

**ALASKA STATE LEGISLATURE
CONFERENCE COMMITTEE ON SB 125**

May 10, 2005
8:39 a.m.

MEMBERS PRESENT

Senator Fred Dyson, Chair
Senator Charlie Huggins
Senator Bettye Davis

Representative Tom Anderson
Representative Lesil McGuire
Representative Les Gara

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

CS FOR SENATE BILL NO. 125(JUD)

"An Act relating to the licensing, regulation, enforcement, and appeal rights of ambulatory surgical centers, assisted living homes, child care facilities, child placement agencies, foster homes, free-standing birth centers, home health agencies, hospices or agencies providing hospice services or operating hospice programs, hospitals, intermediate care facilities for the mentally retarded, maternity homes, nursing facilities, residential child care facilities, residential psychiatric treatment centers, runaway shelters, and rural health clinics; relating to possession of a firearm at licensed entities and facilities; relating to criminal history requirements, and a registry, regarding certain licenses, certifications, approvals, and authorizations by the Department of Health and Social Services; making conforming amendments; and providing for an effective date."

HOUSE CS FOR CS FOR SENATE BILL NO. 125(FIN) am H

"An Act relating to the licensing, regulation, enforcement, and appeal rights of ambulatory surgical centers, assisted living homes, child care facilities, child placement agencies, foster homes, free-standing birth centers, home health agencies, hospices or agencies providing hospice services or operating hospice programs, hospitals, intermediate care facilities for the mentally retarded, maternity homes, nursing facilities, residential child care facilities, residential psychiatric

treatment centers, runaway shelters, and rural health clinics; relating to possession of a firearm at licensed entities and facilities; relating to criminal history requirements, and a registry, regarding certain licenses, certifications, approvals, and authorizations by the Department of Health and Social Services; relating to public assistance for health facilities and assisted living homes, to rates charged by an assisted living home, and to the liability of recipients of home or community-based services to pay for those services; making conforming amendments; and providing for an effective date."

MOVED CCS SB 125 OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

BILL: SB 125

SHORT TITLE: LICENSING MEDICAL OR CARE FACILITIES

SPONSOR(S): RULES BY REQUEST OF THE GOVERNOR

03/02/05	(S)	READ THE FIRST TIME - REFERRALS			
03/02/05	(S)	HES, JUD, FIN			
03/14/05	(S)	HES AT 1:30 PM BUTROVICH 205			
03/14/05	(S)	Heard & Held			
03/14/05	(S)	MINUTE(HES)			
04/06/05	(S)	HES AT 1:30 PM BUTROVICH 205			
04/06/05	(S)	Heard & Held			
04/06/05	(S)	MINUTE(HES)			
04/13/05	(S)	HES AT 2:00 PM BUTROVICH 205			
04/13/05	(S)	Moved CSSB 125(HES) Out of Committee			
04/13/05	(S)	MINUTE(HES)			
04/14/05	(S)	HES RPT CS	3DP	2NR	
		NEW TITLE			
04/14/05	(S)	DP: DYSON, WILKEN, GREEN			
04/14/05	(S)	NR: ELTON, OLSON			
04/20/05	(S)	JUD AT 8:30 AM BUTROVICH 205			
04/20/05	(S)	Heard & Held			
04/20/05	(S)	MINUTE(JUD)			
04/23/05	(S)	JUD AT 4:00 PM BUTROVICH 205			
04/23/05	(S)	-- Rescheduled from 04/22/05 --			
04/30/05	(S)	JUD AT 9:00 AM BUTROVICH 205			
04/30/05	(S)	Scheduled But Not Heard			
05/01/05	(S)	JUD RPT CS FORTHCOMING 1DP 4NR			
05/01/05	(S)	DP: SEEKINS			
05/01/05	(S)	NR: FRENCH, GUESS, THERRIAULT, HUGGINS			
05/01/05	(S)	JUD AT 4:00 PM BUTROVICH 205			
05/01/05	(S)	Moved CSSB 125(JUD) Out of Committee			
05/01/05	(S)	MINUTE(JUD)			

