

CS FOR SENATE BILL NO. 245(HES)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIFTH LEGISLATURE - SECOND SESSION

BY THE SENATE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

Offered: 3/31/08

Referred: Finance

Sponsor(s): SENATE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

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; amending the
3 certificate of need requirements to exclude expenditures for diagnostic imaging
4 equipment in certain circumstances; providing for a study of the certificate of need
5 program; 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 health

1 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 regulations
12 adopted under AS 44.62 or collaborative recommendations that guide or
13 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 health
17 importance through surveillance; epidemiological tracking, program evaluation, and
18 monitoring; testing and screening programs; treatment; administrative inspections; or
19 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 health
23 care when not otherwise available through the private sector, including acute and
24 episodic care, prenatal and postpartum care, child health, family planning, school
25 health, chronic disease prevention, child and adult immunization, testing and screening
26 services, dental health, nutrition, and health education and promotion services;

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

30 (11) collaborate with public and private sector partners, including
31 municipalities, Alaska Native organizations, health care providers, and health insurers,

1 within the public health system to achieve the mission of public health.

2 * **Sec. 2.** AS 18.05.010(b), as amended by sec. 1 of this Act, is amended to read:

3 (b) In performing its duties under this chapter, AS 18.09, and AS 18.15.355 -
4 18.15.395, the department may

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

7 (2) provide public health information programs or messages to the
8 public that promote healthy behaviors or lifestyles or educate individuals about health
9 issues;

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

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

15 (5) develop, adopt, and implement

16 (A) a statewide health plan under AS 18.09 [BASED ON
17 RECOMMENDATIONS OF THE ALASKA HEALTH CARE
18 COMMISSION ESTABLISHED IN AS 18.09.010]; and

19 (B) public health plans and formal policies through regulations
20 adopted under AS 44.62 or collaborative recommendations that guide or
21 support individual and community public health efforts;

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

24 (7) identify, assess, prevent, and ameliorate conditions of public health
25 importance through surveillance; epidemiological tracking, program evaluation, and
26 monitoring; testing and screening programs; treatment; administrative inspections; or
27 other techniques;

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

30 (9) promote availability of and access to preventive and primary health
31 care when not otherwise available through the private sector, including acute and

1 episodic care, prenatal and postpartum care, child health, family planning, school
 2 health, chronic disease prevention, child and adult immunization, testing and screening
 3 services, dental health, nutrition, and health education and promotion services;

4 (10) systematically and regularly review the public health system and
 5 recommend modifications in its structure or other features to improve public health
 6 outcomes; and

7 (11) collaborate with public and private sector partners, including
 8 municipalities, Alaska Native organizations, health care providers, and health insurers,
 9 within the public health system to achieve the mission of public health.

10 * **Sec. 3.** AS 18.07.031(a) is amended to read:

11 (a) Except as provided in **(c), (d), and (f)** [(c) AND (d)] of this section, a
 12 person may not make an expenditure of \$1,000,000 or more for any of the following
 13 unless authorized under the terms of a certificate of need issued by the department:

14 (1) construction of a health care facility;

15 (2) alteration of the bed capacity of a health care facility; or

16 (3) addition of a category of health services provided by a health care
 17 facility.

18 * **Sec. 4.** AS 18.07.031(e) is amended to read:

19 (e) In [(a) OF] this section,

20 **(1) "expenditure" includes the purchase of property occupied by or the**
 21 **equipment required for the health care facility and the net present value of a lease for**
 22 **space occupied by or the equipment required for the health care facility; "expenditure"**
 23 **does not include costs associated with routine maintenance and replacement of**
 24 **equipment at an existing health care facility;**

25 **(2) "critical access hospital" means a facility designated as a**
 26 **critical access hospital by the department by regulatory authority exercised**
 27 **under AS 18.05 or AS 18.20.**

28 * **Sec. 5.** AS 18.07.031 is amended by adding a new subsection to read:

29 (f) Notwithstanding the limitations in (a) of this section, a person may make
 30 an expenditure of \$1,000,000 or more for diagnostic imaging equipment without
 31 authorization under the terms of a certificate of need issued by the department if the

1 equipment is used in a health care facility that

2 (1) is located in a

3 (A) borough with a population of 60,000 or more; and

4 (B) a city that does not have a facility designated by the
5 department as a critical access hospital; and

6 (2) has at least a 50 percent ownership by one or more physicians
7 licensed in the state who are qualified to interpret, and actually interpret, diagnostic
8 images produced by the equipment in the facility.

