

SENATE BILL NO. 249
IN THE LEGISLATURE OF THE STATE OF ALASKA
SEVENTEENTH LEGISLATURE - FIRST SESSION

BY SENATORS FAHRENKAMP, Sturgulewski, Rodey, Adams

Introduced: 4/12/91
Referred: HES, Judiciary, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act providing for a woman's right to choose abortion without governmental
2 interference; protecting the right to use birth control; relating to payment for abortions
3 under Medicaid and general relief medical assistance; and providing for an effective date."

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

5 * Section 1. INTENT. The intent of AS 47.07.067 and AS 47.25.197, enacted by secs. 5 and 6 of
6 this Act, is to provide for payment for abortion services under AS 47.07 (Medicaid program) and
7 AS 47.25.120 - 47.25.300 (general relief medical assistance) to the extent that they were provided under
8 7 AAC 43.140, 7 AAC 43.825, 7 AAC 43.835, 7 AAC 47.210(7), 7 AAC 47.200(4)(E), 7 AAC
9 47.290(3) and (5), and related regulations that were in effect on April 10, 1991.

10 * Sec. 2. AS 18.16 is amended by adding new sections to read:

11 Sec. 18.16.020. DECLARATION OF PUBLIC POLICY. The legislature finds and
12 declares that an individual decision to commence, prevent, continue, or terminate a pregnancy
13 is a matter of profound personal choice. It is the public policy of the state to prevent
14 governmental interference with the rights of all individuals to use birth control and the rights of

1 all women to choose childbirth or to obtain a safe and legal abortion, as described in this chapter.

2 Sec. 18.16.030. PROTECTION OF REPRODUCTIVE CHOICE. (a) The state, an
3 instrumentality of the state, or a political subdivision of the state may not interfere with a
4 woman's personal choice to

5 (1) commence, prevent, or continue a pregnancy; or

6 (2) have an abortion before the point of fetal viability, or at any time if the
7 abortion is necessary to preserve the woman's life or health.

8 (b) The state, an instrumentality of the state, or a political subdivision of the state may
9 not interfere with the use of medically appropriate methods of contraception or abortion or the
10 manner in which medically appropriate methods of contraception or abortion are provided.

11 (c) In this section,

12 (1) "interfere with" includes restrict, infringe, prevent, impede, prohibit, limit,
13 penalize, burden, or engage in an activity, whether intentional or unintentional, that creates a
14 disparate treatment or adverse effect;

15 (2) "medically appropriate" means generally recognized as medically safe and
16 effective or recommended by a physician in the good faith exercise of the physician's best
17 professional judgment, as regulated by generally accepted standards, licensing requirements for
18 medical facilities, or laws governing the prescription of drugs or medical devices;

19 (3) "pregnancy" means the reproductive process beginning with the implantation
20 of a fertilized ovum in the uterus;

21 (4) "viability" means the point at which, in the professional judgment of the
22 woman's physician, based upon the particular facts of the case, there is a reasonable likelihood
23 of sustained survival of the fetus outside the woman's uterus, with or without artificial aid.

24 Sec. 18.16.040. REGULATIONS. The Department of Health and Social Services may
25 adopt regulations relating to abortion but only if the regulations

26 (1) are designed to protect the life or health of a woman undergoing an abortion;

27 (2) constitute the least restrictive means of furthering the state's interest in the
28 woman's life or health;

29 (3) are consistent with established medical practice; and

30 (4) do not delay, increase the cost of, or limit the availability of an abortion.

31 Sec. 18.16.100. SHORT TITLE. This chapter may be cited as The Reproductive Privacy

1 Act.

2 * Sec. 3. AS 08.64.326(a) is amended to read:

