

SENATE BILL NO. 245

IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FIFTH LEGISLATURE - SECOND SESSION

BY THE SENATE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

Introduced: 1/19/08

Referred: Health, Education and Social Services, Finance

A BILL

FOR AN ACT ENTITLED

1 **"An Act establishing the Alaska Health Care Commission and the Alaska health care**
2 **information office; relating to health care planning and information; repealing the**
3 **certificate of need program for certain health care facilities and relating to the repeal;**
4 **annulling certain regulations required for implementation of the certificate of need**
5 **program for certain health care facilities; and providing for an effective date."**

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

7 *** Section 1.** AS 18.05.010(b) is amended to read:

8 (b) In performing its duties under this chapter, AS 18.09, and AS 18.15.355 -
9 18.15.395, the department may

10 (1) flexibly use the broad range of powers set out in this title assigned
11 to the department to protect and promote the public health;

12 (2) provide public health information programs or messages to the
13 public that promote healthy behaviors or lifestyles or educate individuals about

1 health issues;

2 (3) promote efforts among public and private sector partners to
3 develop and finance programs or initiatives that identify and ameliorate health
4 problems;

5 (4) establish, finance, provide, or endorse performance management
6 standards for the public health system;

7 (5) develop, adopt, and implement

8 **(A) a statewide health plan under AS 18.09 based on**
9 **recommendations of the Alaska Health Care Commission established in**
10 **AS 18.09.010; and**

11 **(B)** public health plans and formal policies through
12 regulations adopted under AS 44.62 or collaborative recommendations that
13 guide or support individual and community public health efforts;

14 (6) establish formal or informal relationships with public or private
15 sector partners within the public health system;

16 (7) identify, assess, prevent, and ameliorate conditions of public
17 health importance through surveillance; epidemiological tracking, program
18 evaluation, and monitoring; testing and screening programs; treatment;
19 administrative inspections; or other techniques;

20 (8) promote the availability and accessibility of quality health care
21 services through health care facilities or providers;

22 (9) promote availability of and access to preventive and primary
23 health care when not otherwise available through the private sector, including acute
24 and episodic care, prenatal and postpartum care, child health, family planning, school
25 health, chronic disease prevention, child and adult immunization, testing and
26 screening services, dental health, nutrition, and health education and promotion
27 services;

28 (10) systematically and regularly review the public health system and
29 recommend modifications in its structure or other features to improve public health
30 outcomes; and

31 (11) collaborate with public and private sector partners, including

1 municipalities, Alaska Native organizations, health care providers, and health
 2 insurers, within the public health system to achieve the mission of public health.

3 * **Sec. 2.** AS 18 is amended by adding a new chapter to read:

4 **Chapter 09. Statewide Health Care Planning and Information.**

5 **Article 1. Alaska Health Care Commission; State Health Plan.**

6 **Sec. 18.09.010. Alaska Health Care Commission.** The Alaska Health Care
 7 Commission is established within the Department of Health and Social Services. The
 8 purpose of the commission is

9 (1) to provide recommendations for and foster the development of a
 10 statewide plan to address the quality, accessibility, and availability of health care for
 11 all citizens of the state; and

12 (2) to review and approve facility health care information for
 13 placement on the department's Internet database established under AS 18.09.110.

14 **Sec. 18.09.020. Composition; chair.** (a) The commission consists of 10
 15 members as follows:

16 (1) the state officer assigned the duties of medical director for the
 17 department;

18 (2) one member representing the Department of Administration,
 19 appointed by the commissioner of administration;

20 (3) one member representing the Department of Commerce,
 21 Community, and Economic Development, appointed by the commissioner of
 22 commerce, community, and economic development;

23 (4) one member representing the Department of Labor and
 24 Workforce Development, appointed by the commissioner of labor and workforce
 25 development;

26 (5) three public members, appointed by the governor; one of the
 27 members appointed under this paragraph must be a small business owner in the state;

28 (6) one ex officio nonvoting member from the house of
 29 representatives, appointed by the speaker of the house, and one ex officio nonvoting
 30 member from the senate, appointed by the president of the senate;

31 (7) an ex officio nonvoting member representing the office of the

1 governor.

