o).

* **Sec. 8.** AS 08.64.364(a) is amended to read:

(a) The board may not impose disciplinary sanctions on a physician for

rendering a diagnosis, providing treatment, or prescribing, dispensing, or administering a prescription drug that is not a controlled substance to a person without conducting a physical examination if

(1) [THE PRESCRIPTION DRUG IS

(A) NOT A CONTROLLED SUBSTANCE; OR

(B) A CONTROLLED SUBSTANCE AND IS PRESCRIBED, DISPENSED, OR ADMINISTERED BY A PHYSICIAN WHEN AN APPROPRIATE LICENSED HEALTH CARE PROVIDER IS PRESENT WITH THE PATIENT TO ASSIST THE PHYSICIAN WITH EXAMINATION, DIAGNOSIS, AND TREATMENT;

(2) THE PHYSICIAN IS LOCATED IN THIS STATE AND] the physician or another licensed health care provider or physician in the physician's group practice is available to provide follow-up care; and

(2) the physician requests that [(3)] the person consent [CONSENTS] to sending a copy of all records of the encounter to the person's primary care provider if the prescribing physician is not the person's primary care provider, and, if the patient consents, the physician sends the records to the person's primary care provider.

* **Sec. 9.** AS 08.64.364 is amended by adding new subsections to read:

(c) The board may not impose disciplinary sanctions on a physician for prescribing, dispensing, or administering a prescription drug that is a controlled substance or botulinum toxin if the requirements under (a) of this section are met and the physician prescribes, dispenses, or administers the controlled substance or botulinum toxin when an appropriate licensed health care provider is present with the patient to assist the physician with examination, diagnosis, and treatment.

(d) Notwithstanding (a) and (c) of this section, a physician may not

(1) prescribe, dispense, or administer an abortion-inducing drug under (a) of this section unless the physician complies with AS 18.16.010; or

(2) prescribe, dispense, or administer a prescription drug in response to an Internet questionnaire or electronic mail message to a person with whom the physician does not have a prior physician-patient relationship.

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

(a) The board shall

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

(A) pertaining to practice as an advanced nurse practitioner and a certified registered nurse anesthetist;

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

(C) pertaining to retired nurse status; and

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

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

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

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

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

(6) prescribe requirements for competence before a former nurse may resume the practice of nursing under this chapter;

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

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

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

(10) require applicants under this chapter to submit fingerprints and the

fees required by the Department of Public Safety under AS 12.62.160 for criminal justice information and a national criminal history record check; the department shall submit the fingerprints and fees to the Department of Public Safety for a report of criminal justice information under AS 12.62 and a national criminal history record check under AS 12.62.400;

(11) require that a licensed advanced nurse practitioner who has a federal Drug Enforcement Administration registration number register with the controlled substance prescription database under AS 17.30.200(o).

* Sec. 11. AS 08.72.060(c) is amended to read:

(c) The board shall

(1) elect a chair and secretary from among its members;

(2) order a licensee to submit to a reasonable physical examination if the licensee's physical capacity to practice safely is at issue;

(3) 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(o).

* Sec. 12. AS 08.80.030(b) is amended to read:

(b) In order to fulfill its responsibilities, the board has the powers necessary for implementation and enforcement of this chapter, including the power to

(1) elect a president and secretary from its membership and adopt rules for the conduct of its business;

(2) license by examination or by license transfer the applicants who are qualified to engage in the practice of pharmacy;

(3) assist the department in inspections and investigations for violations of this chapter, or of any other state or federal statute relating to the practice of pharmacy;

(4) adopt regulations to carry out the purposes of this chapter;

(5) establish and enforce compliance with professional standards and rules of conduct for pharmacists engaged in the practice of pharmacy;

(6) determine standards for recognition and approval of degree programs of schools and colleges of pharmacy whose graduates shall be eligible for

licensure in this state, including the specification and enforcement of requirements for practical training, including internships;

(7) establish for pharmacists and pharmacies minimum specifications for the physical facilities, technical equipment, personnel, and procedures for the storage, compounding, and dispensing of drugs or related devices, and for the monitoring of drug therapy;

(8) enforce the provisions of this chapter relating to the conduct or competence of pharmacists practicing in the state, and the suspension, revocation, or restriction of licenses to engage in the practice of pharmacy;

(9) license and regulate the training, qualifications, and employment of pharmacy interns and pharmacy technicians;

(10) issue licenses to persons engaged in the manufacture and distribution of drugs and related devices;

(11) establish and maintain a controlled substance prescription database as provided in AS 17.30.200;

(12) establish standards for the independent administration by a pharmacist of vaccines and related emergency medications under AS 08.80.168, including the completion of an immunization training program approved by the board;

(13) require that a licensed pharmacist who has a federal Drug Enforcement Administration registration number register with the controlled substance prescription database under AS 17.30.200(o).

* **Sec. 13.** AS 08.84.120 is amended by adding new subsections to read:

(c) The board may not impose disciplinary sanctions on a licensee for the evaluation, diagnosis, or treatment of a person through audio, video, or data communications when physically separated from the person if the licensee

(1) or another licensed health care provider is available to provide follow-up care;

(2) requests that the person consent to sending a copy of all records of the encounter to a primary care provider if the licensee is not the person's primary care provider and, if the person consents, the licensee sends the records to the person's primary care provider; and

(3) meets the requirements established by the board in regulation.

(d) The board shall adopt regulations restricting the evaluation, diagnosis, supervision, and treatment of a person as authorized under (c) of this section by establishing standards of care, including standards for training, confidentiality, supervision, practice, and related issues.

* **Sec. 14.** AS 08.86.204 is amended by adding new subsections to read:

(c) The board may not impose disciplinary sanctions on a licensee for the evaluation, diagnosis, or treatment of a person through audio, video, or data communications when physically separated from the person if

(1) the licensee or another licensed health care provider is available to provide follow-up care;

(2) the licensee requests that the person consent to sending a copy of all records of the encounter to a primary care provider if the licensee is not the person's primary care provider and, if the person consents, the licensee sends the records to the person's primary care provider; and

(3) the licensee meets the requirements established by the board in regulation.

(d) The board shall adopt regulations restricting the evaluation, diagnosis, supervision, and treatment of a person as authorized under (c) of this section by establishing standards of care, including standards for training, confidentiality, supervision, practice, and related issues.

* **Sec. 15.** AS 08.95.050 is amended by adding new subsections to read:

(b) The board may not impose disciplinary sanctions on a licensee for the evaluation, diagnosis, or treatment of a person through audio, video, or data communications when physically separated from the person if

(1) the licensee or another licensed health care provider is available to provide follow-up care;

(2) the licensee requests that the person consent to sending a copy of all records of the encounter to a primary care provider if the licensee is not the person's primary care provider and, if the person consents, the licensee sends the records to the person's primary care provider; and

(3) the licensee meets the requirements established by the board in regulation.

(c) The board shall adopt regulations restricting the evaluation, diagnosis, supervision, and treatment of a person as authorized under (b) of this section by establishing standards of care, including standards for training, confidentiality, supervision, practice, and related issues.

* **Sec. 16.** AS 09.10 is amended by adding a new section to read:

Sec. 09.10.075. Actions related to claims based on medical assistance payment fraud. Except as provided in AS 09.58.070, a person may not bring an action under AS 09.58.010 - 09.58.060, unless the action is commenced by the earlier of (1) six years after the act or omission was committed, or (2) three years after the date when facts material to the action were known, or reasonably should have been known, by the attorney general or the Department of Health and Social Services, but in no event more than 10 years after the date the violation under AS 09.58.010 occurred.

* **Sec. 17.** AS 09.10.120(a) is amended to read:

(a) **Except as provided in AS 09.10.075, an** [AN] action brought in the name of or for the benefit of the state, any political subdivision, or public corporation may be commenced only within six years **after** [OF] the date of accrual of the cause of action. However, if the action is for relief on the ground of fraud, the limitation commences from the time of discovery by the aggrieved party of the facts constituting the fraud.

* **Sec. 18.** AS 09 is amended by adding a new chapter to read:

Chapter 58. Alaska Medical Assistance False Claim and Reporting Act.

Sec. 09.58.010. False claims for medical assistance; civil penalty. (a) A medical assistance provider or medical assistance recipient may not

(1) knowingly submit, authorize, or cause to be submitted to an officer or employee of the state a false or fraudulent claim for payment or approval under the medical assistance program;

(2) knowingly make, use, or cause to be made or used, directly or indirectly, a false record or statement to get a false or fraudulent claim for payment

1 paid or approved by the state under the medical assistance program;

2 (3) conspire to defraud the state by getting a false or fraudulent claim
3 paid or approved under the medical assistance program;

4 (4) knowingly make, use, or cause to be made or used, a false record or
5 statement to conceal, avoid, increase, or decrease an obligation to pay or transmit
6 money or property to the medical assistance program;

7 (5) knowingly enter into an agreement, contract, or understanding with
8 an officer or employee of the state for approval or payment of a claim under the
9 medical assistance program knowing that the information in the agreement, contract,
10 or understanding is false or fraudulent.