05/03/05 (S) JUD CS RCVD NEW TITLE
 05/03/05 (S) FIN AT 9:00 AM SENATE FINANCE 532
 05/03/05 (S) Moved CSSB 125(JUD) Out of Committee
 05/03/05 (S) MINUTE(FIN)
 05/04/05 (S) FIN RPT CS(JUD) 3DP 3NR
 05/04/05 (S) DP: WILKEN, GREEN, DYSON
 05/04/05 (S) NR: HOFFMAN, OLSON, STEDMAN
 05/05/05 (S) TRANSMITTED TO (H)
 05/05/05 (S) VERSION: CSSB 125(JUD)
 05/06/05 (H) READ THE FIRST TIME - REFERRALS
 05/06/05 (H) FIN
 05/07/05 (H) FIN AT 2:00 PM HOUSE FINANCE 519
 05/07/05 (H) Moved HCS CSSB 125(FIN) Out of
 Committee
 05/07/05 (H) MINUTE(FIN)
 05/08/05 (H) FIN RPT HCS(FIN) 3DP 3NR
 05/08/05 (H) DP: HAWKER, JOULE, MEYER;
 05/08/05 (H) NR: CROFT, STOLTZE, CHENAULT
 05/08/05 (H) VERSION: HCS CSSB 125(FIN) AM H
 05/09/05 (S) CONCURRENCE MESSAGE READ AND HELD
 05/09/05 (S) CONFERENCE COMMITTEE APPOINTED
 05/09/05 (S) DYSON (CHAIR), HUGGINS, DAVIS
 05/09/05 (H) RECEDE MESSAGE READ
 05/09/05 (H) CONFERENCE COMMITTEE APPOINTED
 05/09/05 (H) ANDERSON, MCGUIRE, GARA

WITNESS REGISTER

DR. MANDSAGER, Director
 Division of Public Health
 Department of Health &
 Social Services
 PO Box 110601
 Juneau, AK 99801-0601

POSITION STATEMENT: Commented on SB 125.

STEVE ASHMAN, Director
 Division of Senior and Disabilities Services
 Department of Health &
 Social Services
 PO Box 110601
 Juneau, AK 99801-0601

POSITION STATEMENT: Commented on SB 125.

STACIE KRALY
 Civil Division
 Department of Law

PO Box 110300

Juneau, AK 99811-0300

POSITION STATEMENT: Commented on SB 125.

ACTION NARRATIVE

CHAIR FRED DYSON called the Conference Committee meeting on SB 125 to order at [8:39:43 AM](#). All members were present.

SB 125-LICENSING MEDICAL OR CARE FACILITIES

CHAIR DYSON said that the House adopted some amendments to the original bill that are a valuable step toward resolving the disagreement between the House and the Senate. He moved to adopt HCS CSSB 125(FIN) am H, version S.A, as the committee's working document.

REPRESENTATIVE GARA asked if that is the version that passed the House.

CHAIR DYSON replied yes. There were no objections and HCS CSSB 125(FIN) am H, version S.A was adopted.

SENATOR DAVIS said that some amendments were approved and not approved by the Department of Health and Social Services (DHSS) and she wanted a representative from the DHSS to explain why they disagreed on some amendments.

[8:46:38 AM](#)

DR. RICHARD MANDSAGER, Director, Division of Public Health, explained that the House Finance Committee amendments limited background checks for people and added a requirement to exclude information that was not germane on a registry.

STEVE ASHMAN, Director, Division of Senior and Disabilities Services, Department of Health and Social Services (DHSS), said reversing senior services funds was unacceptable. The department agreed to restore funding to clients with 300 percent of poverty income if the money was used as a contribution towards cost of care.

REPRESENTATIVE GARA said he agrees with the compromise with one exception. He wanted the department to promise him that if assisted living homes are right and the transfer of funds is not legal and Medicaid comes after them for the money, the state will cover them.