2 (b) The department's representative appointed under (a)(1) of this section
3 shall serve as chair of the commission.

4 **Sec. 18.09.030. Term of office.** (a) Public members of the commission
5 appointed under AS 18.09.020(a)(5) serve for staggered terms of three years.

6 (b) If a vacancy occurs in a public member's seat on the commission, the
7 governor shall make an appointment for the unexpired portion of that member's term.

8 (c) The governor may remove a public member of the commission from
9 office only for cause.

10 **Sec. 18.09.040. Executive director.** The commission shall employ an
11 executive director, who may not be a member of the commission. The executive
12 director shall serve at the pleasure of the commission. The commission shall
13 establish the duties of the executive director. The executive director is in the partially
14 exempt service under AS 39.25 (State Personnel Act).

15 **Sec. 18.09.050. Staff.** The department may assign employees of the
16 department to serve as staff of the commission. The commission shall prescribe the
17 duties of the commission staff.

18 **Sec. 18.09.060. Bylaws.** The commission, on approval of a majority of its
19 membership and consistent with state law, shall adopt and amend bylaws governing
20 its proceedings, and other activities, including provisions concerning a quorum to
21 transact commission business and other aspects of procedure, frequency and location
22 of meetings, and establishment, functions, and membership of committees.

23 **Sec. 18.09.070. Duties of the commission.** (a) The commission shall serve as
24 the state health planning and coordinating body. Consistent with state and federal
25 law, the commission shall provide recommendations for and foster the development
26 of a statewide health plan containing the following:

27 (1) a comprehensive statewide health care policy;

28 (2) a strategy for encouraging

29 (A) personal responsibility in prevention and healthy living
30 for all residents of the state;

31 (B) reductions in health care costs for all residents of the state

1 to below the national average;

2 (C) access in communities to safe water and wastewater
3 systems;

4 (D) the development of a sustainable health care workforce in
5 the state;

6 (E) quality health care being accessible for all residents of the
7 state; and

8 (F) increasing the number of residents of the state who are
9 covered by insurance for health care services.

10 (b) The commission shall review and approve health care information for
11 placement on the department's database developed under AS 18.09.110.

12 (c) The commission shall submit to the governor and the legislature by
13 January 15 of each year an annual report regarding the commission's
14 recommendations and activities.

15 **Sec. 18.09.080. Compensation, per diem, and expenses.** A public member
16 appointed to the commission under AS 18.09.020(a)(5) is not entitled to a salary, but
17 is entitled to per diem, reimbursement for travel, and other expenses authorized by
18 law for boards and commissions under AS 39.20.180.

19 **Article 2. Alaska Health Care Information Office.**

20 **Sec. 18.09.100. Office.** The Alaska health care information office is
21 established in the department. The purpose of the office is to improve access by
22 residents of the state to consistently updated

23 (1) facility information to aid consumers of health care services from
24 health care facilities in the state; and

25 (2) information to encourage personal responsibility in prevention
26 and healthy living.

27 **Sec. 18.09.110. Dissemination of information.** (a) The department shall
28 establish and maintain an information database on the Internet for all health care
29 facilities in the state in order to provide objective, unbiased, and factually based
30 information on health care facilities in the state. The department may require those
31 health care facilities to provide information in a standard form or format to the

1 department for placement on the database. Before information is placed on the
2 database, the commission shall review the information for accuracy.

3 (b) The database developed under (a) of this section must include the
4 following:

5 (1) a geographically indexed list of all health care facilities in the
6 state by region;

7 (2) information on costs to the consumer for health care services
8 provided by health care facilities;

9 (3) information on the quality of health care facilities, including any
10 actions taken by state or federal agencies related to

11 (A) licensure and accreditation of a health care facility; or

12 (B) a licensed professional practicing in a health care facility;

13 (4) the types and scope of health care services provided by each
14 health care facility;

15 (5) types of insurance and payment accepted by each health care
16 facility for health care services.