11 (b) A beneficiary of an intentional or inadvertent submission of a false or
12 fraudulent claim under the medical assistance program who later discovers the claim is
13 false or fraudulent shall disclose the false or fraudulent claim to the state not later than
14 60 days after discovering the false claim.

15 (c) In addition to any criminal penalties under AS 47.05, a medical assistance
16 provider or medical assistance recipient who violates (a) or (b) of this section shall be
17 liable to the state in a civil action for

18 (1) a civil penalty of not less than \$5,500 and not more than \$11,000;

19 (2) three times the amount of actual damages sustained by the state;

20 (3) full reasonable attorney fees and costs in a case involving a
21 fraudulent claim, agreement, contract, or understanding; and

22 (4) reasonable attorney fees and costs calculated under applicable court
23 rules in a case that does not involve a fraudulent claim, agreement, contract, or
24 understanding.

25 (d) Liability for actual damages under (c) of this section may be reduced to not
26 less than twice the amount of actual damages that the state sustains if the court finds
27 that a person liable for an act under (a) or (b) of this section

28 (1) furnished the attorney general or the Department of Health and
29 Social Services with all information known to the person about the violation not later
30 than 30 days after the date the information was obtained;

31 (2) fully cooperated with the investigation of the violation under

AS 09.58.020;

(3) at the time the person furnished the attorney general with the information about the violation, no criminal prosecution, civil action, investigation, or administrative action had been started in this state with respect to the violation, and the person did not have actual knowledge of the existence of an investigation of the violation.

(e) A corporation, partnership, or other individual is liable under this section for acts of its agents if the agent acted with apparent authority, regardless of whether the agent acted, in whole or in part, to benefit the principal and regardless of whether the principal adopted or ratified the agent's claims, representations, statement, or other action or conduct unless the evidence shows that the agent or apparent agent acted with intent to deceive the principal.

Sec. 09.58.015. Attorney general investigation; civil action. (a) The attorney general or the Department of Health and Social Services may investigate an alleged violation of AS 09.58.010. The attorney general may request assistance from the Department of Health and Social Services in an investigation under this section.

(b) The attorney general may bring a civil action in superior court under AS 09.58.010 - 09.58.060.

Sec. 09.58.020. Private plaintiff; civil action. (a) Notwithstanding AS 09.58.015, a person may bring an action under this section for a violation of AS 09.58.010 in the name of the person and the state.

(b) To bring an action under this section, a person shall file a complaint, in camera and under seal, and serve on the attorney general

(1) a copy of the complaint; and

(2) written disclosure of substantially all material evidence and information the person possesses that pertains to the claim.

(c) A complaint filed under this section must remain under seal for at least 60 days and may not be served on the defendant until the court so orders. The attorney general may elect to intervene and proceed with the action within 60 days after the attorney general receives both the complaint and the material evidence and the information required under (b) of this section. The attorney general may, for good

1 cause shown, move the court, under seal, for an extension of the time during which the
2 complaint remains under seal under this subsection.

3 (d) Before the expiration of the 60-day period or an extension of time granted
4 under (c) of this section, the attorney general shall conduct an investigation and make
5 a written determination as to whether substantial evidence exists that a violation of
6 AS 09.58.010 has occurred. After the investigation and determination are complete,
7 the attorney general shall provide the person who brought the action and the
8 Department of Health and Social Services with a copy of the determination unless the
9 action has been referred to the division of the Department of Law that has
10 responsibility for criminal cases.

11 (e) Before the expiration of the 60-day period or an extension obtained under
12 (c) of this section, the attorney general shall

13 (1) intervene in the action and proceed with the action on behalf of the
14 state;

15 (2) notify the court that the attorney general declines to take over the
16 action, in which case the person bringing the action has the right to conduct the action;
17 or

18 (3) if the attorney general determines that substantial evidence does not
19 exist that a violation of AS 09.58.010 has occurred, or that the action is barred under
20 AS 09.58.050, the attorney general shall move the court to dismiss the action.

21 (f) The named defendant in a complaint filed under this section is not required
22 to respond to a complaint filed under this section until after the complaint is unsealed
23 by the court and a copy of the summons and complaint are served on the defendant
24 under the applicable Alaska Rules of Civil Procedure.

25 (g) When a person brings an action under this section, only the attorney
26 general may intervene or bring a related action based on similar facts to the underlying
27 action.

28 **Sec. 09.58.025. Subpoenas.** In conducting an investigation under
29 AS 09.58.015 or 09.58.020, the attorney general may issue subpoenas to compel the
30 production of books, papers, correspondence, memoranda, and other records in
31 connection with an investigation under or the administration of AS 09.58.010 -

09.58.060. If a medical assistance provider or a medical assistance recipient fails or refuses, without just cause, to obey a subpoena issued under this subsection, the superior court may, upon application by the attorney general, issue an order requiring the medical assistance provider or medical assistance recipient to appear before the attorney general to produce evidence.

Sec. 09.58.030. Rights in false or fraudulent claims actions. (a) If the attorney general elects to intervene and proceed with an action under AS 09.58.020, the attorney general has exclusive authority for prosecuting the action and is not bound by an act of the person bringing the action. The person who brought the action has the right to continue as a nominal party to the action, but does not have the right to participate in the action except as a witness or as otherwise directed by the attorney general. If the attorney general elects to intervene under AS 09.58.020, the attorney general may file a new complaint or amend the complaint filed by the person who brought the action under AS 09.58.020(b).

(b) Notwithstanding the objections of the person who brought the action, the attorney general may

(1) move to dismiss the action at any time under this chapter if the attorney general has notified the person who brought the action of the intent to seek dismissal and the court has provided the person who brought the action with an opportunity to respond to the motion;

(2) settle the action with the defendant at any time, if the court determines, after a hearing, that the proposed settlement is fair, adequate, and reasonable under all the circumstances; upon a showing of good cause, the hearing described in this paragraph shall be held in camera.

(c) If the attorney general elects not to proceed under AS 09.58.020 with the action, the person who brought the action has the right to proceed and conduct the action. The attorney general may request at any time during the proceedings to be served with copies of all documents related to the action, including pleadings, motions, and discovery. The attorney general shall pay for the reasonable copying charges for documents provided under this subsection. If the person who brought the action proceeds with the action, the court, without limiting the status and rights of the

1 person who brought the action, shall allow the attorney general to intervene at any
2 time.

3 (d) Whether or not the attorney general proceeds with the action under this
4 chapter, on a showing by the attorney general that certain actions of discovery by the
5 person bringing the action would interfere with pending investigation or prosecution
6 of a criminal or civil proceeding arising out of the same matter, the court may stay the
7 discovery for not more than 90 days. The court may extend the 90-day period on a
8 further showing, in camera, that the state has pursued the criminal or civil
9 investigation or proceedings with reasonable diligence and that proposed discovery in
10 the civil action under AS 09.58.010 - 09.58.060 may interfere with the ongoing
11 criminal or civil investigation or proceedings.

12 **Sec. 09.58.040. Award to false or fraudulent claim plaintiff.** (a) If the
13 attorney general proceeds with an action brought by a person for a violation of
14 AS 09.58.010, the person who brought the action shall receive at least 15 percent but
15 not more than 25 percent of the proceeds of the action or settlement of the claim,
16 depending on the extent to which the person bringing the action contributed to the
17 prosecution of the action. The court order or settlement agreement shall state the
18 percentage and the amount to be received by the person who brought the action. A
19 payment under this subsection to the person who brought the action may only be paid
20 from proceeds received from a judgment or settlement under this section.

21 (b) If the attorney general does not proceed with an action brought under
22 AS 09.58.020, the person bringing the action to judgment or settlement by court order
23 shall receive an amount that the court decides is reasonable for collecting the civil
24 penalty and damages based on the person's effort to prosecute the action successfully.
25 The amount shall be at least 25 percent but not more than 30 percent of the proceeds
26 of the action or settlement of the claim. A payment under this subsection to the person
27 who brought the action may only be paid from proceeds received from a judgment or
28 settlement received under this section. In addition, if the person bringing the action
29 prevails, the person is entitled to

30 (1) full reasonable attorney fees and court costs in a case involving a
31 fraudulent claim, agreement, contract, or understanding; or

(2) reasonable attorney fees and court costs calculated under applicable court rules in a case that does not involve a fraudulent claim, agreement, contract, or understanding.