9 * **Sec. 6.** AS 18 is amended by adding a new chapter to read:

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

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

12 **Sec. 18.09.010. Alaska Health Care Commission.** The Alaska Health Care
13 Commission is established in the Department of Health and Social Services. The
14 purposes of the commission are

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

18 (2) to review and approve the department's plan for a reporting data
19 system, including the type of reporting entity or person, and the timing of reporting;
20 and

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

23 **Sec. 18.09.020. Composition; chair.** (a) The commission consists of 15
24 members, as follows:

25 (1) the state officer assigned the duties of medical director for the
26 department;

27 (2) one member representing the governor and appointed by the
28 governor;

29 (3) one member who is a member of the Alaska Commission on
30 Aging;

31 (4) three public members, in addition to members appointed under (5),

1 (8), and (9) of this subsection, appointed by the governor; one of the members
2 appointed under this paragraph must be a small business owner in the state;

3 (5) three public members who are health care providers, appointed by
4 the governor, as follows: one representing hospitals, one representing physicians, and
5 one representing mental health;

6 (6) two members from the house of representatives appointed by the
7 speaker of the house of representatives;

8 (7) two members from the senate appointed by the president of the
9 senate;

10 (8) one public member representing the Alaska tribal health care
11 system appointed by the governor; and

12 (9) one public member representing health care insurers appointed by
13 the governor.

14 (b) The medical director appointed under (a)(1) of this section shall serve as
15 chair of the commission.

16 **Sec. 18.09.030. Term of office.** (a) Public members of the commission
17 appointed under AS 18.09.020(a)(4), (5), (8), and (9) serve for staggered terms of five
18 years.

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

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

23 **Sec. 18.09.040. Executive director.** The commission shall employ an
24 executive director with appropriate health care policy experience who may not be a
25 member of the commission. The executive director serves at the pleasure of the
26 commission. The commission shall establish the duties of the executive director. The
27 executive director is in the partially exempt service under AS 39.25 (State Personnel
28 Act).

29 **Sec. 18.09.050. Staff.** The department may assign employees of the
30 department to serve as staff to the commission. The commission shall prescribe the
31 duties of the commission staff.

1 **Sec. 18.09.060. Bylaws.** The commission, on approval of a majority of its
 2 membership and consistent with state law, shall adopt and amend bylaws governing
 3 proceedings and other activities, including provisions concerning a quorum to transact
 4 commission business and other aspects of procedure; frequency and location of
 5 meetings; and establishment, functions, and membership of committees.

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

10 (1) a comprehensive statewide health care policy;

11 (2) a strategy for

12 (A) encouraging personal responsibility in prevention and
 13 healthy living for all residents of the state;

14 (B) reducing the rate of growth in health care costs for all
 15 residents of the state;

16 (C) improving access in communities to safe water and
 17 wastewater systems;

18 (D) developing a sustainable health care workforce in the state;

19 (E) improving access to quality health care for all residents of
 20 the state and increasing the number of residents of the state who are covered by
 21 insurance for health care services.

22 (b) The commission shall review and approve health care information for
 23 placement on the department's database developed under AS 18.09.110 and establish a
 24 schedule for posting of the database and reporting requirements under AS 18.09.120.

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

28 **Sec. 18.09.080. Compensation, per diem, and expenses.** A public member
 29 appointed to the commission under AS 18.09.020(a)(4), (5), (8), or (9) is not entitled
 30 to a salary, but is entitled to per diem, reimbursement for travel, and other expenses
 31 authorized by law for boards and commissions under AS 39.20.180.

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

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

5 (1) information about health care services, price, and quality to aid
6 consumers in making health care decisions; and

7 (2) information to encourage personal responsibility in prevention and
8 healthy living.

9 **Sec. 18.09.110. Dissemination of information.** (a) The department shall
10 establish and maintain an information database on the Internet of information about
11 health care facilities in the state to provide objective, unbiased, and factually based
12 information on health care services in the state. The department may require those
13 health care facilities to provide information in a standard form or format to the
14 department for placement in the database. Before information is placed on the
15 database, the department shall review the information with the health care facility for
16 accuracy.

17 (b) The database developed under (a) of this section must include, as
18 available, the following:

19 (1) a list of preferred drugs approved by the department for
20 reimbursement by the department;

21 (2) a complete list, organized by region and address, of

22 (A) health care facilities located in the state;

23 (B) licensed pharmacists and pharmacies located in the state;

24 (C) emergency and urgent care facilities located in the state;

25 (D) health insurance companies offering coverage in the state;

26 (E) health care providers licensed in the state, including the
27 provider license number, type, and expiration date along with disciplinary
28 actions, if any;

29 (F) long-term, in-home, and hospice care providers located in
30 the state;

31 (G) public assistance offices of the department;

1 (3) a list of the 100 most commonly prescribed medications in the state
2 and the source and price, updated monthly, of the medications;

3 (4) a list of the 100 most commonly conducted medical procedures in
4 the state, organized by the cash and negotiated price of the procedure at available
5 providers and insurers, updated annually; the list must include medical procedures
6 covered by workers' compensation under AS 23.30;

7 (5) available hospital ratings, including the rates of hospital acquired
8 infections and mortality occurring at each hospital located in the state;

9 (6) consumer education information on topics that include body mass
10 index, diet and nutrition, exercise, smoking cessation, and alcohol and drug addictions,
11 that includes the location of available sites that provide care and treatment related to
12 those issues;

13 (7) a list of procedures approved by state agencies for emergency
14 response and treatment;

15 (8) disease management support information;

16 (9) insurance information that includes

17 (A) a navigator to determine insurance eligibility using a
18 matrix of available insurers;

19 (B) links to Internet websites for purchasing insurance policies;

20 (C) an explanation of mandatory and optional insurance
21 coverage;

22 (10) a list of primary care clinics that cater to uninsured and self-pay
23 patients;

24 (11) a list of physicians who accept patients with Medicare coverage;
25 and

26 (12) information on the quality of health care facilities, including any
27 actions taken by state or federal agencies related to

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

29 (B) a licensed professional practicing in a health care facility.

