

ALASKA LEGISLATURE COMMITTEE FILES 1993-1994 8672

8270 SENATE HEALTH EDUCATION & SOCIAL SERVICES

SB

231

SENATE COMMITTEE REPORT
FIRST COMMITTEE OF REFERRAL

DATE: 1/10/94

FURTHER: Finance

Date of 5-Day Notice: 3/24/94
(in accordance with Uniform Rule 23)

DATE TURNED INTO OFFICE: 3/31/94

HES Committee considered SENATE BILL NO. 231

"An Act providing coverage under Medicaid for the services of physician assistants; and reordering the priorities for Medicaid services."

and recommends:

replace with _____ CS SB 231 (HES)

same title
 new title
 technical title change (HB only)

attaches amendment(s)

adopts _____ Letter of Intent

further referral to the _____

do pass

do not pass

no recommendation

individual recommendations

FISCAL NOTE INFORMATION

Department	Date	Zero	Fiscal
HSS	2/14/94		999.6
HSS	2/14/94		99.0

Department	Date	Zero	Fiscal

Appropriation No Fiscal Note

Governor's Bill with Previous Fiscal Notes (enter information above)

DO PASS.

OTHER RECOMMENDATIONS:

[Signature]

Loren A. Luman No rec
Judith E. Salo No Rec
Mike Miller No Rec
[Signature]

[Signature] No Recommendation
(Chair: Signature and Recommendation)

SPONSOR STATEMENT S.B. 231

MEDICAID COVERAGE PHYSICIAN ASSTS. SERVICES

SENATOR JAY KERTTULA

THIS BILL WOULD ADD THE SERVICES OF PHYSICIAN ASSISTANTS TO THE LIST OF MEDICAID REIMBURSABLE SERVICES. PHYSICIAN ASSISTANTS ARE NOW ABLE TO WORK AT A REMOTE SITE UNDER THE SUPERVISION OF A DOCTOR. ALTHOUGH THE DOCTOR MUST PROVIDE PATIENT REVIEW OF EACH CASE, THE PHYSICIAN ASSISTANT ACTUALLY SEES THE PATIENTS. HOWEVER, THE PHYSICIAN ASSISTANT CANNOT USE THE DOCTOR'S MEDICAID BILLING NUMBER AND CANNOT PRESENTLY GET A BILLING NUMBER OF THEIR OWN.

THIS BILL WOULD CURE THE PROBLEM AND ALLOW THE PHYSICIAN ASSISTANT TO HAVE AN INDIVIDUAL BILLING NUMBER FOR SERVICES PROVIDED TO MEDICAID PATIENTS.

PROVIDING THIS CONVENIENCE TO THE PHYSICIAN ASSISTANTS WOULD IN NO WAY CHANGE THE REQUIREMENTS THAT A LICENSED PHYSICIAN SUPERVISE THE ACTIVITIES OF THE PHYSICIAN ASSISTANT.

DIVISION OF LEGAL SERVICES

LEGISLATIVE AFFAIRS AGENCY STATE OF ALASKA

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

130 Seward Street, Suite 409
Juneau, Alaska 99801-2105

MEMORANDUM

January 21, 1994

SUBJECT: Sectional Summary of SB 231, a bill providing coverage under Medicaid for the services of physician assistants. (8-LS1349\A)

TO: Senator Jalmar Kerttula

FROM: Terri Lauterbach *TL*
Legislative Counsel

You have requested a sectional summary of the above described bill.

As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents. If you would like an interpretation of the bill as it may apply to a particular set of circumstances, please advise.

Section 1. Adds physician assistant services to the list of optional Medicaid services that DHSS can offer.

Section 2. Places physician assistant services in the priority listing that applies if Medicaid is underfunded.

Section 3. Defines "physician assistant services."

