

SB

364

HFIN

FILE

MICHAEL D. BRANDNER, M.D.
PLASTIC AND RECONSTRUCTIVE SURGERY
SURGERY OF THE HAND AND MICROVASCULAR SURGERY

MAY 9, 2002

TO: HOUSE JUDICIARY COMMITTEE
I AM A PHYSICIAN PRACTICING
IN ANCHORAGE AND I AM IN SUPPORT
OF SB 364. THIS BILL, IF PASSED
WOULD PREVENT THE MEDICAID
FINANCING OF MEDICALLY UN-
NECESSARY ABORTIONS (AS MOST
OF THEM ARE) AS I UNDER-
STAND IT. PASSING THIS
BILL WOULD BE AN EXCELLENT
MORAL/ETHICAL CHOICE AS
WELL AS A VERY GOOD FISCAL
MOVE FOR ALASKA.
THANK YOU.

SINLERELY

Michael D Brandner MD

requested, including a statement from a physician. Within 60 days after the department receives a completed application for a waiver or renewal for a waiver under this section, the commissioner will notify the applicant that

(1) the commissioner approves the waiver subject to conditions he or she has established; or

(2) the commissioner denies the waiver.

(n) Notwithstanding (a) — (m) of this section, the commissioner will not grant a general relief medical waiver under this section at any time on or after October 1, 1995. (Eff. 12/24/85, Register 96; am 11/20/94, Register 132)

Authority: AS 47.05.010
AS 47.25.120

AS 47.25.230

AS 47.25.252

7 AAC 47.290. DEFINITIONS. In 7 AAC 47.010 — 7 AAC 47.290

(1) "prescribed drug" means a simple or compound substance, or mixtures of substances, prescribed for the cure, mitigation, or prevention of disease, or for health maintenance that is prescribed by a physician or other licensed practitioner of the healing arts within the scope of practice as defined and limited by federal and state law, and is dispensed by a licensed pharmacist on a valid prescription that is recorded and maintained in the pharmacist's records;

(2) "disabled" or "disability" means being unable to or the inability to engage in substantial gainful activity by reason of a medically determinable physical or mental impairment that can be expected to result in death or that has lasted or can be expected to last for a continuous period of not less than 12 months;

(3) "elective procedure" means a procedure that is subject to the choice or decision of the patient or physician regarding medical services that are advantageous to the patient but not necessary to prevent the death or disability of the patient, and includes an elective abortion;

(4) "major medical care" means non-elective inpatient hospital services that cannot be performed on an outpatient basis and that are certified as necessary by the professional review organization contracted by the division of medical assistance; "major medical care" does not include inpatient psychiatric hospital services;

(5) repealed 2/19/93;

(6) "recipient" means an individual who is financially eligible for General Relief Medical assistance and who may receive a covered medical service if determined to be eligible to receive the service;

(7) "elective abortion" means a procedure, other than a therapeutic abortion, to terminate a pregnancy;

(8) "therapeutic abortion" means the termination of a pregnancy;

(A) certified by a physician as medically necessary to prevent the death or disability of the woman, or to ameliorate a condition harmful to the woman's physical or psychological health; or

(B) that resulted from actions that would constitute a crime of sexual assault under AS 11.41.410 — 11.41.425, a crime of sexual abuse of a minor under AS 11.41.434 — 11.41.440, or the crime of incest under AS 11.41.450. (Eff. 8/1/85, Register 95; am 12/4/85, Register 96; am 8/1/86, Register 99; am 11/26/86, Register 100; am 2/19/93, Register 125; am 8/8/97, Register 143)

Authority: AS 47.05.010
AS 47.25.120

AS 47.25.130

AS 47.25.170

ARTICLE 2. GENERAL RELIEF ADULT RESIDENTIAL CARE.