(c) Whether or not the attorney general participates in the action, if the court finds that the action was brought by a person who planned or initiated the violation alleged in the action brought under AS 09.58.020, the court may, to the extent the court considers appropriate, reduce the share of the proceeds of the action that the person would otherwise receive under (a) or (b) of this section, taking into account the role of that person in advancing the case to litigation and any relevant circumstances pertaining to the violation. If the person bringing the action is convicted of criminal conduct arising from the person's role in the violation of AS 09.58.010, the court shall dismiss the person from the civil action and the person may not receive any share of the proceeds of the action or settlement. A dismissal under this subsection does not prejudice the right of the attorney general to continue the action.

(d) In this section, "proceeds of the action or settlement"

(1) includes damages, civil penalties, payment for cost of compliance, and other economic benefits realized by the state as a result of a civil action brought under AS 09.58.010 - 09.58.060;

(2) does not include attorney fees and costs awarded to the state.

Sec. 09.58.050. Certain actions barred. A person may not bring an action under AS 09.58.020 if the action is

(1) based on evidence or information known to the state when the action was brought;

(2) based on allegations or transactions that are the subject of a civil or criminal action or an administrative proceeding in which the state is already a party;

(3) based on the public disclosure of allegations or actions in a criminal or civil action or an administrative hearing, or from the news media, unless the action is brought by the attorney general or the person bringing the action is an original source of the information that was publicly disclosed; in this paragraph, a person is an original source of the information that was publicly disclosed if the person has independent knowledge, including knowledge based on personal

1 investigation of the defendant's conduct, of the information on which the allegations
2 are based, and has voluntarily provided or verified the information on which the
3 allegations are based or voluntarily provided the information to the attorney general
4 before filing an action under AS 09.58.020 that is based on the information; or

5 (4) against the state or current or former state employees.

6 **Sec. 09.58.060. State not liable for attorney fees, costs, and other expenses.**

7 The state, its agencies, current or former officers, and current or former employees, are
8 not liable for attorney fees, costs, and other expenses that a person incurs in bringing
9 an action under AS 09.58.020.

10 **Sec. 09.58.070. Employee protection for retaliation.** (a) An employee of a

11 medical assistance provider who is discharged, demoted, suspended, threatened,
12 harassed, or discriminated against in the terms and conditions of employment by the
13 employee's employer because of lawful acts done by the employee on behalf of the
14 employee or others in furtherance of an action under AS 09.58.010 - 09.58.100,
15 including investigation for, initiation of, testimony for or assistance in an action filed
16 or to be filed under AS 09.58.010 - 09.58.100, is entitled to the same relief authorized
17 under AS 39.90.120.

18 (b) Notwithstanding (a) of this section, a state employee who is discharged,
19 demoted, suspended, threatened, harassed, or discriminated against in the terms and
20 conditions of employment because of lawful acts done by the employee on behalf of
21 the employee or a person who brings an action under AS 09.58.020 or in furtherance
22 of an action under AS 09.58.010 - 09.58.100, including investigation, initiation of,
23 testimony for or assistance in an action filed or to be filed under AS 09.58.010 -
24 09.58.100, is entitled to relief under AS 39.90.100 - 39.90.150 (Alaska Whistleblower
25 Act).

26 (c) A person may not bring an action under this section unless the action is
27 commenced not later than three years after the date the employee was subject to
28 retaliation under (a) or (b) of this section.

29 **Sec. 09.58.080. Regulations.** The attorney general may adopt regulations
30 under AS 44.62 as necessary to carry out the purposes of this chapter.

31 **Sec. 09.58.090. Special provisions.** (a) This chapter does not apply to any

controversy involving damages to the state of less than \$5,500 in value.

(b) No punitive damages may be awarded in an action brought under AS 09.58.010 - 09.58.060.

Sec. 09.58.100. Definitions. In this chapter,

(1) "attorney general" includes a designee of the attorney general;

(2) "claim" means a request for payment of health care services or equipment, whether made to a contractor, grantee, or other person, when the state provides, directly or indirectly, a portion of the money, property, or services requested or demanded, or when the state will, directly or indirectly, reimburse the contractor, grantee, or other recipient for a portion of the money, property, or services requested or demanded;

(3) "controversy" means the aggregate of one or more false claims submitted by the same medical assistance provider or medical assistance recipient under this chapter;

(4) "knowingly" means that a person, with or without specific intent to defraud,

(A) has actual knowledge of the information;

(B) acts in deliberate ignorance of the truth or falsity of the information; or

(C) acts in reckless disregard of the truth or falsity of the information;

(5) "medical assistance program" means the federal-state program administered by the Department of Health and Social Services under AS 47.05 and AS 47.07 and regulations adopted under AS 47.05 and AS 47.07;

(6) "medical assistance provider" has the meaning given under AS 47.05.290;

(7) "medical assistance recipient" has the meaning given under AS 47.05.290;

(8) "obligation" means an established duty, whether or not fixed, arising from

(A) an express or implied contractual grantor or grantee or

licensor or licensee relationship;

(B) a fee-based or similar relationship;

(C) a statute or regulation; or

(D) the retention of any overpayment.

Sec. 09.58.110. Short title. This chapter may be cited as the Alaska Medical Assistance False Claim and Reporting Act.

* **Sec. 19.** AS 09.58.025, added by sec. 18 of this Act, is amended to read:

Sec. 09.58.025. Subpoenas. In conducting an investigation under AS 09.58.015 [OR 09.58.020], the attorney general may issue subpoenas to compel the production of books, papers, correspondence, memoranda, and other records in connection with an investigation under or the administration of AS 09.58.010 - 09.58.060. If a medical assistance provider or a medical assistance recipient fails or refuses, without just cause, to obey a subpoena issued under this subsection, the superior court may, upon application by the attorney general, issue an order requiring the medical assistance provider or medical assistance recipient to appear before the attorney general to produce evidence.

* **Sec. 20.** AS 09.58.070(b), added by sec. 18 of this Act, is amended to read:

(b) Notwithstanding (a) of this section, a state employee who is discharged, demoted, suspended, threatened, harassed, or discriminated against in the terms and conditions of employment because of lawful acts done by the employee on behalf of the employee [OR A PERSON WHO BRINGS AN ACTION UNDER AS 09.58.020] or in furtherance of an action under AS 09.58.010 - 09.58.060, including investigation, initiation of, testimony for or assistance in an action filed or to be filed under AS 09.58.010 - 09.58.060, is entitled to relief under AS 39.90.100 - 39.90.150 (Alaska Whistleblower Act).

* **Sec. 21.** AS 17.30.200(a) is amended to read:

(a) The controlled substance prescription database is established in the Board of Pharmacy. The purpose of the database is to contain data as described in this section regarding every prescription for a schedule [IA, IIA, IIIA, IVA, OR VA CONTROLLED SUBSTANCE UNDER STATE LAW OR A SCHEDULE I,] II, III, or IV [, OR V] controlled substance under federal law dispensed in the state to a

1 person other than those administered to a patient at a health care facility. [THE
2 DEPARTMENT OF COMMERCE, COMMUNITY, AND ECONOMIC
3 DEVELOPMENT SHALL ASSIST THE BOARD AND PROVIDE NECESSARY
4 STAFF AND EQUIPMENT TO IMPLEMENT THIS SECTION.]

5 * **Sec. 22.** AS 17.30.200(b) is amended to read:

6 (b) The pharmacist-in-charge of each licensed or registered pharmacy,
7 regarding each schedule [IA, IIA, IIIA, IVA, OR VA CONTROLLED SUBSTANCE
8 UNDER STATE LAW OR A SCHEDULE I,] II, III, or IV [, OR V] controlled
9 substance under federal law dispensed by a pharmacist under the supervision of the
10 pharmacist-in-charge, and each practitioner who directly dispenses a schedule [IA,
11 IIA, IIIA, IVA, OR VA CONTROLLED SUBSTANCE UNDER STATE LAW OR A
12 SCHEDULE I,] II, III, or IV [, OR V] controlled substance under federal law other
13 than those administered to a patient at a health care facility, shall submit to the board,
14 by a procedure and in a format established by the board, the following information for
15 inclusion in the database on at least a weekly basis:

16 (1) the name of the prescribing practitioner and the practitioner's
17 federal Drug Enforcement Administration registration number or other appropriate
18 identifier;

19 (2) the date of the prescription;

20 (3) the date the prescription was filled and the method of payment; this
21 paragraph does not authorize the board to include individual credit card or other
22 account numbers in the database;

23 (4) the name, address, and date of birth of the person for whom the
24 prescription was written;

25 (5) the name and national drug code of the controlled substance;

26 (6) the quantity and strength of the controlled substance dispensed;

27 (7) the name of the drug outlet dispensing the controlled substance;

28 [AND]

29 (8) the name of the pharmacist or practitioner dispensing the controlled
30 substance and other appropriate identifying information; and

31 (9) if a prescription is dispensed to a person other than the patient

for whom the prescription was written, the name and date of birth of the person to whom the prescription was dispensed.

