

SENATE BILL NO. 58

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - FIRST SESSION

BY THE SENATE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

Introduced: 2/8/99

Referred: HESS, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act establishing an in-home and community-based services program for
2 certain adults with long-term care needs; and providing for an effective date."

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

4 * **Section 1.** FINDINGS AND POLICY RELATED TO SECTION 2. (a) Regarding sec.
5 2 of this Act, the legislature finds that

6 (1) many elderly, chronically ill, or other physically or cognitively impaired
7 adults in Alaska have long-term care needs and would benefit from the availability of a wider
8 range of in-home and community-based services;

9 (2) currently the long-term care needs often go unmet or require the adult to
10 seek services in an institutional setting when in-home or community-based services could
11 provide a more appropriate and less costly level of care;

12 (3) expanding the availability of in-home or community-based services would
13 allow adults to maintain their independence longer, maximize the adult's or family's resources
14 to provide essential care and perhaps avoid or reduce state expenditures for care, and avoid

1 potential emotional and social problems that can result from an adult having to relocate to an
2 institution hundreds of miles away from family or friends;

3 (4) currently, in-home and community-based services are not readily available
4 in many parts of Alaska and, where they do exist, the adults and families who would benefit
5 from the services are unaware of their availability or lack resources to procure them without
6 some state assistance;

7 (5) Alaskans would benefit by having a system of long-term care assessment
8 and care coordination to improve access to and understanding of appropriate in-home and
9 community-based services.

10 (b) Regarding sec. 2 of this Act, the legislature declares that it is the policy of the
11 state to

12 (1) increase the availability of in-home and community-based services for
13 elderly, chronically ill, or physically or cognitively impaired adults with long-term care needs;

14 (2) give priority for in-home and community-based services to those adults
15 described in (1) of this subsection who are at the greatest risk of being, or who already have
16 been, placed in a care setting that may be more restrictive than the adult wishes or requires;
17 and

18 (3) encourage a variety of agencies, facilities, and individuals to provide in-
19 home and community-based services in the state.

20 * **Sec. 2.** AS 47.24 is amended by adding new sections to read:

21 **Article 2. In-Home and Community-Based Services Program for**
22 **Medically, Physically, or Cognitively Impaired Adults.**

23 **Sec. 47.24.200. In-home and community-based services program for**
24 **medically, physically, or cognitively impaired adults.** (a) There is created in the
25 department a program to administer, coordinate, and deliver or to award grants or
26 contracts for the delivery of in-home and community-based services for adults eligible
27 for services under AS 47.24.200 - 47.24.290. The program may serve only the adults
28 who are eligible for the program.

29 (b) The expenditures incurred under (a) of this section may not exceed the
30 appropriations available for the program.

31 (c) The department may adopt regulations necessary to implement, interpret,

1 or otherwise carry out the purposes of AS 47.24.200 - 47.24.290. Notwithstanding the
 2 provisions of AS 47.24.200 - 47.24.290, the regulations adopted may further define,
 3 limit, or assign priorities to adults eligible for the services and define, limit, or assign
 4 priorities to services to be provided as necessary to fulfill program objectives or as
 5 necessary to ensure that program expenditures will not exceed appropriations available
 6 for the program.

7 **Sec. 47.24.205. Adults to be served.** An adult is eligible for services under
 8 AS 47.24.200 - 47.24.290 if the department determines that

- 9 (1) the adult has a long-term care need;
- 10 (2) the adult's need for services is because of medical, physical, or
 11 cognitively functional impairment;
- 12 (3) the adult's limitations restrict the ability to carry out the normal
 13 activities of daily living and to live independently; and
- 14 (4) the adult meets the requirements of AS 47.24.200 - 47.24.290 and
 15 the regulations adopted under those provisions.

16 **Sec. 47.24.210. Eligibility for services.** An adult who meets the requirements
 17 of AS 47.24.205 is eligible for services under AS 47.24.200 - 47.24.290 if the adult

- 18 (1) is at risk of being or already has been placed in a setting providing
 19 services more restrictive than is necessary to meet the adult's needs or more restrictive
 20 than the adult would choose;
- 21 (2) has long-term care needs that can be met through in-home and
 22 community-based services;
- 23 (3) has insufficient personal income and assets to pay for services
 24 needed; and
- 25 (4) has needs that cannot be met from other available support, including
 26 family members, neighbors, or public service agencies.

27 **Sec. 47.24.215. Eligible services and places of delivery.** (a) The department
 28 may pay for or provide only in-home and community-based services and care
 29 coordination that enable an eligible adult to remain at home or in a less restrictive care
 30 setting than that provided in an institutional setting. The department shall, by
 31 regulation, specify the types of care, care coordination, and health, social, and other

1 assistance that are eligible services under this section.