Section	Section
300. Scope	410. Availability of hearing
310. Adult residential care	420. Report of change
320. Adult residential care facility	430. Review of eligibility
330. Eligible individuals	440. Facility application
340. Income limits	450. Payment by individual
350. Resource limits	460. Payment by department
360. Relative responsibility	470. Rates
370. Concurrent applications	480. Services provided
380. Alternative resources	490. Absence or discharge
390. Assistance application	500. Facility agreement
400. Eligibility determination and placement	510. Emergency placement
	520. Fraud

7 AAC 47.300. SCOPE. The department has determined that a need exists among the state's adult population for the availability of nonmedical residential care. The purpose of the program described in this chapter is to provide financial assistance to needy adults who are lacking in adaptive behavior to the degree that they require the protective oversight of an adult residential care facility. The program objective is to enable those adults to obtain the level of care which an individual could receive in his or her own home from interested friends or relatives and to live in the least restrictive setting possible. (Eff. 11/23/80, Register 76)

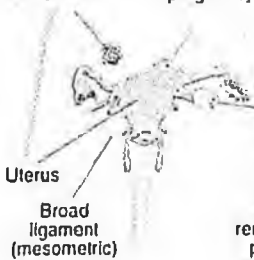
Authority: AS 47.05.010

AS 47.25.120

7 AAC 47.310. ADULT RESIDENTIAL CARE. Adult residential care is a range of care which includes more than room and board but which does not include continuous nursing or medical care. It encompasses 24-hour supportive and protective services in all activities of normal daily living for an individual 18 years of age or older. The care is provided in a residential environment and encourages independent living to the extent possible for each resident. (Eff. 11/23/80, Register 76)

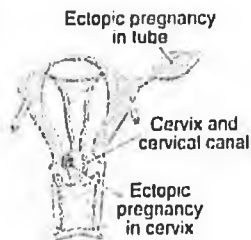
Ectopic pregnancies are reported by site where abnormal attachment occurs; more than 95 percent occur in the fallopian tube

Abdominal pregnancy



Site of interstitial pregnancy

Half of all ectopic pregnancies resolve spontaneously without rupture but surgical intervention is usually necessary for the remainder; rarely, an abdominal or mesometric pregnancy may continue until a viable fetus is delivered through an abdominal incision



Ovarian pregnancy

Ectopic pregnancy in cervix

633 Ectopic pregnancy

Pregnancy in which the fertilized egg develops outside the uterine environment.

INCLUDES ruptured ectopic pregnancy

633.0 Abdominal pregnancy

Intraperitoneal pregnancy

633.1 Tubal pregnancy

Fallopian pregnancy

Rupture of (fallopian) tube due to pregnancy

Tubal abortion

633.2 Ovarian pregnancy

633.8 Other ectopic pregnancy

Pregnancy:

cervical

combined

cornual

Pregnancy:

Intraligamentous

mesometric

mural

633.9 Unspecified ectopic pregnancy

OTHER PREGNANCY WITH ABORTIVE OUTCOME (634-639)

The following fourth-digit subdivisions are for use with categories 634-638:

.0 Complicated by genital tract and pelvic infection

Endometritis

Salpingo-oophoritis

Sepsis NOS

Septicemia NOS

Any condition classifiable to 639.0, with condition classifiable to 634-638

EXCLUDES urinary tract infection (634-638 with .7)

.1 Complicated by delayed or excessive hemorrhage

Allbrinogenemia

Defibrination syndrome

Intravascular hemolysis

Any condition classifiable to 639.1, with condition classifiable to 634-638

.2 Complicated by damage to pelvic organs and tissues

Laceration, perforation, or tear of:

bladder

uterus

Any condition classifiable to 639.2, with condition classifiable to 634-638

.3 Complicated by renal failure

Oliguria

Uremia

Any condition classifiable to 639.3, with condition classifiable to 634-638

.4 Complicated by metabolic disorder

Electrolyte imbalance with conditions classifiable to 634-638

.5 Complicated by shock

Circulatory collapse

Shock (postoperative) (septic)

Any condition classifiable to 639.5, with condition classifiable to 634-638

.6 Complicated by embolism

Embolism:

NOS

amniotic fluid

pulmonary

Any condition classifiable to 639.6, with condition classifiable to 634-638

.7 With other specified complications

Cardiac arrest or failure

Urinary tract infection

Any condition classifiable to 639.8, with condition classifiable to 634-638

.8 With unspecified complication

.9 Without mention of complication

634 Spontaneous abortion

Spontaneous expulsion from the uterus of products of conception.

INCLUDES miscarriage
spontaneous abortion

Requires fifth-digit to identify stage:

0 unspecified

1 incomplete

2 complete

634.0 Complicated by genital tract and pelvic infection

634.1 Complicated by delayed or excessive hemorrhage

634.2 Complicated by damage to pelvic organs or tissues

634.3 Complicated by renal failure

634.4 Complicated by metabolic disorder

634.5 Complicated by shock

634.6 Complicated by embolism

634.7 With other specified complications

634.8 With unspecified complication

634.9 Without mention of complication

635 Legally induced abortion

Intentional expulsion from the uterus of products of conception; by medical professionals within the boundaries of the law.