* **Sec. 23.** 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, and are not subject to public disclosure. The board shall undertake 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 must be licensed or registered under AS 08;**

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

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

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

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

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

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

(11) a practitioner employed by the United States Indian Health Service.

* Sec. 24. AS 17.30.200(e) is amended to read:

(e) The failure of a pharmacist-in-charge, pharmacist, or practitioner to register or submit information to the database as required under this section is grounds for the board to take disciplinary action against the license or registration of

the pharmacy or pharmacist or for another licensing board to take disciplinary action against a practitioner.

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

(h) An individual who has submitted information to the database in accordance with this section may not be held civilly liable for having submitted the information. [NOTHING IN THIS SECTION REQUIRES OR OBLIGATES A DISPENSER OR PRACTITIONER TO ACCESS OR CHECK THE DATABASE BEFORE DISPENSING, PRESCRIBING, OR ADMINISTERING A MEDICATION, OR PROVIDING MEDICAL CARE TO A PERSON.] Dispensers or practitioners may not be held civilly liable for damages for accessing or failing to access the information in the database.

* **Sec. 26.** AS 17.30.200(k) is amended to read:

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

(1) that prescription information in the database [SHALL] be purged from the database after two years have elapsed from the date the prescription was dispensed;

(2) a method for an individual to challenge information in the database about the individual that the person believes is incorrect or was incorrectly entered by a dispenser;

(3) a procedure and time frame for registration with the database;

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

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

(i) in an inpatient setting;

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

(iii) in an emergency room;

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

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

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

* **Sec. 27.** AS 17.30.200 is amended by adding new subsections to read:

(o) A pharmacist who dispenses or a practitioner who prescribes, administers, or directly dispenses a schedule II, III, or IV controlled substance under federal law shall register with the database by a procedure and in a format established by the board.

(p) The board shall promptly notify the State Medical Board, the Board of Nursing, the Board of Dental Examiners, and the Board of Examiners in Optometry when a practitioner registers with the database under (o) of this section.

(q) The board is authorized to provide unsolicited notification to a pharmacist or practitioner if a patient has received one or more prescriptions for controlled substances in quantities or with a frequency inconsistent with generally recognized standards of safe practice.

(r) The board shall update the database on at least a weekly basis with the information submitted to the board under (b) of this section.

(s) The Department of Commerce, Community, and Economic Development shall

(1) assist the board and provide necessary staff and equipment to implement this section; and

(2) establish fees for registration with the database by a pharmacist or practitioner required to register under (o) of this section so that the total amount of fees collected by the department equals the total operational costs of the database minus all federal funds acquired for the operational costs of the database; in setting the fee levels, the department shall

(A) set the fees for registration with the database so that the

fees are the same for all practitioners and pharmacists required to register; and

(B) consult with the board to establish the fees under this subsection.

* **Sec. 28.** AS 33.30.028 is amended by adding new subsections to read:

(c) The commissioner shall apply for medical assistance under AS 47.07 and for general relief assistance under AS 47.25.120 - 47.25.300 on behalf of a prisoner incarcerated in a correctional facility to establish medical assistance coverage or general relief assistance for the prisoner during a period of hospitalization outside of the correctional facility.

(d) The commissioner may obtain information necessary to determine whether a prisoner incarcerated in a correctional facility is eligible for medical assistance under AS 47.07 or public assistance under AS 47.25. Information obtained under this subsection may only be used for the purpose of applying for medical assistance or public assistance under (c) of this section and may not be disclosed for any other purpose without the permission of the prisoner. An employee of the commissioner who discloses a prisoner's social security number in an application for medical assistance or public assistance under this section is considered to be acting in the performance of the employee's duties or responsibilities under AS 45.48.400(b).

* **Sec. 29.** AS 40.25.120(a) is amended by adding a new paragraph to read:

(15) records relating to proceedings under AS 09.58 (Alaska Medical Assistance False Claim and Reporting Act).

* **Sec. 30.** AS 44.33 is amended by adding a new section to read:

Article 5A. Telemedicine Business Registry.

Sec. 44.33.381. Telemedicine business registry. (a) The department shall adopt regulations for establishing and maintaining a registry of businesses performing telemedicine services in the state.

(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 businesses performing telemedicine services in the state.

(c) In this section,

(1) "department" means the Department of Commerce, Community,

and Economic Development;

(2) "telemedicine services" means the delivery of health care services using the transfer of medical data through audio, visual, or data communications that are performed over two or more locations by a provider who is physically separated from the recipient of the health care services.

* **Sec. 31.** AS 47.05.015 is amended by adding a new subsection to read:

(e) Notwithstanding (c) of this section, the department may enter into a contract through the competitive bidding process under AS 36.30 (State Procurement Code) for medical assistance products and services offered under AS 47.07.030 if the contract is for durable medical equipment or specific medical services that can be delivered on a statewide basis.

* **Sec. 32.** AS 47.05 is amended by adding a new section to article 1 to read:

Sec. 47.05.105. Enhanced computerized eligibility verification system. (a)

The department shall establish an enhanced computerized income, asset, and identity eligibility verification system that uses remote identity proofing through multiple layers of authentication for the purposes of verifying eligibility, eliminating duplication of public assistance payments, and deterring waste and fraud in public assistance programs administered by the department under AS 47.05.010. Nothing in this section prohibits the department from verifying eligibility for public assistance through additional procedures or authorizes the department or a third-party vendor to use data to verify eligibility for a federal program if the use of that data is prohibited by federal law.

(b) The department shall enter into a competitively bid contract with a third-party vendor for the purpose of developing a system under this section to prevent fraud, misrepresentation, and inadequate documentation when determining an applicant's eligibility for public assistance before the payment of benefits and for periodically verifying eligibility between eligibility redeterminations and during eligibility redeterminations and reviews under AS 47.05.110 - 47.05.120. The department may also contract with a third-party vendor to provide information to facilitate reviews of recipient eligibility and income verification.

(c) The annual savings to the state resulting from the use of the system under

1 this section must exceed the cost of implementing the system. A contract under this
2 section must require the third-party vendor to report annual savings to the state
3 realized from implementing the system. Payment to the third-party vendor may be
4 based on a fee for each applicant and may include incentives for achieving a rate of
5 success established by the department for identifying duplication, waste, and fraud in
6 public assistance programs.

7 (d) To avoid a conflict of interest, the department may not award a contract to
8 provide services for the enrollment of public assistance providers or applicants under
9 this title to a vendor that is awarded a contract under this section.

10 * **Sec. 33.** AS 47.05.200(a) is amended to read:

11 (a) The department shall annually contract for independent audits of a
12 statewide sample of all medical assistance providers in order to identify overpayments
13 and violations of criminal statutes. The audits conducted under this section may not be
14 conducted by the department or employees of the department. The number of audits
15 under this section **may not be less than 50** each year [, AS A TOTAL FOR THE
16 MEDICAL ASSISTANCE PROGRAMS UNDER AS 47.07 AND AS 47.08, SHALL
17 BE 0.75 PERCENT OF ALL ENROLLED PROVIDERS UNDER THE
18 PROGRAMS, ADJUSTED ANNUALLY ON JULY 1, AS DETERMINED BY THE
19 DEPARTMENT, EXCEPT THAT THE NUMBER OF AUDITS UNDER THIS
20 SECTION MAY NOT BE LESS THAN 75]. The audits under this section must
21 include both on-site audits and desk audits and must be of a variety of provider types.
22 The department may not award a contract under this subsection to an organization that
23 does not retain persons with a significant level of expertise and recent professional
24 practice in the general areas of standard accounting principles and financial auditing
25 and in the specific areas of medical records review, investigative research, and Alaska
26 health care criminal law. The contractor, in consultation with the commissioner, shall
27 select the providers to be audited and decide the ratio of desk audits and on-site audits
28 to the total number selected. **In identifying providers who are subject to an audit**
29 **under this chapter, the department shall attempt to minimize concurrent state or**
30 **federal audits.**

31 * **Sec. 34.** AS 47.05.200(b) is amended to read:

(b) Within 90 days after receiving each audit report from an audit conducted under this section, the department shall begin administrative procedures to recoup overpayments identified in the audits and shall allocate the reasonable and necessary financial and human resources to ensure prompt recovery of overpayments unless the attorney general has advised the commissioner in writing that a criminal investigation of an audited provider has been or is about to be undertaken, in which case, the commissioner shall hold the administrative procedure in abeyance until a final charging decision by the attorney general has been made. The commissioner shall provide copies of all audit reports to the attorney general so that the reports can be screened for the purpose of bringing criminal charges. **The department may assess interest and penalties on any identified overpayment. Interest under this subsection shall be calculated using the statutory rates for postjudgment interest accruing from the date of the issuance of the final agency decision to recoup overpayments identified in the audit. In this subsection, the date of issuance of the final agency decision is the later of the date of**

(1) the department's written notification of the decision and the provider's appeal rights; or

(2) if timely appealed by the provider, a final agency decision under AS 44.64.060.