30 (c) The department may contract with a private entity to provide services and
31 information required under (a) of this section.

1 (d) The department shall develop and consistently update an Internet website
2 to provide residents of the state timely and accurate information regarding prevention
3 and healthy living.

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

6 **Sec. 18.09.120. Mandatory reporting.** (a) Beginning July 1, 2009, a health
7 care facility shall provide to the department, based on a schedule set by the
8 department, the following information related to the facility's health care services for
9 placement in the database developed under AS 18.09.110:

10 (1) information on costs to and bills payable by the consumer for
11 health care services that include both facility and physician components of care;

12 (2) types and amounts of insurance and other payments accepted by
13 the health care facility for health care services, including cash and negotiated prices;

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

16 (4) the types and scope of health care services offered at the health
17 care facility;

18 (5) the Internet address of any Internet website of the health care
19 facility the purpose of which is to provide factual information to aid the consumer;

20 (6) any other readily accessible information that the department
21 determines would help the consumer to make informed decisions about the health care
22 facility's services.

23 (b) The department shall develop a standard form or format for reporting the
24 information required in (a) of this section. The department shall adopt regulations
25 specifying the timing and frequency of the reporting of the information required by (a)
26 of this section.

27 (c) The department shall notify the health care facility of a failure to report
28 under (a) of this section and give the health care facility an opportunity to contest or
29 cure the failure. If the health care facility does not promptly cure the failure, the
30 department shall post the notice of failure on the database developed under
31 AS 18.09.110.

1 **Sec. 18.09.130. Coordination of departments.** The Department of
 2 Administration, the Department of Commerce, Community, and Economic
 3 Development, the Department of Labor and Workforce Development, and the
 4 Department of Law shall

5 (1) provide to the department for placement on the database developed
 6 under AS 18.09.110 information regarding an adverse action taken against a health
 7 care facility in the state or against a licensed professional practicing in a health care
 8 facility in the state; and

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

10 **Article 3. General Provisions.**

11 **Sec. 18.09.900. Regulations.** The department may adopt regulations under
 12 AS 44.62 (Administrative Procedure Act) to carry out the purposes of this chapter.

13 **Sec. 18.09.990. Definitions.** In this chapter,

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

16 (2) "costs to the consumer" means actual price paid by the consumer
 17 for health care services;

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

19 (4) "health care facility" means

20 (A) a facility licensed under AS 47.32;

21 (B) an independent diagnostic testing facility providing
 22 services in the state;

23 (C) a provider of a home and community based waiver service
 24 that is certified under regulations adopted by the department;

25 (D) a provider of personal care services that is certified under
 26 regulations adopted by the department;

27 (E) a licensed pharmacy; and

28 (F) a physician's office.

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

30 (7) the principal executive officer of the following boards, councils, or
 31 commissions:

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

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

18 * **Sec. 8.** AS 18.09.010, 18.09.020, 18.09.030, 18.09.040, 18.09.050, 18.09.060, 18.09.070,
 19 18.09.080, 18.09.110(e), 18.09.130(2), 18.09.990(1); and AS 39.25.120(c)(7)(P) are repealed
 20 July 1, 2013.

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

23 APPLICABILITY. Sections 3 - 5 of this Act apply to health care facilities in existence
 24 or proposed on or after the effective date of secs. 3 - 5 of this Act. A decision of the
 25 Department of Health and Social Services made before the effective date of secs. 3 - 5 this
 26 Act denying or granting a certificate of need that was applied for or issued for a health care
 27 facility described in AS 18.07.031(f), added by sec. 5 of this Act, shall be void and
 28 unnecessary. A pending application for a certificate of need for a health care facility described
 29 in AS 18.07.031(f), added by sec. 5 of this Act, shall be returned to the applicant.

30 * **Sec. 10.** The uncodified law of the State of Alaska is amended by adding a new section to
 31 read:

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

5 * **Sec. 11.** The uncodified law of the State of Alaska is amended by adding a new section to
6 read:

7 CERTIFICATE OF NEED STUDY. The Department of Health and Social Services
8 shall contract with an entity that has no financial interest in health care services to conduct a
9 comprehensive study of the effects of the certificate of need program in the state. The
10 department shall provide a copy of the study to the legislature not later than February 15,
11 2009.

12 * **Sec. 12.** Section 2 of this Act takes effect July 1, 2013.

13 * **Sec. 13.** Sections 3 - 5, 9, 10, and 11 of this Act take effect immediately under
14 AS 01.10.070(c).

15 * **Sec. 14.** Except as provided in secs. 12 and 13 of this Act, this Act takes effect July 1,
16 2008.