INCLUDES abortion or termination of pregnancy:
elective
legal
therapeutic

EXCLUDES menstrual extraction or regulation (V25.3)

Requires fifth-digit to identify stage:

0 unspecified

1 incomplete

2 complete

635.0 Complicated by genital tract and pelvic infection

635.1 Complicated by delayed or excessive hemorrhage

635.2 Complicated by damage to pelvic organs or tissues

635.3 Complicated by renal failure

635.4 Complicated by metabolic disorder

635.5 Complicated by shock

635.6 Complicated by embolism

635.7 With other specified complications

635.8 With unspecified complication

635.9 Without mention of complication

636 Illegally induced abortion

Intentional expulsion from the uterus of products of conception; outside the boundaries of the law.

INCLUDES abortion:
criminal
illegal
self-induced

Requires fifth-digit to identify stage:

- 0 unspecified
- 1 incomplete
- 2 complete

- 636.0 Complicated by genital tract and pelvic infection
 - 636.1 Complicated by delayed or excessive hemorrhage
 - 636.2 Complicated by damage to pelvic organs or tissues
 - 636.3 Complicated by renal failure
 - 636.4 Complicated by metabolic disorder
 - 636.5 Complicated by shock
 - 636.6 Complicated by embolism
 - 636.7 With other specified complications
 - 636.8 With unspecified complication
 - 636.9 Without mention of complication
- 637 Unspecified abortion
- INCLUDES** abortion NOS
retained products of conception following abortion,
not classifiable elsewhere

Requires fifth-digit to identify stage:

- 0 unspecified
- 1 incomplete
- 2 complete

- 637.0 Complicated by genital tract and pelvic infection
- 637.1 Complicated by delayed or excessive hemorrhage
- 637.2 Complicated by damage to pelvic organs or tissues
- 637.3 Complicated by renal failure
- 637.4 Complicated by metabolic disorder
- 637.5 Complicated by shock
- 637.6 Complicated by embolism
- 637.7 With other specified complications
- 637.8 With unspecified complication
- 637.9 Without mention of complication

638 Failed attempted abortion

Failed, intentional expulsion from the uterus of products of conception.

INCLUDES failure of attempted induction of (legal) abortion

EXCLUDES incomplete abortion (634.0-637.9)

- 638.0 Complicated by genital tract and pelvic infection
- 638.1 Complicated by delayed or excessive hemorrhage
- 638.2 Complicated by damage to pelvic organs or tissues
- 638.3 Complicated by renal failure
- 638.4 Complicated by metabolic disorder
- 638.5 Complicated by shock
- 638.6 Complicated by embolism
- 638.7 With other specified complications
- 638.8 With unspecified complication
- 638.9 Without mention of complication

639 Complications following abortion and ectopic and molar pregnancies

Note: This category is provided for use when it is required to classify separately the complications classifiable to the fourth-digit level in categories 634-638; for example:

- a) when the complication itself was responsible for an episode of medical care, the abortion, ectopic or molar pregnancy itself having been dealt with at a previous episode
- b) when these conditions are immediate complications of ectopic or molar pregnancies classifiable to 630-638 where they cannot be identified at fourth-digit level.

639.0 Genital tract and pelvic infection

Endometritis
Parametritis
Pelvic peritonitis
Salpingitis
Salpingo-oophoritis
Sepsis NOS
Septicemia NOS

following conditions classifiable to 630-638

EXCLUDES urinary tract infection (639.8)

639.1 Delayed or excessive hemorrhage

Excessive bleeding from the uterus.

Afibrinogenemia
Defibrination syndrome
Intravascular hemolysis

following conditions classifiable to 630-638

639.2 Damage to pelvic organs and tissues

Laceration, perforation, or tear of:
bladder
bowel
broad ligament
cervix
periurethral tissue
uterus
vagina

following conditions classifiable to 630-638

639.3 Renal failure

Decline in the ability of the kidneys to filter and cleanse the blood.