MR. ASHMAN responded that a Department of Law opinion says the amendment meets legal standards.

REPRESENTATIVE GARA replied that he has no doubt that it is a sound legal opinion, but he still had concerns.

STACIE KRALY, Civil Division, Department of Law, said that auditors would use the guidelines for assisted living homes to determine how those funds would be addressed. She indicated that those costs cannot come back to the state.

[8:54:05 AM](#)

REPRESENTATIVE MCGUIRE said she is concerned that putting an assurance on paper is red-flagging a potential concern.

MS. KRALY agreed and said that was an astute observation.

REPRESENTATIVE GARA said that he feels his question has not been answered. It seems to him that if the state is telling assisted living homes what they are doing is legal, it should be able to say it will cover them.

MR. ASHMAN responded that the state would cover them if they acted on its legal opinion and advice.

REPRESENTATIVE GARA stated that he disagreed on this amendment and would like to adopt different language.

[8:58:52 AM](#)

MR. ASHMAN said another concern is that although cheaper and less-skilled services such as companion services are beneficial they would require a big fiscal note for the state. He thought it would be prudent to see what other cheaper alternative services similar to those are available under Medicaid.

[9:06:17 AM](#)

MR. ASHMAN said it would cost the state \$10 million in the next fiscal year to offer companion services and personal care attendants would be even more costly.

CHAIR DYSON stated most services that seniors need can be provided by non-medically trained staff. He asked if the purpose of the bill was to attempt to have those covered under the federal program.

JANET CLARKE, Assistant Commissioner, Division of Finance and Management Services, Department of Health and Social Services (DHSS), said the department considers companion services to be an expansion of Medicaid. The department made three changes. One is for a person to come into a home to provide care when a client is sleeping. This would apply to 10% of claimants. The second is to provide coverage for a person to provide care for a patient who is at work, which would apply to 10% of claimants. The third is to provide companion care in places with medically trained attendants.

CHAIR DYSON asked what the cost of the expansion would be.

MS. CLARKE replied that it is expected to cost \$80 million next year.

REPRESENTATIVE GARA suggested taking Representative Cissna's amendment and adding language saying that this waiver shall not be implemented and benefits shall not be paid until the department adopts regulations after completing a study to determine how to approach the problem in the future.

[9:12:43 AM](#)

MR. ASHMAN said he did not favor that approach at this time.

CHAIR DYSON announced that the committee would take up the three House floor amendments at this time. He moved Amendment 1 to delete House Floor Amendment 1.

AMENDMENT 1

Offered by Representative Gara

Page 15, following line 29:

Insert new bill sections to read:

"*Sec. 20. AS 47.07.070(a) is amended to read:

(a) Except as provided under (d) or (e) of this section, the [THE] department shall, by regulation, set rates of payments for health facilities under this chapter and AS 47.25.120 - AS 47.25.300 in accordance with 42 U.S.C. 1396 (Title XIX, Social Security Act, Medical Assistance) and this section. A rate established under this section takes effect under AS 44.62 (Administrative Procedure Act) but not until approved in writing by the commissioner. The commissioner may delegate the performance of these functions.

***Sec.21** AS 47.07.070 is amended by adding new subsections to read:

(d) For residential support living services provided to an eligible recipient of medical assistance living in an assisted living home licensed under AS 47.33, the minimum daily reimbursement rate to the assisted living home for room and board expenses is \$28.

(e) A calculation of the rate for administrative and general costs for a provider, including an assisted living home, shall be determined in the same way as a calculation for administrative and general cost rate for a Pioneers' Home. In this subsection, "administrative and general costs" means those expenses that are common to the overall operation of a provider providing home and community-based waiver services and that are not directly assignable to or borne by a specific program or recipient of a home and community-based service."

Renumber the following bill sections accordingly.