17 (c) The department shall develop and consistently update an Internet website
18 to provide residents of the state timely and accurate information regarding prevention
19 and healthy living.

20 (d) The department shall post and make available information related to the
21 commission, including the commission's annual reports under AS 18.09.070(c).

22 **Sec. 18.09.120. Mandatory reporting.** (a) A health care facility shall
23 provide to the department the following information related to the facility's health
24 care services for placement on the database developed under AS 18.09.110:

25 (1) information on costs to the consumer for health care services;

26 (2) types of insurance and payment accepted by the health care
27 facility for health care services;

28 (3) each location where the health care facility operates, and hours of
29 operation;

30 (4) the types and scope of health care services offered at the health
31 care facility;

1 (5) the Internet address of any website of the health care facility to
2 provide factual information to aid the consumer;

3 (6) any other readily accessible information that the department
4 determines would be helpful to the consumer to make informed decisions about the
5 health care facility's services.

6 (b) The department shall develop a standard form or format for reporting the
7 information required in (a) of this section. The department shall adopt regulations
8 specifying the timing and frequency of the reporting of the information required by
9 (a) of this section.

10 (c) The department shall notify the health care facility of any failure to report
11 under (a) of this section and give the health care facility an opportunity to contest or
12 cure any failures. If the health care facility does not promptly cure any failure, the
13 department shall post the notice of failure on the database developed under
14 AS 18.09.110.

15 **Sec. 18.09.130. Coordination of departments.** The Department of
16 Administration, the Department of Commerce, Community, and Economic
17 Development, the Department of Labor and Workforce Development, and the
18 Department of Law shall

19 (1) provide information to the commission regarding an adverse
20 action taken against a health care facility in the state, or against a licensed
21 professional practicing in a health care facility in the state, for placement on the
22 database developed under AS 18.09.110; and

23 (2) cooperate with the commission in the performance of its duties.

24 **Article 3. General Provisions.**

25 **Sec. 18.09.900. Regulations.** The department may adopt regulations under
26 AS 44.62 to carry out the purposes of this chapter.

27 **Sec. 18.09.990. Definitions.** In this chapter

28 (1) "commission" means the Alaska Health Care Commission
29 established in AS 18.09.010;

30 (2) "cost to consumers" means actual prices paid by consumers for
31 health care services;

1 (3) "department" means the Department of Health and Social
2 Services;

3 (4) "health care facility" means

4 (A) a facility licensed under AS 47.32;

5 (B) an independent diagnostic testing facility providing
6 services in the state.

7 * **Sec. 3.** AS 18.26.220 is amended to read:

8 **Sec. 18.26.220. Facility compliance with health and safety laws and**
9 **licensing requirements.** A medical facility constructed, acquired, improved,
10 financed, or otherwise under the provisions of this chapter and all actions of the
11 authority are subject to [AS 18.07,] AS 47.32[,] and any other present or future state
12 licensing requirements for the facilities or services provided under this chapter. [A
13 MEDICAL FACILITY ISSUED A CERTIFICATE OF NEED UNDER SEC. 4, CH.
14 275, SLA 1976, BY VIRTUE OF BEING IN EXISTENCE OR UNDER
15 CONSTRUCTION BEFORE JULY 1, 1976, MUST FULLY MEET THE
16 REQUIREMENTS OF AS 18.07 IN ORDER TO BE ELIGIBLE FOR FUNDING
17 UNDER THIS CHAPTER.]

18 * **Sec. 4.** AS 21.86.030(c) is amended to read:

19 (c) Nothing in this section relieves a health maintenance organization that
20 wishes to exercise the power described in (a)(1) of this section from the requirements
21 of

22 (1) [AS 18.07, regarding obtaining a certificate of need;

23 (2)] AS 47.32. regarding regulation of hospitals; and

24 (2) [(3)] other statutes applicable to hospitals or other health care
25 facilities.

