

Offered: 4/20/83
Referred: Rules

Original sponsors: Fritz, Hayes,
Zharoff, et al

1 IN THE HOUSE BY THE FINANCE COMMITTEE
2 CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 19 (Finance)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 THIRTEENTH LEGISLATURE - FIRST SESSION
5 A BILL
6 For an Act entitled: "An Act relating to the certificate of need program,
7 state aid for health facilities, Medicaid, and
8 general relief medical assistance; and providing for
9 an effective date."
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:
11 * Section 1. AS 18.07.021 is amended to read:
12 Sec. 18.07.021. STATE HEALTH PLANNING AND DEVELOPMENT AGENCY.
13 The division of planning, policy, and program evaluation [OFFICE OF
14 PLANNING AND RESEARCH] in the department is the state health planning
15 and development agency designated under 42 U.S.C. Sec. 300m(b)(3),
16 (Sec. 3, P.L. 93-641) [SEC. 1521(b)(3), P.L. 93-641]. The division
17 [OFFICE] shall perform the functions enumerated under 42 U.S.C.
18 Sec. 300m-2, (Sec. 3, P.L. 93-641) and [SEC. 1523, P.L. 93-641,] admin-
19 ister the certificate of need program [OUTLINED IN AS 18.07.041 -
20 18.07.111,] and other functions prescribed in this chapter.
21 * Sec. 2. AS 18.07.021 is amended to read:
22 Sec. 18.07.021. STATE HEALTH PLANNING AND DEVELOPMENT AGENCY.
23 The division of planning, policy, and program evaluation in the de-
24 partment is the state health planning and development agency desig-
25 nated under 42 U.S.C. Sec. 300m(b)(3), (Sec. 3, P.L. 93-641). The
26 division shall perform the functions enumerated under 42 U.S.C. Sec.
27 300m-2(a)(1)-(3), (a)(6)-(8), (b) and (c) [42 U.S.C. SEC. 300m-2],
28 (Sec. 3, P.L. 93-641), [AND ADMINISTER THE CERTIFICATE OF NEED PRO-
29 GRAM] and other functions prescribed in this chapter.

1 * Sec. 3. AS 18.07.031 is repealed and reenacted to read:

2 Sec. 18.07.031. CERTIFICATE OF NEED REQUIRED. (a) A person may
3 not undertake the following unless authorized under the terms of a
4 certificate of need issued by the division:

5 (1) construction of a health care facility at a cost of
6 \$1,000,000 or more;

7 (2) alteration of the bed capacity of a health care facil-
8 ity;

9 (3) addition or elimination of a category of health ser-
10 vices provided by a health care facility;

11 (4) expenditure of \$1,000,000 or more for diagnostic medi-
12 cal equipment to be used in a health facility.

13 (b) The requirement of (a)(4) of this section does not apply to
14 expenditures for replacement equipment with the same or a similar
15 capability as the equipment replaced.

16 (c) The legislature may not appropriate, nor may a person re-
17 ceive, state money for construction that requires a certificate of
18 need or for a purchase of equipment that requires a certificate of
19 need unless the certificate has been issued or modified under this
20 chapter.

21 * Sec. 4. AS 18.07 is amended by adding a new section to read:

22 Sec. 18.07.033. REVIEW OF APPLICATIONS FOR CERTIFICATE OF NEED.

23 (a) The division, and then the commissioner, shall review applica-
24 tions for certificates of need. The division and the commissioner may
25 consult with a health systems agency or a municipal health commission
26 concerning an application for a certificate of need. Approval of an
27 application for a certificate of need may not be conditioned on ap-
28 proval of the application by a health systems agency or a municipal
29 health commission.

1 (b) Not later than 90 days after an applicant has submitted a
2 completed application for issuance or modification of a certificate of
3 need, the application shall be reviewed by the commissioner and gran-
4 ted or denied.

5 * Sec. 5. AS 18.07.041 is amended to read:

6 Sec. 18.07.041. STANDARD OF REVIEW FOR APPLICATIONS FOR CERTIFI-
7 CATES OF NEED. The division [OFFICE] shall issue [GRANT] a sponsor a
8 certificate of need or modify a certificate of need if the availabil-
9 ity and quality of existing health care resources or the accessibility
10 to those resources is less than the current or projected requirement
11 for health services required to maintain the good health of Alaska
12 citizens.