Oliguria
Renal:
failure (acute)
shutdown
tubular necrosis
Uremia

following conditions classifiable to 630-638

639.4 Metabolic disorders

Electrolyte imbalance following conditions classifiable to 630-638

639.5 Shock

Circulatory collapse
Shock (postoperative)
(septic)

following conditions classifiable to 630-638

639.6 Embolism

Sudden blockage of an artery.

Embolism:
NOS
air
amniotic fluid
blood-clot
fat
pulmonary
pyemic
septic
soap

following conditions classifiable to 630-638

639.8 Other specified complications following abortion or ectopic and molar pregnancy

Acute yellow atrophy or necrosis of liver
Cardiac arrest or failure
Cerebral anoxia
Urinary tract infection

following conditions classifiable to 630-638

639.9 Unspecified complication following abortion or ectopic and molar pregnancy

Complication(s) not further specified following conditions classifiable to 630-638

FISCAL NOTE

STATE OF ALASKA
2002 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: SB 364
 (s) Publish Date: 4/24/02

Revision Date/Time (Note if correction): _____ Dept. Affected: Health & Social Services
 Title: MEDICAL SERVICES UNDER THE STATE MEDICAID PROGRAM BRU: Medical Assistance
 Component: Medicaid Services
 Sponsor: SENATE (RLS) BY REQUEST
 Requestor: SENATE (FIN) Component Number: 2077

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	*	*	*	*	*	*

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES (0)						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type—do not abbrevia						
TOTAL	*	*	*	*	*	*

Estimate of any current year (FY2002) cost: _____

Check this box (X) if funding for this bill is included in the Governor's FY 2003 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

The department cannot determine a fiscal impact related to this bill, as it is unclear how physicians will interpret the language in subsection (b), and how that interpretation may or may not differ from current practice in referring a woman for an abortion.

Prepared by: Nancy Weller Phone 465-3355
 Division: Medical Assistance Date/Time 04/22/2002
 Approved by: Elmer A. Linstrom, Deputy Commissioner Date 04/22/2002
 Agency: Department of Health & Social Services

For distribution information, call the Governor's Legislative Office

SENATE BILL NO. 364

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SECOND LEGISLATURE - SECOND SESSION

BY THE SENATE RULES COMMITTEE BY REQUEST

Introduced: 4/18/02
Referred: Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to medical services under the state Medicaid program."

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

3 * Section 1. AS 47.07 is amended by adding a new section to read:

4 Sec. 47.07.068. Payment for abortions. (a) Except as otherwise required by
5 federal law, the department may pay for an abortion under this chapter only if the
6 abortion is a medically necessary abortion or is an abortion to terminate a pregnancy
7 resulting from rape or incest. The department shall adopt regulations regarding
8 payment for abortions in conformity with this section and applicable federal
9 regulations.

10 (b) A claim for payment for a medically necessary abortion that is submitted
11 to the department must be accompanied by a written certification by the treating
12 physician that the abortion is medically necessary to treat a serious

13 (1) adverse physical condition of a pregnant woman that

14 (A) either is caused by the pregnancy or would be significantly
15 aggravated by continuation of the pregnancy; and

1 (B) would seriously endanger the physical health of the woman
2 if the pregnancy were not terminated by an abortion; or

3 (2) psychological illness of a pregnant woman who requires
4 medication for treatment of the illness if

5 (A) the medication required to treat the illness would be highly
6 dangerous to the fetus; and

7 (B) the health of the woman would be endangered if the
8 medication was not taken during the pregnancy.

9 (c) In this section,

10 (1) "abortion" has the meaning given in AS 18.16.090;

11 (2) "incest" means an act that would constitute the crime of incest
12 under AS 11.41.450;

13 (3) "rape" means an act that would constitute a crime of sexual assault
14 or sexual abuse of a minor under AS 11.41.410 - 11.41.440.

**Number and Percent
of Reported Induced Abortions
with Any Mention of
Immediate Complication
by Type of Immediate Complication
Michigan Occurrences, 2000**

TYPE OF IMMEDIATE COMPLICATIONS	NUMBER	PERCENT
Total Immediate Complications	26	0.10
Shock	9	0.03
Uterine Perforation	4	0.01
Cervical Laceration	0	0.00
Hemorrhage	5	0.02
Allergic Response	1	0.00
Death	0	0.00
Infection	0	0.00
Retained Products	8	0.03
Other Complications	3	0.01

Note: Abortions with at least one immediate complication does not equal the sum of all the complications specified because a woman may have multiple complications reported.