* **Sec. 35.** AS 47.05 is amended by adding a new section to read:

Sec. 47.05.235. Duty to identify and repay self-identified overpayments. (a)

Unless a provider is being audited under AS 47.05.200(a), an enrolled medical assistance provider shall conduct a biennial review or audit of a statistically valid sample of claims submitted to the department for reimbursement. If overpayments are identified, the medical assistance provider shall report the overpayment to the department not later than 10 business days after identification of the overpayment. The report must also identify how the medical assistance provider intends to repay the department. After the department receives the report, the medical assistance provider and the department shall enter into an agreement establishing a schedule for repayment of the identified overpayment. The agreement may authorize repayment in a lump sum, a payment plan, or by offsetting future billings as approved by the

department.

(b) The department may not assess interest or penalties on an overpayment identified and repaid by a medical assistance provider under this section.

* **Sec. 36.** AS 47.05 is amended by adding new sections to read:

Sec. 47.05.250. Civil penalties. (a) The department may assess a civil penalty against a provider who violates this chapter, AS 47.07, or regulations adopted under this chapter or AS 47.07.

(b) The department shall adopt regulations establishing a range of civil penalties that the department may assess against a provider under this section. In establishing the range of civil penalties, the department shall take into account appropriate factors, including the seriousness of the violation, the service provided by the provider, and the severity of the penalty. The regulations may not provide for a civil penalty of less than \$100 or more than \$25,000 for each violation.

(c) The provisions of this section are in addition to any other remedies available under this chapter, AS 47.07, or regulations adopted under this chapter or AS 47.07.

(d) A provider against whom a civil penalty of less than \$2,500 is assessed may appeal the decision assessing the penalty to the commissioner or the commissioner's designee. The commissioner shall, by regulation, establish time limits and procedures for an appeal under this subsection. The decision of the commissioner or the commissioner's designee may be appealed to the office of administrative hearings established under AS 44.64.

(e) A provider against whom a civil penalty of \$2,500 or more is assessed may appeal the decision assessing the penalty to the office of administrative hearings established under AS 44.64.

Sec. 47.05.270. Medical assistance reform program. (a) The department shall adopt regulations to design and implement a program for reforming the state medical assistance program under AS 47.07. The reform program must include

(1) referrals to community and social support services, including career and education training services available through the Department of Labor and Workforce Development under AS 23.15, the University of Alaska, or other sources;

(2) electronic distribution of an explanation of medical assistance benefits to recipients for health care services received under the program;

(3) expanding the use of telehealth for primary care, behavioral health, and urgent care;

(4) enhancing fraud prevention, detection, and enforcement;

(5) reducing the cost of behavioral health, senior, and disabilities services provided to recipients of medical assistance under the state's home and community-based services waiver under AS 47.07.045;

(6) pharmacy initiatives;

(7) enhanced care management;

(8) redesigning the payment process by implementing fee agreements that include one or more of the following:

(A) premium payments for centers of excellence;

(B) penalties for hospital-acquired infections, readmissions, and outcome failures;

(C) bundled payments for specific episodes of care; or

(D) global payments for contracted payers, primary care managers, and case managers for a recipient or for care related to a specific diagnosis;

(9) stakeholder involvement in setting annual targets for quality and cost-effectiveness;

(10) to the extent consistent with federal law, reducing travel costs by requiring a recipient to obtain medical services in the recipient's home community, to the extent appropriate services are available in the recipient's home community;

(11) guidelines for health care providers to develop health care delivery models supported by evidence-based practices that encourage wellness and disease prevention.

(b) The department shall, in coordination with the Alaska Mental Health Trust Authority, efficiently manage a comprehensive and integrated behavioral health program that uses evidence-based, data-driven practices to achieve positive outcomes for people with mental health or substance abuse disorders and children with severe

emotional disturbances. The goal of the program is to assist recipients of services under the program to recover by achieving the highest level of autonomy with the least dependence on state-funded services possible for each person. The program must include

(1) a plan for providing a continuum of community-based services to address housing, employment, criminal justice, and other relevant issues;

(2) services from a wide array of providers and disciplines, including licensed or certified mental health and primary care professionals; and

(3) efforts to reduce operational barriers that fragment services, minimize administrative burdens, and reduce the effectiveness and efficiency of the program.

(c) The department shall identify the areas of the state where improvements in access to telehealth would be most effective in reducing the costs of medical assistance and improving access to health care services for medical assistance recipients. The department shall make efforts to improve access to telehealth for recipients in those locations. The department may enter into agreements with Indian Health Service providers, if necessary, to improve access by medical assistance recipients to telehealth facilities and equipment.

(d) On or before November 15 of each year, the department shall prepare a report and submit the report to the senate secretary and the chief clerk of the house of representatives and notify the legislature that the report is available. The report must include

(1) realized cost savings related to reform efforts under this section;

(2) realized cost savings related to medical assistance reform efforts undertaken by the department other than the reform efforts described in this Act;

(3) a statement of whether the department has met annual targets for quality and cost-effectiveness;

(4) recommendations for legislative or budgetary changes related to medical assistance reforms during the next fiscal year;

(5) changes in federal laws that the department expects will result in a cost or savings to the state of more than \$1,000,000;

(6) a description of any medical assistance grants, options, or waivers the department applied for in the previous fiscal year;

(7) the results of demonstration projects the department has implemented;

(8) legal and technological barriers to the expanded use of telehealth, improvements in the use of telehealth in the state, and recommendations for changes or investments that would allow cost-effective expansion of telehealth;

(9) the percentage decrease in costs of travel for medical assistance recipients compared to the previous fiscal year;

(10) the percentage decrease in the number of medical assistance recipients identified as frequent users of emergency departments compared to the previous fiscal year;

(11) the percentage increase or decrease in the number of hospital readmissions within 30 days after a hospital stay for medical assistance recipients compared to the previous fiscal year;

(12) the percentage increase or decrease in state general fund spending for the average medical assistance recipient compared to the previous fiscal year;

(13) the percentage increase or decrease in uncompensated care costs incurred by medical assistance providers compared to the percentage change in private health insurance premiums for individual and small group health insurance;

(14) the cost, in state and federal funds, for providing optional services under AS 47.07.030(b);

(15) the amount of state funds saved as a result of implementing changes in federal policy authorizing 100 percent federal funding for services provided to American Indian and Alaska Native individuals eligible for Medicaid, and the estimated savings in state funds that could have been achieved if the department had fully implemented the changes in policy.

(e) In this section, "telehealth" means the practice of health care delivery, evaluation, diagnosis, consultation, or treatment, using the transfer of health care data through audio, visual, or data communications, performed over two or more locations between providers who are physically separated from the recipient or from each other

or between a provider and a recipient who are physically separated from each other.

* **Sec. 37.** AS 47.07.030(d) is amended to read:

(d) The department **shall** [MAY] establish as optional services a primary care case management system or a managed care organization contract in which certain eligible individuals are required to enroll and seek approval from a case manager or the managed care organization before receiving certain services. **The purpose of a primary care case management system or managed care organization contract is to increase the use of appropriate primary and preventive care by medical assistance recipients, while decreasing the unnecessary use of specialty care and hospital emergency department services.** The department shall

(1) establish enrollment criteria and determine eligibility for services consistent with federal and state law; **the department shall require recipients with multiple hospitalizations to enroll in a primary care case management system or with a managed care organization under this subsection, except that the department may exempt recipients with chronic, acute, or terminal medical conditions from the requirement under this paragraph;**

(2) **define the coordinated care services and provider types eligible to participate as primary care providers;**

(3) **create a performance and quality reporting system; and**

(4) **integrate the coordinated care demonstration projects described under AS 47.07.039 and the demonstration projects described under AS 47.07.036(e) with the primary care case management system or managed care organization contract established under this subsection.**

* **Sec. 38.** AS 47.07.036 is amended by adding new subsections to read:

(d) Notwithstanding (a) - (c) of this section, the department may

(1) apply for a section 1915(i) option under 42 U.S.C. 1396n to improve services and care through home and community-based services to obtain, at a minimum, a 50 percent federal match;

(2) apply for a section 1915(k) option under 42 U.S.C. 1396n to provide home and community-based services and support to increase the federal match for these programs from 50 percent to 56 percent;

(3) apply for a section 1945 option under 42 U.S.C. 1396w-4 to provide coordinated care through health homes for individuals with chronic conditions and to increase the federal match for the services to 90 percent for the first eight quarters the required state plan amendment is in effect;

(4) evaluate and seek permission from the United States Department of Health and Human Services Centers for Medicare and Medicaid Services to participate in various demonstration projects, including payment reform, care management programs, workforce development and innovation, and innovative services delivery models; and

(5) provide incentives for telehealth, including increasing the capability for and reimbursement of telehealth for recipients.