- 3 (a) The board may impose a sanction if the board finds after a hearing that a licensee
4 (1) secured a license through deceit, fraud, or intentional misrepresentation;
5 (2) engaged in deceit, fraud, or intentional misrepresentation while providing
6 professional services or engaging in professional activities;
7 (3) advertised professional services in a false or misleading manner;
8 (4) has been convicted, including conviction based on a guilty plea or plea of nolo
9 contendere, of
10 (A) a felony or other crime if the felony or other crime is substantially
11 related to the qualifications, functions, or duties of the licensee; or
12 (B) a crime involving the unlawful procurement, sale, prescription, or
13 dispensing of drugs;
14 (5) has procured, sold, prescribed, or dispensed drugs in violation of a law,
15 regardless of whether there has been a criminal action;
16 (6) intentionally or negligently permitted the performance of patient care by
17 persons under the licensee's supervision that does not conform to minimum professional
18 standards even if the patient was not injured;
19 (7) failed to comply with this chapter, a regulation adopted under this chapter, or
20 an order of the board;
21 (8) has demonstrated
22 (A) professional incompetence, gross negligence, or repeated negligent
23 conduct; the board may not base a finding of professional incompetence solely on the
24 basis that a licensee's practice is unconventional or experimental in the absence of
25 demonstrable physical harm to a patient;
26 (B) addiction to, severe dependency on, or habitual overuse of alcohol or
27 other drugs that impairs the licensee's ability to practice safely;
28 (C) unfitness because of physical or mental disability;
29 (9) engaged in unprofessional conduct or in lewd or immoral conduct in
30 connection with the delivery of professional services to patients;
31 (10) has violated a regulation adopted under AS 18.16.040 [AS 18.16.010];

1 (11) has violated any code of ethics adopted by regulation by the board;

2 (12) has denied care or treatment to a patient or person seeking assistance from
3 the physician if the only reason for the denial is the failure or refusal of the patient to agree to
4 arbitrate as provided in AS 09.55.535(a); or

5 (13) has had a license or certificate to practice medicine in another state or
6 territory of the United States, or a province or territory of Canada suspended or revoked unless
7 the suspension or revocation was caused by the failure of the licensee to pay fees to that state,
8 territory, or province.

9 * Sec. 4. AS 09.65.100(a) is amended to read:

10 (a) A [EXCEPT AS PROHIBITED UNDER AS 18.16.010(a)(3),

11 (1) A] minor who is living apart from the minor's parents or legal guardian and
12 who is managing the minor's own financial affairs, regardless of the source or extent of income,
13 may give consent for medical and dental services for the minor. A [;

14 (2) A] minor may give consent for medical and dental services if the parent or
15 legal guardian of the minor cannot be contacted or, if contacted, is unwilling either to grant or
16 withhold consent; however, where the parent or legal guardian cannot be contacted or, if
17 contacted, is unwilling either to grant or to withhold consent, the provider of medical or dental
18 services shall counsel the minor keeping in mind not only the valid interests of the minor but also
19 the valid interests of the parent or guardian and the family unit as best the provider presumes
20 them. A [;

21 (3) A] minor who is the parent of a child may give consent to medical and dental
22 services for the minor or the child. A [;

23 (4) A] minor may give consent for diagnosis, prevention or treatment of
24 pregnancy, and for diagnosis and treatment of venereal disease. The [;

25 (5) THE] parent or guardian of the minor is relieved of all financial obligation
26 to the provider of the service under this section.

27
28 * Sec. 5. AS 47.07 is amended by adding a new section to read:

29 Sec. 47.07.067. PAYMENT FOR ABORTIONS. (a) The department shall pay for
30 abortion procedures under this chapter to the extent permitted under federal law.

31 (b) An abortion procedure not covered by federal law for a person otherwise eligible for

1 assistance under this chapter shall be covered under AS 47.25.197.

2 * Sec. 6. AS 47.25 is amended by adding a new section to read:

3 Sec. 47.25.197. PAYMENT FOR ABORTIONS. Notwithstanding AS 47.25.200 or any
4 other provision of law, the department shall provide medical assistance payments under
5 AS 47.25.120 - 47.25.300 for the cost of services reasonably necessary for a therapeutic or
6 elective abortion performed by a physician for a person who is eligible for assistance under
7 AS 47.07.067(b) or AS 47.25.120 - 47.25.300.

8 * Sec. 7. AS 08.64.105 and AS 18.16.010 are repealed.

9 * Sec. 8. This Act takes effect immediately under AS 01.10.070(c).