Page 40, following line 10:

Insert a new bill section to read:

"*Sec.49. AS 47.07.070(c) is repealed."

Renumber the following bill sections accordingly.

Page 40, following line 19:

Insert a new bill section to read:

"*Sec.52. The uncodified law of the State of Alaska is amended by adding a new section to read: REGULATIONS ANNULLED. 7 AAC 43.1058(k)(1)(B) are annulled."

Renumber the following bill sections accordingly.

Page 45, line 18, following "Sections":

Insert "20,21,49,52"

Renumber all internal references to bill sections in accordance with this amendment.

REPRESENTATIVES GARA and ANDERSON objected and a roll call vote was taken. Representatives Anderson, McGuire and Representative Gara voted nay. Senator Huggins and Chair Dyson voted yea; Senators Davis voted nay; and Amendment 1 failed.

CHAIR DYSON moved Amendment 2 to delete House Floor Amendment 2.

AMENDMENT 2

Offered by Representative Cissna

Page 41, following line 28:

Insert a new bill section to read:

"*Sec. 54. The uncodified law of the State of Alaska is amended by adding a new section to read: MEDICAL ASSISTANCE WAIVER APPROVAL; LEGISLATIVE INTENT.

(a) The Department of Health and Social Services shall proceed immediately to seek federal approval to amend the home and community based waiver program for the state under Medicaid to add adult companion services for older Alaskans and for adults with physical disabilities as a reimbursable service either as a separate service or personal attendant services. The services may be combined only if the combination results in greater efficiency in administering the program and is more beneficial to the recipient of waiver services.

(b) It is the intent of the legislature to restore non-medical care, supervision and socialization provided through companion services to functionally impaired adults who are eligible for home and community based waivers for older Alaskans and for adults with physical disabilities. Companion services were formerly provided as part of respite service before the amendments to 7 AAC 43.1040. Effective May 15, 2004, the Department of Health and Social Services was prohibited from paying for respite services that allow a primary caregiver of an eligible recipient to work under 7 AAC 43.049(d)(4)(A) or that are provided during sleeping or nighttime hours. Adult companion services shall be available under this Act, subject to other federal and state limits, as part of the recipient's approved plan of care to allow a primary caregiver to work, to allow a primary caregiver to sleep during normal nighttime hours when the recipient of care cannot be safely left unsupervised during the caregivers' sleep hours, and to allow supervision or monitoring of the recipient who is not otherwise safe while sleeping. The department shall enact regulations that are necessary to implement the legislative intent under this section.

(c) In this section, "adult companion services" means non-medical care, supervision, or socialization provided to a functionally impaired adult in accordance with a therapeutic goal in the recipient's plan of care under the home and community based waiver program; for purposes of this subsection, "therapeutic goal" means a goal that has the effect of delaying or avoiding placement of the recipient in a more restrictive environment, including an assisted living home or a nursing

home, and that supports the vital needs for the primary caregiver of the recipient.

Renumber the following bill sections accordingly.

REPRESENTATIVE ANDERSON objected and a roll call vote was taken. Representatives Anderson, McGuire and Representative Gara voted nay; Senator Huggins and Chair Dyson voted yea; Senator Davis voted nay; and Amendment 2 failed.

CHAIR DYSON moved Amendment 3 to delete House floor Amendment 3.

AMENDMENT 3 (title amendment)

Offered by Representative Croft

Page 1, line 10, following **"Services;"**

Insert "relating to public assistance for health facilities and assisted living homes, to rates charged by an assisted living home, and to the liability of recipients of home or community-based services to pay for those services;"

REPRESENTATIVE ANDERSON objected and a roll call vote was taken. Representatives Anderson, McGuire and Gara voted nay; Senators Huggins and Chair Dyson voted yea; Senator Davis voted nay; and Amendment 3 failed.

CHAIR DYSON moved that the committee request limited powers of free conference to continue its business there were no objections and it was so ordered.

CHAIR DYSON adjourned the meeting at [9:19:24 AM](#).