(e) Notwithstanding (a) - (c) of this section, and in addition to the projects and services described under (d) and (f) of this section, the department shall apply for a section 1115 waiver under 42 U.S.C. 1315(a) to establish one or more demonstration projects focused on innovative payment models for one or more groups of medical assistance recipients in one or more specific geographic areas. The demonstration project or projects may include

(1) managed care organizations as described under 42 U.S.C. 1396u-2;

(2) community care organizations;

(3) patient-centered medical homes as described under 42 U.S.C. 256a-1; or

(4) other innovative payment models that ensure access to health care without reducing the quality of care.

(f) Notwithstanding (a) - (c) of this section, and in addition to the projects and services described under (d) and (e) of this section, the department shall apply for a section 1115 waiver under 42 U.S.C. 1315(a) to establish one or more demonstration projects focused on improving the state's behavioral health system for medical assistance recipients. The department shall engage stakeholders and the community in the development of a project or projects under this subsection. The demonstration project or projects must

(1) be consistent with the comprehensive and integrated behavioral

health program described under AS 47.05.270(b); and

(2) include continuing support for and cooperation with the grant-funded community mental health clinics and drug and alcohol treatment centers that have historically provided care to recipients of behavioral health services.

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

* **Sec. 39.** AS 47.07 is amended by adding new sections to read:

Sec. 47.07.038. Collaborative, hospital-based project to reduce use of emergency department services. (a) On or before December 1, 2016, the department shall collaborate with a statewide professional hospital association to establish a hospital-based project to reduce the use of emergency department services by medical assistance recipients. The statewide professional hospital association shall operate the project. The project may include shared savings for participating hospitals. The project must include

(1) an interdisciplinary process for defining, identifying, and minimizing the number of frequent users of emergency department services;

(2) to the extent consistent with federal law, a system for real-time electronic exchange of patient information, including recent emergency department visits, hospital care plans for frequent users of emergency departments, and data from the controlled substance prescription database;

(3) a procedure for educating patients about the use of emergency departments and appropriate alternative services and facilities for nonurgent care;

(4) a process for assisting users of emergency departments in making appointments with primary care or behavioral health providers within 96 hours after an emergency department visit;

(5) a collaborative process between the department and the statewide professional hospital association to establish uniform statewide guidelines for prescribing narcotics in an emergency department; and

(6) designation of health care personnel to review successes and challenges regarding appropriate emergency department use.

(b) The department shall adopt regulations necessary to implement this section, request technical assistance from the United States Department of Health and

Human Services, and apply to the United States Department of Health and Human Services for waivers or amendments to the state plan as necessary to implement the projects under this section.

Sec. 47.07.039. Coordinated care demonstration projects. (a) The department shall contract with one or more third parties to implement one or more coordinated care demonstration projects for recipients of medical assistance identified by the department. The purpose of a demonstration project under this section is to assess the efficacy of a proposed health care delivery model with respect to cost for, access to, and quality of care for medical assistance recipients. The department may contract for separate demonstration projects to coordinate care for different groups of medical assistance recipients to achieve more effective care for recipients at greater cost savings for the medical assistance program. The department shall request proposals for at least one project under this section on or before December 31, 2016, and may annually request proposals for additional projects under this section thereafter. The department may use an innovative procurement process as described under AS 36.30.308 to award a contract for a project under this section. A proposal for a demonstration project under this section must be submitted to the committee established under (b) of this section and must include three or more of the following elements:

(1) comprehensive primary-care-based management for medical assistance services, including behavioral health services and coordination of long-term services and support;

(2) care coordination, including the assignment of a primary care provider located in the local geographic area of the recipient, to the extent practical;

(3) health promotion;

(4) comprehensive transitional care and follow-up care after inpatient treatment;

(5) referral to community and social support services, including career and education training services available through the Department of Labor and Workforce Development under AS 23.15, the University of Alaska, or other sources;

(6) sustainability and the ability to achieve similar results in other

regions of the state;

(7) integration and coordination of benefits, services, and utilization management;

(8) local accountability for health and resource allocation;

(9) an innovative payment process, including bundled payments or global payments.

(b) A project review committee is established in the department for the purpose of reviewing proposals for demonstration projects under this section. The project review committee consists of

(1) the commissioner of the department, or the commissioner's designee;

(2) the commissioner of administration, or the commissioner's designee;

(3) the chief executive officer of the Alaska Mental Health Trust Authority, or the chief executive officer's designee, who shall serve as chair of the committee;

(4) two representatives of stakeholder groups, appointed by the governor for staggered three-year terms, as follows:

(A) one representative of a stakeholder group who has direct experience with health plan management and cost control for the medical assistance population;

(B) one representative of a stakeholder group who has direct experience with health plan management and cost control for a nongovernment employer of 500 or more employees in the state;

(5) a nonvoting member who is a member of the senate, appointed by the president of the senate; and

(6) a nonvoting member who is a member of the house of representatives, appointed by the speaker of the house of representatives.

(c) The department may contract with a managed care organization, primary care case manager, accountable care organization, prepaid ambulatory health plan, or provider-led entity to implement a demonstration project under this section. The fee

1 structure for a contract under this subsection may include global payments, bundled
2 payments, capitated payments, shared savings and risk, or other payment structures.
3 The department shall work with the division of insurance, Department of Commerce,
4 Community, and Economic Development, to streamline the application process for a
5 company to obtain a certificate of authority required under AS 21.09.010 as necessary
6 to participate in a demonstration project under this section.

7 (d) A proposal for a demonstration project under this section must include, in
8 addition to the elements required under (a) of this section, information demonstrating
9 how the project will implement additional cost-saving measures including innovations
10 to reduce the cost of care for medical assistance recipients through the expanded use
11 of telehealth for primary care, urgent care, and behavioral health services. The
12 department shall identify legal or cost barriers preventing the expanded use of
13 telehealth and shall recommend remedies for identified barriers.

14 (e) The department shall contract with a third-party actuary to review
15 demonstration projects established under this section. The actuary shall review each
16 demonstration project after two years of implementation and make recommendations
17 for the implementation of a similar project on a statewide basis. The actuary shall
18 evaluate each project based on cost savings for the medical assistance program, health
19 outcomes for participants in the project, and the ability to achieve similar results on a
20 statewide basis. On or before December 31 of each year starting in 2018, the actuary
21 shall submit a final report to the department regarding any demonstration project that
22 has been in operation for at least two years.

23 (f) The department shall prepare a plan regarding regional or statewide
24 implementation of a coordinated care project based on the results of the demonstration
25 projects under this section. On or before November 15, 2019, the department shall
26 submit the plan to the senate secretary and the chief clerk of the house of
27 representatives and notify the legislature that the plan is available. On or before
28 November 15 of each year thereafter, the department shall submit a report regarding
29 any changes or recommendations regarding the plan developed under this subsection
30 to the senate secretary and the chief clerk of the house of representatives and notify the
31 legislature that the report is available.

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

* **Sec. 40.** AS 47.07 is amended by adding a new section to read:

Sec. 47.07.076. Reports to legislature. (a) The department and the attorney general shall annually prepare a report relating to the medical assistance program under AS 47.07. The report must include the following information:

(1) the amount and source of funds used to prevent or prosecute fraud, abuse, payment errors, and errors in eligibility determinations for the previous fiscal year;

(2) actions taken to address fraud, abuse, payment errors, and errors in eligibility determinations during the previous fiscal year;

(3) specific examples of fraud or abuse that were prevented or prosecuted;

(4) identification of vulnerabilities in the medical assistance program, including any vulnerabilities identified by independent auditors with whom the department contracts under AS 47.05.200;

(5) initiatives the department has taken to prevent fraud or abuse;

(6) recommendations to increase effectiveness in preventing and prosecuting fraud and abuse;

(7) the return to the state for every dollar expended by the department and the attorney general to prevent and prosecute fraud and abuse;

(8) the most recent payment error rate measurement report for the medical assistance program, including fee for service programs and pilot or demonstration projects; the report must also explain the reasons for the payment errors and the total amount of state and federal funds paid in error during the reporting period and not recovered by the department at the time of the report;

(9) results from the Medicaid Eligibility Quality Control program.

(b) On or before November 15 of each year, the department shall submit the report required under (a) of this section to the senate secretary and the chief clerk of the house of representatives and notify the legislature that the report is available.

(c) On or before December 15 and June 15 of each year, the department shall prepare a semi-annual report and submit the report to the senate secretary and the chief

clerk of the house of representatives and notify the legislature that the report is available. The report must include

(1) updates and status reports on the Medicaid Management Information System, including progress toward federal certification of the system, current measurements of the accuracy of the system, timeliness of payment of claims, and any backlog of claims; and

(2) information on the status of an administrative or legal proceeding relating to resolution of claims against the system contractor and related financial effects on the state.