26 * **Sec. 5.** AS 39.25.120(c)(7) is amended to read:

27 (7) the principal executive officer of the following boards, councils,
28 or commissions:

29 (A) Alaska Public Broadcasting Commission;

30 (B) Professional Teaching Practices Commission;

31 (C) Parole Board;

- 1 (D) Board of Nursing;
 2 (E) Real Estate Commission;
 3 (F) Alaska Royalty Oil and Gas Development Advisory
 4 Board;
 5 (G) Alaska State Council on the Arts;
 6 (H) Alaska Police Standards Council;
 7 (I) Alaska Commission on Aging;
 8 (J) Alaska Mental Health Board;
 9 (K) State Medical Board;
 10 (L) Governor's Council on Disabilities and Special Education;
 11 (M) Advisory Board on Alcoholism and Drug Abuse;
 12 (N) Statewide Suicide Prevention Council;
 13 (O) the State Board of Registration for Architect, Engineers,
 14 and Land Surveyors;

15 **(P) Alaska Health Care Commission;**

16 * **Sec. 6.** AS 18.07.021, 18.07.031, 18.07.035, 18.07.041, 18.07.043, 18.07.045,
 17 18.07.051, 18.07.061, 18.07.071, 18.07.081, 18.07.091, 18.07.101, 18.07.111; and
 18 AS 47.80.140(b) are repealed.

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

21 ANNULMENT, AMENDMENT, AND REPEAL OF REGULATIONS. (a) The
 22 following regulations are annulled:

23 (1) 7 AAC 07.010, 7 AAC 07.012, 7 AAC 07.015, 7 AAC 07.025, 7 AAC
 24 07.031, 7 AAC 07.032, 7 AAC 07.033, 7 AAC 07.035, 7 AAC 07.040, 7 AAC 07.042,
 25 7 AAC 07.050, 7 AAC 07.052, 7 AAC 07.060, 7 AAC 07.067, 7 AAC 07.070, 7 AAC
 26 07.072, 7 AAC 07.079, 7 AAC 07.080, 7 AAC 07.092, 7 AAC 07.095, 7 AAC 07.105,
 27 7 AAC 07.107, and 7 AAC 07.900;

28 (2) 7 AAC 09.030(b)(3) and 7 AAC 09.170(5);

29 (3) 7 AAC 43.689(g)(4)(B);

30 (4) 15 AAC 118.020(c)(3) and (d)(1).

31 (b) The commissioner of health and social services shall immediately proceed under

1 AS 44.62 to amend or repeal the following regulations in accordance with the provisions of
2 this Act:

3 (1) 7 AAC 09.020;

4 (2) 7 AAC 43.679, 7 AAC 43.685, 7 AAC 43.686, and 7 AAC 43.709.

5 * **Sec. 8.** The uncodified law of the State of Alaska is amended by adding a new section to
6 read:

7 TRANSITION: PENDING APPLICATIONS, ADMINISTRATIVE APPEALS,
8 AND COURT ACTIONS FOR THE CERTIFICATE OF NEED PROGRAM. (a) The
9 commissioner of health and social services through the Department of Law shall
10 immediately take steps to seek dismissal of pending administrative appeals and court actions
11 concerning the issuance of certificates of need under AS 18.07 or implementation of
12 AS 18.07.

13 (b) The Department of Health and Social Services shall immediately close all
14 pending application files under AS 18.07. The Department of Health and Social Services
15 shall send written notification to the applicant of the action taken under this subsection.

16 * **Sec. 9.** The uncodified law of the State of Alaska is amended by adding a new section to
17 read:

18 TRANSITION: REGULATIONS. The Department of Health and Social Services
19 may proceed to adopt regulations necessary to implement the changes made by this Act. The
20 regulations take effect under AS 44.62 (Administrative Procedure Act), but not before
21 July 1, 2008.

22 * **Sec. 10.** Sections 3, 4, 6 - 8, and 9 of this Act take effect immediately under
23 AS 01.10.070(c).

24 * **Sec. 11.** Except as provided in sec. 10 of this Act, this Act takes effect July 1, 2008.