Source: 2000 File of Reported Induced Abortions Occurring in Michigan, Division for Vital Records and Health Statistics, Michigan Department of Community Health

- [Natality & Pregnancy Index](#)
- [Statistics & Reports](#)
- [Community Health Home](#)
- [Michigan.gov](#)

Immediate Complications--By Type ▼

◀ Previous Next ▶

**Number and Percent
of Reported Induced Abortions
with Any Mention of
Subsequent Complication
by Type of Subsequent Complication
Michigan Occurrences, 2000**

TYPE OF SUBSEQUENT COMPLICATIONS	NUMBER	PERCENT
Total Subsequent Complications	7	0.03
Shock	0	0.00
Uterine Perforation	0	0.00
Cervical Laceration	0	0.00
Hemorrhage	3	0.01
Allergic Response	0	0.00
Death	0	0.00
Infection	2	0.01
Retained Products	0	0.00
Other Complications	3	0.01

Note: Abortions with at least one subsequent complication does not equal the sum of all the complications specified because women may have multiple complications reported.

Source: 2000 File of Reported Induced Abortions Occurring in Michigan, Division for Vital Records and Health Statistics, Michigan Department of Community Health

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CERTIFICATE TO REQUEST FEDERAL (MEDICAID) FUNDS FOR ABORTION

Effective November 13, 1997, Congress passed another revision of the Hyde Amendment pertaining to federally funded Medicaid abortions. The provision states that federal funds are available for an abortion only "(1) if the pregnancy is the result of an act of rape or incest; or (2) in the case where a woman suffers from a physical disorder, physical injury, or physical illness, including a life-endangering physical condition caused by or arising from the pregnancy itself, that would, as certified by a physician, place the woman in danger of death unless an abortion is performed."

(Recipient's Full Name)

(Recipient's Medicaid Identification Number)

had an abortion procedure performed on / / .
(Mo. / Day / Year)

Indicate the circumstance that applies below:

I certify that prior to performing the abortion procedure on the above patient to terminate her pregnancy, I obtained a non-notarized signed statement from the patient that her pregnancy was the result of an act of rape or incest. That statement is now part of the patient's medical record.

I certify that in my professional judgement, the abortion procedure on the above patient was performed due to physical disorder, physical injury, or physical illness, including a life-endangering physical condition caused by or arising from the pregnancy itself, that would place the woman in danger of death unless an abortion was performed, based on full consideration of all factors as described in the attached operative report.

(Signature of Recipient's Attending Physician)

M.D.

D.O.

(Month / Day / Year)

(Date of Physician's Signature)

This certificate to request federal (Medicaid) funds for an abortion must be personally signed and dated by the recipient's attending physician. A facsimile signature or signature of the physician's authorized representative is not acceptable. Each provider submitting a claim for abortion services (e.g., physician, inpatient hospital, outpatient hospital) must attach a completed certificate bearing an original signature of the recipient's attending physician. The signature requirement will not be waived for resubmission.

Rev 10/98

Figure II-3. Certificate to Request Federal (Medicaid) Funds for Abortion

Alaska State Legislature

Session:
State Capitol
Juneau, AK 99801
Phone: (907) 465-2327
Fax: (907) 465-5241



Interim:
119 N. Cushman
Fairbanks, AK 99701
Phone: (907) 456-8161
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Senator Pete Kelly
District P

SB 364 Sponsor Statement

“An Act relating to medical services under the State Medicaid program”

A majority of Alaskans agree it is inappropriate to use state funds to provide elective abortions. Despite the many efforts of the legislature, however, we have been unable to implement the will of the people. All attempts to bring Alaskan Medicaid funding under federal standards, which prohibit funding abortions except for rape, incest and life of mother, have been thwarted by the Alaska Supreme Court.

The Alaska Administrative Code defines therapeutic abortion as, “the termination of a pregnancy; certified by a physician as *medically necessary* to prevent the death or disability of the woman, or to ameliorate a condition harmful to the woman’s physical or psychological health.” *Medically necessary* has proved too broad, allowing elective abortions to take cover under its umbrella of protection. Currently, any form of emotional discomfort a woman may experience from pregnancy could warrant a “medically necessary” termination.

SB 364 defines “medically necessary” thus restricting Medicaid funded abortions to those cases that fall under Hyde Amendment guidelines.