

Introduced: 5/5/89
Referred: Judiciary and Finance

6-1090E

1 IN THE SENATE

BY HALFORD

2

SENATE BILL NO. 324

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

SIXTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act establishing a program for the investigation
7 and prosecution of health care providers who violate
8 laws in connection with the state medical assistance
9 program; requiring the Department of Law to establish
10 procedures for review of complaints of patient abuse
11 or neglect in health facilities that receive payments
12 under the state medical assistance program; and
13 authorizing the commissioner of public safety to
14 designate employees of the Department of Law as peace
15 officers for certain purposes."

16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

17 * Section 1. AS 44.23 is amended by adding new sections to read:

18 Sec. 44.23.070. MEDICAID INVESTIGATION PROGRAM. (a) The De-
19 partment of Law shall conduct a statewide program for the investiga-
20 tion and prosecution of violations of AS 11 committed by health care
21 providers in connection with the medical assistance program estab-
22 lished under AS 47.07.

23 (b) The program established under (a) of this section shall be
24 established in a manner that satisfies federal requirements under
25 42 U.S.C. 1396b(q).

26 (c) The department shall make reports to the federal government
27 and otherwise cooperate with the federal government to the extent
28 necessary to qualify the state to receive federal reimbursement for
29 expenses incurred through operation of the program established under

1 this section.

2 (d) If the department has cause to believe that a provider of
3 health care has committed a violation of AS 11 in connection with the
4 medical assistance program established under AS 47.07, the department
5 may

6 (1) conduct audits and investigations of health care pro-
7 viders who receive payments under AS 47.07;

8 (2) examine under oath any person in connection with the
9 provision of health care services under AS 47.07;

10 (3) examine a health care provider's records, books, docu-
11 ments, accounts, or other papers or property that the department
12 considers necessary, subject to AS 44.23.075;

13 (4) make true copies of records, books, documents, ac-
14 counts, or papers examined under (3) of this subsection, that may be
15 offered in evidence in place of the originals in actions brought under
16 AS 11 in connection with AS 44.23.070 - 44.23.075;

17 (5) issue subpoenas to require the attendance of witnesses
18 or their production of documents or other physical evidence, adminis-
19 ter oaths, and conduct hearings to aid an investigation or inquiry
20 under this section; the powers granted under this paragraph may be
21 delegated to investigators in the department who are appointed for
22 this purpose by the commissioner of public safety as peace officers
23 authorized to enforce or assist in enforcing any laws of the state;
24 investigators described in this paragraph may serve a summons under
25 Rule 4(c), Alaska Rules of Civil Procedure, and under Rule 4(c),
26 Alaska Rules of Criminal Procedure.

27 Sec. 44.23.075. LIMITATIONS ON POWERS. The power of the depart-
28 ment under AS 44.23.070 to have access to records, books, documents,
29 accounts, or papers is subject to the following limitations:

1 (1) the department may not remove original patient records
2 from the premises of the health care provider without a court order;

3 (2) the department may not disclose any records or informa-
4 tion unless the disclosure is directly connected to the official
5 purpose for which the records or information were obtained;

6 (3) evidence resulting from disclosure may not be used in
7 any other civil, administrative, or criminal proceeding against the
8 patient unless a waiver of the applicable evidentiary privilege is
9 obtained; and

10 (4) the department shall destroy all copies of patient
11 medical records in its possession upon completion of the audit, inves-
12 tigation, or proceeding.

13 Sec. 44.23.080. PATIENT ABUSE AND NEGLECT. The Department of
14 Law shall establish procedures for reviewing complaints of abuse and
15 neglect of patients of health facilities that receive payments under
16 AS 47.07. The department shall act upon the complaints under the
17 criminal laws of the state or refer them to other appropriate entities
18 for action.

19 * Sec. 2. AS 44.41 is amended by adding a new section to read:

20 Sec. 44.41.023. APPOINTMENT OF PEACE OFFICERS. The commissioner
21 of public safety may designate employees of the Department of Law to
22 be peace officers who may enforce the laws of the state for purposes
23 of AS 44.23.070 - 44.23.075.

24 * Sec. 3. AS 47.07 is amended by adding a new section to read:

25 Sec. 47.07.065. CIVIL PENALTIES FOR VIOLATIONS. In addition to
26 other remedies provided by law, a provider of medical services for
27 which reimbursement is provided under this chapter who is convicted of
28 violating a provision of AS 11 in connection with services provided or
29 reimbursement received under this chapter and who received an

1 overpayment as a result of the conduct for which the provider was
2 convicted is subject to the following civil penalties:

3 (1) an amount not to exceed three times the amount of the
4 overpayment;

5 (2) payment of interest on the amount of overpayment at the
6 rate of interest established under AS 45.45.010(a) for the period
7 beginning the date the payment was made to the provider and ending on
8 the date repayment is made to the state; and

9 (3) reasonable expenses that a court determines have been
10 necessarily incurred by the state in the investigation and prosecution
11 of the violation that resulted in the overpayment.