2 (b) The department may not authorize payment from the program to replace
3 or augment state-administered programs for in-home and community-based services
4 for adults.

5 (c) The department may not authorize payment from the program for the
6 following services:

7 (1) intermediate or skilled care provided by a nursing facility or
8 hospital licensed under AS 18.20; or

9 (2) services provided in the Alaska Pioneers' Home under AS 47.55.

10 (d) The department may adopt regulations to grant waivers from the provisions
11 of (c) of this section if the department finds that the services are necessary on a short-
12 term basis to allow the adult to remain at home or in a less restrictive care setting than
13 that described in (c) of this section.

14 **Sec. 47.24.220. Delivery of services.** (a) The department may use its own
15 staff or enter into agreements, grants, or contracts to administer the program or to
16 provide eligible services.

17 (b) The department shall solicit proposals from providers to provide services
18 under AS 47.24.205 - 47.24.240. An interested provider shall submit its proposal in
19 a form and manner as required by the department. An entity, an agency, a facility, a
20 local government, or an individual intending to offer services under AS 47.24.200 -
21 47.24.290 is eligible to submit a proposal to the department to provide eligible
22 services. The department may enter into an agreement or award a contract or grant
23 if the proposal meets the requirement of AS 47.24.200 - 47.24.290 and furthers the
24 purposes of the program.

25 (c) In areas not served by a provider selected by the department, the
26 department may provide services through individual agreements, grants, or contracts
27 to meet the needs of eligible adults.

28 (d) The department may use demonstration projects to test new approaches to
29 in-home and community-based services in limited areas in the state.

30 **Sec. 47.24.225. Responsibilities.** (a) An adult receiving services under the
31 program shall contribute a copayment towards the cost of care and apply for, cooperate

1 with, and seek payment from other sources as required by the department for which
2 the adult is eligible for the same services.

3 (b) The department shall establish in regulation a schedule for copayments
4 under this section. The schedule must vary on a sliding scale based on

5 (1) the adult's net income and readily available assets;

6 (2) the other uncovered expenses needed to meet the adult's medical
7 and social needs; and

8 (3) the costs to the department of the services.

9 (c) The department may waive a requirement of this section if the department
10 determines that it is not cost effective to require conformance or if the waiver is in the
11 public interest.

12 **Sec. 47.24.230. Collection from third-party payors.** (a) If the department
13 pays for or provides services or assistance under the program to an adult eligible for
14 third-party payments for those services or assistance, the department may seek and
15 recover the payments on behalf of the adult to offset program expenditures. An adult
16 receiving services or assistance under the program is considered to have assigned to
17 the state, through the department, all rights to accrued and continuing payment
18 obligations that the adult may have from the third-party payors.

19 (b) If the department determines that it is feasible, the department may require
20 that a provider seek and recover payment from insurance or other third-party payor
21 before seeking payment from the department for the services under the program.

22 **Sec. 47.24.235. Comprehensive data system.** The department shall develop
23 and implement a comprehensive data system that tracks in-home and community-based
24 services, expenditures, services, consumer profiles, and consumer preferences. The
25 department shall seek to coordinate and to share data with other state and local
26 agencies or organizations.

27 **Sec. 47.24.240. Assessment and care coordination services.** The department
28 may implement a system of long-term care assessment and care coordination to
29 minimize administrative costs, improve access to appropriate services, and minimize
30 obstacles to the delivery of in-home and community-based services to adults eligible
31 for services under the program.

1 **Sec. 47.24.245. Confidentiality and access to records.** Medical, social, and
 2 other client records received or developed under AS 47.24.200 - 47.24.290 are
 3 confidential and are not open to public inspection or copying except as provided in
 4 regulations of the department to further the purposes of the program or to better
 5 coordinate care and services. Nothing in this section prohibits the department from
 6 releasing nonidentifying information in aggregate form for research or other purposes.

7 **Sec. 47.24.290. Definitions.** In AS 47.24.200 - 47.24.290,

8 (1) "program" means the in-home and community-based services
 9 program for medically, physically, or cognitively impaired adults under AS 47.24.200 -
 10 47.24.290;

11 (2) "provider" means an entity, an agency, a facility, or an individual
 12 providing services under AS 47.24.200 - 47.24.290;

13 (3) "services" means in-home and community support services provided
 14 under AS 47.24.200 - 47.24.290.