TML:mi
94-012.mai

FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO. SB231

Revision Date: 2/10/94
 Title: An Act Providing coverage under Medicaid for Services of Physicians' Assistants
 Sponsor: KERTULLA, ELLIS, LITTLE
 Requestor: _____

Dept. Affected Health and Social Services
 BRU: Medicaid
 Component: Medicaid Non-facility
 COMPONENT SERIAL NO. 229

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY95	FY96	FY97	FY98	FY99	FY00
PERSONAL SERVICES	0.0	0.0	0.0	0.0	0.0	0.0
TRAVEL	0.0	0.0	0.0	0.0	0.0	0.0
CONTRACTUAL	0.0	0.0	0.0	0.0	0.0	0.0
SUPPLIES	0.0	0.0	0.0	0.0	0.0	0.0
EQUIPMENT	0.0	0.0	0.0	0.0	0.0	0.0
LAND & STRUCTURES	0.0	0.0	0.0	0.0	0.0	0.0
GRANTS, CLAIMS	999.6	2,780.8	3,131.2	3,525.8	3,970.0	4,470.4
MISCELLANEOUS	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	999.6	2,780.8	3,131.2	3,525.8	3,970.0	4,470.4

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
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CHANGES IN REVENUES	499.8	1,390.4	1,565.6	1,762.9	1,985.0	2,235.2
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts	499.8	1,390.4	1,565.6	1,762.9	1,985.0	2,235.2
1003 GF Match	499.8	1,390.4	1,565.6	1,762.9	1,985.0	2,235.2
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1006 GF/MHTIA	0.0	0.0	0.0	0.0	0.0	0.0
Other	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL	999.6	2,780.8	3,131.2	3,525.8	3,970.0	4,470.4

Estimate of current year (FY94) impact: 0.0

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS (attach a separate page in necessary)

The bill adds physician's assistants as an enrolled provider of services. It is estimated that 25% of the 168 licensed and active physician's assistants will enroll as Medicaid providers, beginning with a 10% enrollment in the first year. Enrollment would begin in July of 1995. Charges by a physician assistant are assumed to be 70% of the amount that has been charged through a physician's office for services performed by a physician's assistant. Physician assistants are counted as working 5 days per week, 48 weeks per year and having an average of 3.5 Medicaid visits per day. Growth and inflation combined are assumed to be 12.6% per year.

Prepared by: Dave W. Williams
 Division: Medical Assistance

Phone: 465-3355
 Date: 2/10/94

Approved by: Margaret R. Lowe
 Commissioner: Margaret R. Lowe, M.Ed., Ed.S.

Date: 2-14-94

Agency: Department of Health and Social Services

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ASSUMPTIONS PERTAINING TO FISCAL ANALYSIS OF SB231 AND HB341

There are 194 licensed PAs in Ak; 168 are said to be in active status.

25% will enroll if the bill passes, which is 42 PAs of the active status.

35% of their practice will be Medicaid

The average charge will be \$70 per visit; reflective of 70% of the charges by

PAs presently billing through physicians.

There will be 10 visits per day, 3.5 of those billed to Medicaid.

PAs will work 5 days per week, 48 weeks per year.

Assume regulations effective July 1, 1995

Growth and inflation combined are assumed to be 12.6%

Claims

17.0 PAs enrolled first year
 42.0 PAs enrolled 2nd year
 \$70 average expenditure claimed per visit
 3.5 Medicaid visits per day
 5.0 days worked per week
 48.0 weeks worked per year
 0.001 factor to change figures to thousands
 \$999.6 total claims expenditure 1st year; 17 PAs
 12.0 factor to get to monthly
 12.0 factor to get to paid part of fiscal year
 \$999.6 claims expenditures for paid part of first fiscal year
 \$2,469.6 claims expenditures for second year w/o growth and inflation

Contractual

\$6.23 processing cost per claim
 14280 total number of claims by PAs 1st year
 35280 total number of claims by PAs 2nd year
 0.001 factor to change figures to thousands
 \$89.0 cost for claims processing 1st year
 \$219.8 cost for claims 2nd and following years
 \$10.0 cost to modify MMIS for PA enrollment and claims processing
 \$99.0 total contractual for 1st year (MMIS plus claims processing)

Inflation and growth

1.126 factor for yearly increases

Federal participation

0.50 factor for Federal Financial Participation

0.0 factor for cells with \$0.0

Component	Combined Fiscal Note Totals					
	FY95	FY96	FY97	FY98	FY99	FY00
Med non-facility	229 999.6	2780.8	3131.2	3525.8	3970.0	4470.4
Claims process	243 99.0	247.6	278.8	314.0	353.6	398.2
Total	1098.6	3028.4	3410.0	3839.8	4323.6	4868.6