13 * Sec. 6. AS 18.07.061 is amended to read:

14 Sec. 18.07.061. MODIFICATION AND TERMINATION OF ACTIVITIES. The
15 certificate holder shall apply to the division [OFFICE] for a modifi-
16 cation of the certificate before terminating part of the activities
17 authorized by the terms of issuance, but the certificate holder is not
18 required to obtain the acquiescence of the division [OFFICE] before
19 terminating all the activities authorized by the certificate. If a
20 certificate holder terminates all of the activities authorized by a
21 certificate, the certificate holder is required to notify the division
22 [OFFICE] 60 days before termination and to surrender the certificate
23 to the division [OFFICE] within 30 days of termination.

24 * Sec. 7. AS 18.07.071 is amended to read:

25 Sec. 18.07.071. TEMPORARY AND EMERGENCY CERTIFICATES. (a) The
26 division [OFFICE] shall grant a sponsor an emergency certificate for
27 the construction of a health care facility for which a certificate is
28 required under AS 18.07.031 if the sponsor shows, by affidavit or
29 formal hearing, that the act of construction consists of effecting

1 emergency repairs.

2 (b) The division [OFFICE] may grant a sponsor a temporary cer-
3 tificate for the temporary operation of a category of health service,
4 if the sponsor shows by affidavit or formal hearing

5 (1) the necessity for early, immediate, or temporary re-
6 lief, and

7 (2) adverse effect to the public interest by reason of
8 delay occasioned by compliance with the requirements of AS 18.07.041
9 and application procedures prescribed by regulations under this chap-
10 ter.

11 (c) A temporary certificate granted under (b) of this section
12 confers no vested rights on behalf of the applicant. The division
13 [OFFICE] shall impose those special limitations and restrictions
14 concerning duration and right of extension which the division [OFFICE]
15 considers appropriate. No temporary certificate may be granted for a
16 period longer than necessary for the sponsor to obtain review of the
17 action certified by the temporary certificate under AS 18.07.051.
18 Application for a certificate of need under AS 18.07.041 must commence
19 within 60 days of the date of issuance of the temporary certificate.

20 * Sec. 8. AS 18.07.081(a) is amended to read:

21 (a) The division [OFFICE], a member of the public who is sub-
22 stantially affected by activities authorized by the certificate, or
23 another applicant for a certificate of need may initiate a hearing to
24 obtain modification, suspension or revocation of an existing certifi-
25 cate of need by filing an accusation with the commissioner as pre-
26 scribed under AS 44.62.360. No revocation, modification, or suspen-
27 sion of an outstanding certificate may be undertaken unless it is in
28 accordance with AS 44.62.330 - 44.62.630.

29 * Sec. 9. AS 18.07.081(c) is amended to read:

1 (c) A certificate of need shall be suspended if an accusation is
2 filed before the commencement of activities authorized under AS 18.-
3 07.041 which charges that factors upon which the certificate of need
4 was issued have changed, or new factors have been discovered which
5 significantly alter the need for the activity authorized. A suspen-
6 sion of a certificate may not exceed 60 days. At the end of this
7 period or sooner, the division [OFFICE] shall revoke or reinstate the
8 certificate.

9 * Sec. 10. AS 18.07.101 is amended to read:

10 Sec. 18.07.101. REGULATIONS. The commissioner shall adopt, in
11 accordance with the Administrative Procedure Act (AS 44.62), regula-
12 tions which establish procedures under which sponsors may make appli-
13 cation for certificates of need required by this chapter and which
14 govern the review of those applications by the division [OFFICE],
15 establish requirements for a uniform statewide system of reporting
16 financial and other operating data, and otherwise carry out the pur-
17 poses of this chapter.

18 * Sec. 11. AS 18.07.111 is amended by adding a new paragraph to read:

19 (13) "division" means the division of planning, policy, and
20 program evaluation in the Department of Health and Social Services.

21 * Sec. 12. AS 18.26.220 is repealed and reenacted to read:

22 Sec. 18.26.220. FACILITY COMPLIANCE WITH HEALTH AND SAFETY LAWS
23 AND LICENSING REQUIREMENTS. In order to receive financial assistance
24 under this chapter, a medical facility shall comply with AS 18.20 and
25 the licensing requirements of this chapter.

26 * Sec. 13. AS 29.89.030(a)(1) is repealed and reenacted to read:

27 (1) to a municipality that has the power to provide hospi-
28 tal facilities and services and that exercises that power, \$250,000
29 per hospital for those hospitals with 10 or more acute care beds, and

1 \$50,000 per hospital for those hospitals with less than 10 acute care
2 beds; money received under this paragraph may be used only for hospi-
3 tals and shall be apportioned among qualifying hospitals as the muni-
4 cipality determines;

5 * Sec. 14. AS 47.07.070 is repealed and reenacted to read:

6 Sec. 47.07.070. PAYMENT TO HEALTH FACILITIES. (a) The commis-
7 sion shall determine prospectively the rate of payment to a health
8 facility under this chapter and AS 47.25.120 - 47.25.300 based on a
9 fair rate for reasonable costs incurred by the facility. The commis-
10 sion shall by regulation list the factors it considers in making its
11 rate determinations under this section.