* **Sec. 41.** AS 47.07.900(4) is amended to read:

(4) "clinic services" means services provided by state-approved outpatient community mental health clinics [THAT RECEIVE GRANTS UNDER AS 47.30.520 - 47.30.620], state-operated community mental health clinics, outpatient surgical care centers, and physician clinics;

* **Sec. 42.** AS 47.07.900(17) is amended to read:

(17) "rehabilitative services" means services for substance abusers and emotionally disturbed or chronically mentally ill adults provided by

(A) a drug or alcohol treatment center [THAT IS FUNDED WITH A GRANT UNDER AS 47.30.475]; or

(B) an outpatient community mental health clinic [THAT HAS A CONTRACT TO PROVIDE COMMUNITY MENTAL HEALTH SERVICES UNDER AS 47.30.520 - 47.30.620];

* **Sec. 43.** AS 47.25.140(a) is amended to read:

(a) Payment under AS 47.25.120 - 47.25.300 may not be made to or on behalf of an individual who is a resident of a public institution, except as a patient in a public medical institution, or an individual who is a patient in a public or private institution for tuberculosis or mental disease, or as provided under AS 33.30.028(c). A resident of a public institution who is otherwise eligible to receive an allowance under AS 47.25.120 - 47.25.300 may apply for the allowance instead of the support and maintenance provided in the public institution.

* **Sec. 44.** AS 47.55.020(e) is amended to read:

(e) As a condition for receipt of payment assistance under (d) of this section, the department, under regulations adopted by the department, shall [MAY] require a person to

(1) apply for other state or federally sponsored programs that may reduce the amount of the payment assistance; and

(2) submit to the department a copy of the person's application for medical assistance coverage under AS 47.07 and the decision letter the person receives regarding the application.

* **Sec. 45.** AS 09.58.020, 09.58.030, 09.58.040, 09.58.050, and 09.58.060 are repealed July 1, 2019.

* **Sec. 46.** AS 47.07.076(c) is repealed.

* **Sec. 47.** The uncodified law of the State of Alaska is amended by adding a new section to read:

INDIRECT COURT RULE AMENDMENTS. (a) AS 09.58.010, added by sec. 18 of this Act, has the effect of amending Rules 79 and 82, Alaska Rules of Civil Procedure, by providing that the state is entitled to full reasonable attorney fees and costs if the state prevails in a civil action under AS 09.58.010 - 09.58.060 that involves fraud, or reasonable attorney fees and costs if the state prevails in a civil action under AS 09.58.010 - 09.58.060 that does not involve fraud.

(b) AS 09.58.020, added by sec. 18 of this Act, and repealed by sec. 45 of this Act, has the effect of amending the following court rules in the manner specified from the effective date of sec. 18 of this Act until July 1, 2019:

(1) Rules 4, 5, 7, and 12, Alaska Rules of Civil Procedure, by requiring that a complaint under AS 09.58 be filed in camera and under seal and may not be served on the defendant until unsealed and that a copy of the complaint be served on the attorney general;

(2) Rules 41 and 77, Alaska Rules of Civil Procedure, by authorizing the attorney general to move for dismissal of a complaint filed by another person under AS 09.58.020, added by sec. 18 of this Act and repealed by sec. 45 of this Act, and requiring court approval for dismissal of the action.

(c) AS 09.58.025, added by sec. 18 of this Act, and amended by sec. 19 of this Act, has the effect of amending Rule 27, Alaska Rules of Civil Procedure, by authorizing the

attorney general to issue subpoenas as part of an investigation

(1) under AS 09.58.015, added by sec. 18 of this Act, from the effective date of sec. 18 of this Act; and

(2) under AS 09.58.020, added by sec. 18 of this Act, from the effective date of sec. 18 of this Act until July 1, 2019.

(d) AS 09.58.030, added by sec. 18 of this Act, and repealed by sec. 45 of this Act, has the effect of amending the following court rules in the manner specified from the effective date of sec. 18 of this Act until July 1, 2019:

(1) Rule 24, Alaska Rules of Civil Procedure, by authorizing the attorney general to intervene in a civil action filed by another person under AS 09.58.020 added by sec. 18 of this Act, and repealed by sec. 45 of this Act, and limiting the participation of a party to the litigation;

(2) Rules 26 and 27, Alaska Rules of Civil Procedure, by authorizing the attorney general to request that the court issue a stay of discovery for a 90-day period, or longer upon a showing by the attorney general.

(e) AS 09.58.040, added by sec. 18 of this Act, and repealed by sec. 45 of this Act, has the effect of amending Rules 79 and 82, Alaska Rules of Civil Procedure, from the effective date of sec. 18 of this Act until July 1, 2019, by giving a person who brings an action under AS 09.58.020, added by sec. 18 of this Act, and repealed by sec. 45 of this Act, the right to reasonable attorney fees and costs in an action prosecuted by the attorney general, and to full reasonable attorney fees and costs if the person prevails in an action not prosecuted by the attorney general that involves fraud, or reasonable attorney fees and costs in a case that does not involve fraud.

*** Sec. 48.** The uncoded law of the State of Alaska is amended by adding a new section to read:

IMPLEMENT FEDERAL POLICY ON TRIBAL MEDICAID REIMBURSEMENT.

(a) The Department of Health and Social Services shall collaborate with Alaska tribal health organizations and the United States Department of Health and Human Services to fully implement changes in federal policy that authorize 100 percent federal funding for services provided to American Indian and Alaska Native individuals eligible for Medicaid.

(b) Within 30 days after the date the Centers for Medicare and Medicaid Services

1 issues a final policy regarding the circumstances in which 100 percent federal funding is
2 available for medical assistance services received through the United States Indian Health
3 Service or tribal health facilities, the Department of Health and Social Services shall notify
4 and submit a report to the co-chairs of the house and senate finance committees of the Alaska
5 State Legislature that includes an estimate of the savings to the state resulting from the final
6 policy. Within six months after the date the Centers for Medicare and Medicaid Services
7 issues the final policy, the Department of Health and Social Services shall fully implement the
8 policy in the state.

9 (c) In this section, "Alaska tribal health organization" means an organization
10 recognized by the United States Indian Health Service to provide health-related services.

11 * **Sec. 49.** The uncoded law of the State of Alaska is amended by adding a new section to
12 read:

13 HEALTH INFORMATION INFRASTRUCTURE PLAN. (a) The Department of
14 Health and Social Services shall develop a health information infrastructure plan to strengthen
15 the health information infrastructure, including health data analytics capability. The purpose
16 of the health information infrastructure plan is to transform the health care system in the state
17 by providing

18 (1) data required by health care providers for care coordination and quality
19 improvement; and

20 (2) the information support required by the Department of Health and Social
21 Services and health care providers to enable development and implementation of the other
22 provisions of this Act.

23 (b) To the greatest extent practicable, the health information infrastructure plan will
24 leverage existing resources, including the health information exchange, and will identify
25 opportunities for integrating and streamlining health data systems administered by the state.

26 * **Sec. 50.** The uncoded law of the State of Alaska is amended by adding a new section to
27 read:

28 FEASIBILITY STUDIES FOR THE PROVISION OF SPECIFIED STATE
29 SERVICES. (a) The Department of Health and Social Services, in conjunction with the
30 Alaska Mental Health Trust Authority, shall procure a study analyzing the feasibility of
31 privatizing services delivered at the Alaska Psychiatric Institute. The Department of Health

1 and Social Services and the Alaska Mental Health Trust Authority shall deliver a joint report
2 summarizing the conclusions of the Department of Health and Social Services and the Alaska
3 Mental Health Trust Authority to the senate secretary and the chief clerk of the house of
4 representatives and notify the legislature that the report is available within 10 days after the
5 convening of the First Regular Session of the Thirtieth Alaska State Legislature.

6 (b) The Department of Administration shall, in collaboration with the house and
7 senate finance committees, procure a study to be completed on or before June 30, 2017, to
8 determine the feasibility of creating a health care authority to coordinate health care plans and
9 consolidate purchasing effectiveness for all state employees, retired state employees, retired
10 teachers, medical assistance recipients, University of Alaska employees, employees of state
11 corporations, and school district employees and to develop appropriate benefit sets, rules,
12 cost-sharing, and payment structures for all employees and individuals whose health care
13 benefits are funded directly or indirectly by the state, with the goal of achieving the greatest
14 possible savings to the state through a coordinated approach administered by a single entity.
15 In developing the study, the Department of Administration shall seek input from the
16 Department of Health and Social Services, administrators familiar with managing government
17 employee health plans, and human resource professionals familiar with self-insured health
18 care plans. The study must

- 19 (1) identify cost-saving strategies that a health care authority could implement;
- 20 (2) analyze local government participation in the authority;
- 21 (3) analyze a phased approach to adding groups to the health care plans
22 coordinated by the health care authority;
- 23 (4) consider previous studies procured by the Department of Administration
24 and the legislature;
- 25 (5) assess the use of community-related health insurance risk pools and the use
26 of the private marketplace;
- 27 (6) identify organizational models for a health care authority, including private
28 for-profit, private nonprofit, government, and state corporations; and
- 29 (7) include a public review and comment opportunity for employers,
30 employees, medical assistance recipients, retirees, and health care providers.