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Total	1098.6	3028.4	3410.0	3839.8	4323.6	4868.6

03/25/94 07:39:46
 MONTH: JANUARY, 1994

DEPARTMENT OF HEALTH AND SOCIAL SERVICES
 PROVIDER PARTICIPATION ANALYSIS

REPORT NO. MR-0-12-T
 PAGE NO. 57

* PROVIDER TYPE: OGB NURSE PRACTITIONER

	THIS MONTH	SAME MONTH LAST YEAR	LAST SIX MO. AVG.	TREND	---FISCAL YEAR TO DATE---	THIS YEAR	LAST YEAR
NUMBER OF PROVIDERS ENROLLED	38	0	36	.112+	40	0	
NUMBER OF PROVIDERS PARTICIPATING	20	0	18	.111+	23	0	
PERCENT OF PROVIDERS PARTICIPATING	52.63%	0.00%	49.77%	.021+	57.50%	0.00%	
TOTAL RECIPIENTS SERVED	519	0	453	.103+	2,136	0	
AVERAGE RECIPIENTS PER PARTICIPATING PROVIDER	25.95	0.00	24.50	.024+	92.87	0.00	
ELIGIBLES PER PARTICIPATING PROVIDER	2,633.00	0.00	3,356.54	.063-	3,225.00	0.00	
* TOTAL PAYMENTS	\$33,731	\$0	\$29,510	.097+	* \$210,473	\$0	
TOTAL NUMBER OF CLAIMS PAID	1,019	0	792	.094+	5,566	0	
CROSSOVER COST	\$92	\$0	\$35	.188+	\$247	\$0	
GROSS ADJUSTMENTS	\$0	\$0	\$222	.498-	\$275	\$0	
AVERAGE CLAIMS PER PARTICIPATING PROVIDER	50.95	0.00	44.84	.010+	242.00	0.00	
AVERAGE PAYMENT PER PARTICIPATING PROVIDER	\$1,686.56	\$0.00	\$1,670.38	.021+	\$9,151.07	\$0.00	
AVERAGE PAYMENT PER PARTICIPATING RECIPIENT	\$64.99	\$0.00	\$68.18	.037+	\$98.54	\$0.00	
THIRD PARTY PAYMENT AMOUNT (EXCL. COVERS)	\$662	\$0	\$787	.172+	\$4,988	\$0	
PERCENT OF CLAIMS WITH THIRD PARTY PAYMENTS	1.75%	0.00%	1.53%	.149+	1.42%	0.00%	
TOTAL UNITS OF SERVICE RENDERED	1042.0	0.0	803.3	.073+	5657.0	0.0	
AVERAGE UNITS OF SERVICE RENDERED PER PART PROV	52.10	0.00	45.47	.008+	245.96	0.00	
AVERAGE UNITS OF SERVICE RENDERED PER PART RECIP	2.01	0.00	1.96	.027+	2.65	0.00	
AVERAGE PAYMENT PER UNIT OF SERVICE	\$32.37	\$0.00	\$36.73	.052+	\$37.21	\$0.00	

FEB-11-94 FRI 16:12

DHSS Div. Med. Assl. Anch.

FAX NO. 9075611894

P. 03

STATE OF ALASKA

WALTER J. HICKEL, GOVERNOR

DEPARTMENT OF HEALTH AND SOCIAL SERVICES

DIVISION OF MEDICAL ASSISTANCE

P.O. BOX 110660
JUNEAU, ALASKA 99811-0660
PHONE: (907) 465-3355
FAX: (907) 465-2204

September 17, 1993

Dr. Harold Johnston, Medical Director
Anchorage Neighborhood Health Center
1217 E. 10th Avenue
Anchorage, Alaska 99501

Dear Dr. Johnston:

Mr. John Riley inquired of us concerning several aspects of our policies concerning Medicaid reimbursement for Physician's Assistants. I will answer each separately:

- (1) In a Federally Qualified Health Center, will Medicaid reimburse for covered services furnished by a P.A.? Yes. While we have no regulations addressing FQHCs in Alaska, we are working on some that will appear for comment shortly. ANHC initiated these by requesting we make reimbursement changes; as they are drafted, these proposals would in no way affect either your scope of services or the qualifications of your professional staff who render particular services.
- (2) Will Medicaid reimburse for services rendered by a PA who is employed in an FQHC, but who occasionally renders FQHC services off-premises, as in local homeless shelters? Yes. Nothing in federal Medicaid FQHC policies calls into question reimbursement for off-premises services performed by licensed professionals within the scope of their licensure.