12 (b) In determining a rate of payment to a health facility under
13 this section, the commission shall consider the proportionate share of
14 the facility's financial requirements for patient care for

15 (1) costs of current operations, including salaries and
16 wages; purchased services, supplies, insurance, leases, depreciation,
17 taxes, interest expense, maintenance and other health facility operat-
18 ing expenses; and

19 (2) education, research, and appropriate capital develop-
20 ment.

21 (c) In determining a rate of payment to a health facility under
22 this section, the commission may consider whether the rate of utiliza-
23 tion of the facility has been reduced because of improvement or care-
24 less development of the facility.

25 * Sec. 15. AS 47.07 is amended by adding new sections to read:

26 Sec. 47.07.071. REPORTS BY HEALTH FACILITIES. Not later than
27 120 days after the end of each fiscal year of a health facility, the
28 facility shall submit to the commission a report on the facility's
29 financial performance during the fiscal year.

1 Sec. 47.07.072. REPORT BY THE COMMISSION. Not later than
2 September 30 of each year, the commission shall submit to the governor
3 a report on the prospective payments made under this chapter during
4 the current fiscal year and an estimate of the prospective payments
5 that will be made during the remainder of the current fiscal year and
6 the next fiscal year. The report shall state the assumptions that are
7 used as a basis for the estimates.

8 Sec. 47.07.073. UNIFORM ACCOUNTING, BUDGETING, AND FINANCIAL
9 REPORTING. (a) The commission by regulation shall require a uniform
10 system of accounting, budgeting, and financial reporting for health
11 facilities receiving prospective payments under this chapter. The
12 regulations shall provide for the reporting of revenues, expenses,
13 assets, liabilities, and units of service. The commission shall
14 specify the date the system becomes effective for each health facil-
15 ity.

16 (b) In adopting regulations under this section, the commission
17 shall consider

18 (1) accounting, budgeting, and financial reporting proce-
19 dures used by health facilities;

20 (2) variations among health facilities in the types of
21 health care services provided by health facilities;

22 (3) other factors the commission considers relevant, in-
23 cluding the size and organizational structure of health facilities and
24 the methods used by health facilities to obtain payments.

25 (c) The commission may waive or modify a requirement for ac-
26 counting, budgeting, or financial reporting for a health facility if
27 waiver or modification is

28 (1) necessary to avoid excessive costs to the facility; and

29 (2) consistent with the policies of this chapter.

1 (d) Notwithstanding other provisions of this section, the
2 commission may, by regulation, modify the system of accounting, bud-
3 geting, and financial reporting required under this section for a
4 health facility having less than 25 acute care beds in order to reduce
5 the operating costs of that facility.

6 Sec. 47.07.074. AUDITS AND INSPECTIONS. As a condition of
7 obtaining payment under AS 47.07.070, a health facility shall allow

8 (1) the department and the commission reasonable access to
9 the financial records of medical assistance beneficiaries; and

10 (2) inspection of financial records by state and federal
11 agencies to the extent required by federal law.

12 Sec. 47.07.075. APPLICATION OF ADMINISTRATIVE PROCEDURE ACT.
13 Actions of the commission under AS 47.07 and AS 47.25.120 - 47.25.300
14 are subject to the provisions of the Administrative Procedure Act
15 (AS 44.62).

16 * Sec. 16. AS 47.07.080 is amended by adding new paragraphs to read:

17 (6) "commission" means the Medicaid Rate Commission;

18 (7) "health facility" includes a hospital, skilled nursing
19 facility, intermediate care facility, intermediate care facility for
20 the mentally retarded, rehabilitation facility, inpatient psychiatric
21 facility, home health agency, rural health clinic, and outpatient
22 surgical clinic.

23 * Sec. 17. AS 47.07 is amended by adding new sections to read:

24 ARTICLE 2. MEDICAID RATE COMMISSION.

25 Sec. 47.07.110. MEDICAID RATE COMMISSION ESTABLISHED. The
26 Medicaid Rate Commission is established in the Department of Health
27 and Social Services.