15 * **Sec. 3.** AS 08.63.200(b) is amended to read:

16 (b) Notwithstanding (a) of this section, a person licensed under this chapter
 17 shall report incidents of

18 (1) child abuse or neglect as required by AS 47.17;

19 (2) harm or assaults suffered by an elderly person or disabled adult as
 20 required by AS 47.24.010 [AS 47.24].

21 * **Sec. 4.** AS 47.05.017(b) is amended to read:

22 (b) The department shall adopt regulations identifying actions that it will take,
 23 in addition to those otherwise required under AS 47.17 and AS 47.24.010 - 47.24.130
 24 [AS 47.24], when a report of harm is made under AS 47.17 or AS 47.24.010
 25 [AS 47.24] that might relate to harm caused by actions or inactions of a public home
 26 care provider. The regulations must

27 (1) address circumstances under which the department will, or will
 28 require a contractor or grantee to, reassign, suspend, or terminate a person alleged to
 29 have perpetrated harm;

30 (2) include appropriate procedural safeguards to protect the due process
 31 rights of public home care providers who may be reassigned, suspended, or terminated

1 under the circumstances described in (1) of this subsection; and

2 (3) if the home care provider is a certified nurse aide, include
3 procedures under which the department shall notify the Board of Nursing if the nurse
4 aide is suspected of abuse, neglect, or misappropriation of property.

5 * **Sec. 5.** AS 47.24.011 is amended to read:

6 **Sec. 47.24.011. Duties of the department regarding services and protection**
7 **for vulnerable adults.** In order to facilitate the provision of supportive and protective
8 services for vulnerable adults, the department shall

9 (1) compile information on available supportive and protective services
10 for vulnerable adults in the state;

11 (2) establish, publicize, and maintain a central information and referral
12 service for vulnerable adults;

13 (3) develop and coordinate a statewide system to serve vulnerable
14 adults who are in need of protective services;

15 (4) establish criteria and procedures for the authorization and
16 supervision of other state agencies or community-based service providers to serve as
17 designees of the department under AS 47.24.010 - 47.24.130 [THIS CHAPTER];

18 (5) in accordance with AS 47.24.010 - 47.24.130 [THIS CHAPTER],
19 designate other state agencies or community-based service providers to deliver
20 supportive and protective services to vulnerable adults who are in need of protective
21 services;

22 (6) develop within the central information and referral service for
23 vulnerable adults a central registry for reports of vulnerable adults in need of protective
24 services;

25 (7) maintain confidentiality of records as provided for in AS 47.24.050;
26 and

27 (8) adopt regulations to carry out the purposes of AS 47.24.010 -
28 47.24.130 [THIS CHAPTER].

29 * **Sec. 6.** AS 47.24.050(a) is amended to read:

30 (a) Investigation reports and reports of the abandonment, exploitation, abuse,
31 neglect, or self-neglect of a vulnerable adult filed under AS 47.24.010 - 47.24.130

1 [THIS CHAPTER] are confidential and are not subject to public inspection and
 2 copying under AS 09.25.110 - 09.25.125. However, in accordance with AS 47.24.010
 3 - 47.24.130 [THIS CHAPTER] and regulations adopted under AS 47.24.010 -
 4 47.24.130 [THIS CHAPTER], investigation reports may be used by appropriate
 5 agencies or individuals inside and outside the state, in connection with investigations
 6 or judicial proceedings involving the abandonment, exploitation, abuse, neglect, or self-
 7 neglect of a vulnerable adult.

8 * **Sec. 7.** AS 47.24.070 is amended to read:

9 **Sec. 47.24.070. Required review of proposed regulations.** Before adoption
 10 by the department, regulations to implement AS 47.24.010 - 47.24.130 [THIS
 11 CHAPTER] shall be provided to the Alaska Commission on Aging established under
 12 AS 44.21.200 for review.

13 * **Sec. 8.** AS 47.24.130 is amended to read:

14 **Sec. 47.24.130. Treatment through spiritual means.** Nothing in
 15 AS 47.24.010 - 47.24.130 [THIS CHAPTER] may [NOT] be construed to mean that
 16 a person is abused, neglected, self-neglected, vulnerable, unable to consent, abandoned,
 17 exploited, or in need of emergency or protective services for the sole reason that the
 18 person relies on or is being furnished treatment by spiritual means through prayer
 19 alone in accordance with the tenets and practices of a church or religious denomination
 20 of which the person is a member or adherent, provided that the person consents to the
 21 treatment through spiritual means only and the treatment is administered by an
 22 accredited practitioner of the church or religious denomination. In this section, "church
 23 or religious denomination" has the meaning given to "religious organization" in
 24 AS 05.15.210.

25 * **Sec. 9.** This Act takes effect immediately under AS 01.10.070(c).