31 (c) In this section, "school district" has the meaning given in AS 14.30.350.

1 * **Sec. 51.** The uncodified law of the State of Alaska is amended by adding a new section to
2 read:

3 REPORT TO LEGISLATURE. (a) The Board of Pharmacy, Board of Examiners in
4 Optometry, Board of Dental Examiners, Board of Nursing, and State Medical Board shall
5 jointly prepare a report that describes recommended guidelines for the prescription of
6 schedule II controlled substances listed under federal law. The guidelines must be drafted
7 with the goal of reducing the over-prescription of pain killers and highly addictive schedule II
8 controlled substances. The report must include

9 (1) the following recommended guidelines for each schedule II controlled
10 substance listed under federal law:

11 (A) quantity and strength of each dosage;

12 (B) number of doses for each day;

13 (C) number of days the drug may be prescribed; and

14 (2) other recommendations related to reducing the over-prescription of
15 schedule II controlled substances.

16 (b) On or before January 1, 2017, the Board of Pharmacy, Board of Examiners in
17 Optometry, Board of Dental Examiners, Board of Nursing, and State Medical Board shall
18 jointly deliver the report required under (a) of this section to the senate secretary and the chief
19 clerk of the house of representatives and notify the legislature that the report is available.

20 * **Sec. 52.** The uncodified law of the State of Alaska is amended by adding a new section to
21 read:

22 MEDICAID STATE PLAN; WAIVERS; INSTRUCTIONS; NOTICE TO REVISOR
23 OF STATUTES. The Department of Health and Social Services shall amend and submit for
24 federal approval a state plan for medical assistance coverage consistent with this Act. The
25 Department of Health and Social Services shall apply to the United States Department of
26 Health and Human Services for any waivers necessary to implement this Act. The
27 commissioner of health and social services shall certify to the revisor of statutes if the
28 provisions of AS 47.05.270(a)(5), (8), and (10), added by sec. 36 of this Act, and the
29 provisions of AS 47.07.038, added by sec. 39 of this Act, are approved by the United States
30 Department of Health and Human Services.

31 * **Sec. 53.** The uncodified law of the State of Alaska is amended by adding a new section to

1 read:

2 TRANSITION: REGULATIONS. (a) The Department of Health and Social Services
3 may adopt regulations necessary to implement the changes made by this Act. The regulations
4 take effect under AS 44.62 (Administrative Procedure Act), but not before the effective date
5 of the relevant provision of this Act implemented by the regulation.

6 (b) The Department of Commerce, Community, and Economic Development and a
7 board that regulates an occupation that includes a practitioner who is required to register with
8 the controlled substances database under AS 17.30.200 shall adopt regulations to implement
9 the changes made by AS 08.36.070(a), as amended by sec. 5 of this Act, AS 08.64.101(7),
10 added by sec. 7 of this Act, AS 08.68.100(a), as amended by sec. 10 of this Act,
11 AS 08.72.060(c), as amended by sec. 11 of this Act, AS 08.80.030(b), as amended by sec. 12
12 of this Act, AS 17.30.200(a), as amended by sec. 21 of this Act, AS 17.30.200(b), as amended
13 by sec. 22 of this Act, AS 17.30.200(d), as amended by sec. 23 of this Act, AS 17.30.200(e),
14 as amended by sec. 24 of this Act, AS 17.30.200(h), as amended by sec. 25 of this Act,
15 AS 17.30.200(k), as amended by sec. 25 of this Act, and AS 17.30.200(o) - (s), enacted by
16 sec. 27 of this Act. The regulations take effect under AS 44.62 (Administrative Procedure
17 Act), but not before the effective date of the relevant provisions of secs. 5, 7, 10, 11, 12, or 21
18 - 27 of this Act. In this subsection,

19 (1) "board" has the meaning given in AS 08.01.110;

20 (2) "occupation" has the meaning given in AS 08.01.110;

21 (3) "practitioner" has the meaning given in AS 11.71.900.

22 * **Sec. 54.** The uncoded law of the State of Alaska is amended by adding a new section to
23 read:

24 CONDITIONAL EFFECT. (a) AS 47.05.270(a)(5), enacted by sec. 36 of this Act,
25 takes effect only if the commissioner of health and social services certifies to the revisor of
26 statutes under sec. 52 of this Act, on or before October 1, 2017, that all of the provisions
27 added by AS 47.05.270(a)(5) have been approved by the United States Department of Health
28 and Human Services.

29 (b) AS 47.05.270(a)(8), enacted by sec. 36 of this Act, takes effect only if the
30 commissioner of health and social services certifies to the revisor of statutes under sec. 52 of
31 this Act, on or before October 1, 2017, that all of the provisions added by AS 47.05.270(a)(8)

1 have been approved by the United States Department of Health and Human Services.

2 (c) AS 47.05.270(a)(10), enacted by sec. 36 of this Act, takes effect only if the
3 commissioner of health and social services certifies to the revisor of statutes under sec. 52 of
4 this Act, on or before October 1, 2017, that all of the provisions added by
5 AS 47.05.270(a)(10) have been approved by the United States Department of Health and
6 Human Services.

7 (d) AS 47.07.038, enacted by sec. 39 of this Act, takes effect only if the commissioner
8 of health and social services certifies to the revisor of statutes under sec. 52 of this Act, on or
9 before October 1, 2017, that all of the provisions added by AS 47.07.038 have been approved
10 by the United States Department of Health and Human Services.

11 (e) AS 09.58.020, added by sec. 18 of this Act, AS 09.58.025, added by sec. 18 of this
12 Act, AS 09.58.030, added by sec. 18 of this Act, and AS 09.58.040, added by sec. 18 of this
13 Act, the amendment to AS 09.58.025 by sec. 19 of this Act, and the repeals of AS 09.58.020,
14 09.58.030, and 09.58.040, by sec. 45 of this Act, take effect only if sec. 47 of this Act receives
15 the two-thirds majority vote of each house required by art. IV, sec. 15, Constitution of the
16 State of Alaska.

17 (f) Section 46 of this Act takes effect only if the commissioner of health and social
18 services certifies to the revisor of statutes that the Medicaid Management Information System
19 has been certified by the United States Department of Health and Human Services.

20 * **Sec. 55.** If AS 47.05.270(a)(5), enacted by sec. 36 of this Act, takes effect, it takes effect
21 on the day after the date the commissioner of health and social services makes a certification
22 to the revisor of statutes under secs. 52 and 54(a) of this Act.

23 * **Sec. 56.** If AS 47.05.270(a)(8), enacted by sec. 36 of this Act, takes effect, it takes effect
24 on the day after the date the commissioner of health and social services makes a certification
25 to the revisor of statutes under secs. 52 and 54(b) of this Act.

26 * **Sec. 57.** If AS 47.05.270(a)(10), enacted by sec. 36 of this Act, takes effect, it takes effect
27 on the day after the date the commissioner of health and social services makes a certification
28 to the revisor of statutes under secs. 52 and 54(c) of this Act.

29 * **Sec. 58.** If AS 47.07.038, enacted by sec. 36 of this Act, takes effect, it takes effect on the
30 day after the date the commissioner of health and social services makes a certification to the
31 revisor of statutes under secs. 52 and 54(d) of this Act.

1 * **Sec. 59.** If sec. 46 of this Act takes effect, it takes effect on the day after the date the
2 commissioner of health and social services makes a certification to the revisor of statutes
3 under sec. 54(f) of this Act.

4 * **Sec. 60.** Sections 50, 52, 53, and 54 of this Act take effect immediately under
5 AS 01.10.070(c).

6 * **Sec. 61.** Sections 5, 10 - 12, and 21 - 26 of this Act, AS 08.64.101(7), enacted by sec. 7 of
7 this Act, and AS 17.30.200(o) - (r), enacted by sec. 27 of this Act, take effect January 1, 2017.

8 * **Sec. 62.** AS 47.07.076(c), enacted by sec. 40 of this Act, takes effect July 1, 2016.

9 * **Sec. 63.** AS 17.30.200(s), enacted by sec. 27 of this Act, takes effect September 1, 2016.

10 * **Sec. 64.** Sections 19 and 20 of this Act take effect July 1, 2019.