28 Sec. 47.07.120. COMPOSITION OF COMMISSION. The commission
29 consists of five members as follows:

1 (1) the chief executive officer of a health facility that
2 is licensed by the state but not owned or operated by the state or
3 federal government and that is subject to the budget review process
4 under this chapter;

5 (2) the commissioner of administration, the commissioner of
6 health and social services, or the appointed designee of either com-
7 missioner;

8 (3) a physician licensed to practice medicine in the state
9 who is actively engaged in the practice of medicine and who is not
10 employed by the state;

11 (4) a certified public accountant with relevant experience;

12 (5) a person representing consumers of health services who
13 does not have a direct or indirect interest in an entity that provides
14 health care services.

15 Sec. 47.07.130. APPOINTMENT OF MEMBERS. Members of the commis-
16 sion are appointed by the governor and serve at the pleasure of the
17 governor.

18 Sec. 47.07.140. TERM OF MEMBERSHIP. The term of a member of the
19 commission appointed under AS 47.07.120(1), (3), (4), or (5) is three
20 years. A member may not be appointed to a successive term. The terms
21 of the members shall be staggered. A member appointed to fill a
22 vacancy serves for the unexpired term of the member. A term shall be
23 measured from January 1 of the year in which the term of the vacant
24 position begins, regardless of when the vacancy is filled.

25 Sec. 47.07.150. COMPENSATION. A member of the commission serves
26 without compensation but is entitled to per diem and travel expenses
27 authorized by law for boards and commissions under AS 39.20.180.

28 Sec. 47.07.160. OFFICERS. At the first meeting of each year,
29 the commission shall elect a chair from among its members.

1 Sec. 47.07.170. MEETINGS AND QUORUM. The commission shall meet
2 as often as is necessary to conduct its business. Three members of
3 the commission constitute a quorum.

4 Sec. 47.07.180. DUTIES. The commission shall review proposed
5 payment rates and budgets of health facilities and establish payment
6 rates for health facilities under this chapter and AS 47.25.120 -
7 47.25.300.

8 Sec. 47.07.190. EMPLOYMENT OF PERSONNEL. The commission may
9 employ and determine the salary of an executive director. With the
10 approval of the commission, the executive director may select and
11 employ additional staff. The commission shall be assisted by the
12 officers or personnel of the department as the commissioner of health
13 and social services shall direct. The executive director of the
14 commission is in the exempt service under AS 39.25.

15 * Sec. 18. AS 47.25 is amended by adding a new section to read:

16 Sec. 47.25.195. PAYMENT TO HEALTH FACILITIES FOR TREATMENT OF
17 NEEDY PERSONS. (a) The department may make payments to a health
18 facility for the treatment of a needy person.

19 (b) A health facility receiving a payment under this chapter is
20 subject to the requirements of AS 47.07.070 - 47.07.075.

21 (c) For purposes of this section, "health facility" includes a
22 hospital, skilled nursing facility, intermediate care facility, inter-
23 mediate care facility for the mentally retarded, rehabilitation facil-
24 ity, inpatient psychiatric facility, home health agency, rural health
25 clinic, and outpatient surgical clinic.

26 * Sec. 19. INTERIM PROSPECTIVE PAYMENT SYSTEM. The department shall
27 establish an interim system of prospective payments for health facilities
28 under this Act for the period July 1, 1983 to June 30, 1984.

29 * Sec. 20. During the second regular session of the Fourteenth Alaska

1 State Legislature, and every third regular session thereafter, the
2 legislature shall review the certificate of need program (AS 18.07.031 -
3 18.07.111) and the state aid for hospital and health facility construction
4 program (AS 29.90). If after review the legislature determines that con-
5 tinuation of these programs is in the public interest, a bill may be intro-
6 duced to continue the programs.

7 * Sec. 21. The sponsor of a hospital or health facility construction
8 project who is receiving or entitled to receive state aid under AS 29.90 on
9 June 30, 1986, shall continue to receive state aid until the sponsor has
10 received an amount which, combined with state matching money for con-
11 struction of the hospital or health facility, equals 25 percent of the
12 total project cost. Money received for construction may not be used for
13 any other purpose.

14 * Sec. 22. AS 18.07.031 - 18.07.101, 18.07.111(1) - (4), 18.07.111-
15 (7) - (9), 18.07.111(11), AS 29.90 and AS 47.80.140(b) are repealed.

16 * Sec. 23. AS 18.07.111(10) and AS 47.07.080(1) are repealed.

17 * Sec. 24. Sections 2, 12, 21, and 22 of this Act take effect July 1,
18 1986.

19 * Sec. 25. Sections 1, 3 - 11, 13 - 20, and 23 of this Act take effect
20 immediately in accordance with AS 01.10.070(c).