However, we understand there may be some non-Medicaid federal limitations on what can and cannot be done off premises. One that we have seen in our materials seems to suggest that only established patients of the clinic may be seen off-premises. I'd recommend you explore this question further through your granting authorities.

There may also be a problem in Medicaid reimbursing for eligible services if those services are funded in whole or part by a McKinney Federal Grant. I recommend you update us, detailing exactly what services you performed in the hospital showing, who performs them, and what the funding services are. With a fuller explanation, we can consult with our Federal program authorities about this issue.

Harold Johnston
September 17, 1993
Page 2

- (3) Is the Division considering limiting or ending reimbursement to physicians who bill for services performed by a PA for whom they are preceptor, or at least with whom they practice? No, not at present. Our current regulations only prohibit a P.A. from performing services for an enrolled hospital-based physician and from services as a surgical assistant. There is no specific regulation prohibiting a P.A. from performing services for which an enrolled physician in individual practice bills us.


However, a physician who employs other licensed health care professionals is, in the federal structure of Medicaid, actually a "physician's clinic". This is not a category our state regulations currently address (except for Mental Health Physician Clinics), and they probably should be amended to specify the criteria for clinics that are part of Federal Medicaid requirements.

I have attached the federal definition of clinic services, in which you can see that the primary criteria that apply to any physician's clinic are that all services must be provided on the clinic premises, the supervising physician must practice at that location, must actually supervise other practitioners, and must see each patient at least once. These requirements are not generally met by a PA who performs services at a location separate from the enrolled physician, which is why we recently had to deny an enrollment application from the individual PA that Mr. Riley inquired about.

Some PAs, but not all, who are practicing at a remove from a preceptor may meet "Rural Health Clinic" criteria and may be able to enroll as that type of provider if they meet Medicare certification criteria.

If you have any further questions, please don't hesitate to contact us.

Sincerely,



Kimberly B. Busch
Director

KBB:GGL:ncb

H:\POLICY\OLANDES\JOHNSTON.LTR

ALASKA PHYSICIAN ASSISTANT PROFILE

	CITY	TYPE		FEMALE		MALE		UNKNOWN		TOTAL	
		URBAN	RURAL	URBAN	RURAL	URBAN	RURAL	URBAN	RURAL	URBAN	RURAL
1.	Anchorage*	U		17		14		2		33	
2.	Barrow		R				2				2
3.	Bethel		R		5		2				7
4.	Bid Lake		R		1						1
5.	Chignik		R				1				1
6.	Chugiak*	J				2				2	
7.	Clear		R				1				1
8.	Dillingham		R		1						1
9.	Dutch Harbor		R				3				3
10.	Eagle River*	U				7		2		9	
11.	Fairbanks*	U		6		15				21	
12.	Ft. Wainwright*	U		1		1				2	
13.	Ft. Yukon		R				1				1
14.	Gaiena		R		1						1
15.	Girdwood*	U				1		1		2	
16.	Glennallen		R				1				1
17.	Healy		R				1				1
18.	Homer		R		1						1
19.	Juneau*	U				3				3	
20.	Kasilof		R				1				1
21.	Kenai		R				5				5
22.	Kodiak		R				2				2
23.	McGrath		R				1				1
24.	Naknek		R				1				1
25.	Nome		R		2		1				3
26.	North Pole		R		1		4				5
27.	Palmer		R				5				5
28.	Pelican		R				1				1
29.	Salcha		R				1				1
30.	Seward		R		1		2				3
31.	Skagway		R				1				1
32.	Sitka		R		3		2				5
33.	Soldotna		R		2						2
34.	Talkeetna		R				1				1
35.	Tanana		R				1				1
36.	Wasilla		R				8		1		9
37.	Whittier		R		1						1
38.	Yakutat		R		1		1				2
		TYPE		FEMALE		MALE		UNKNOWN		TOTAL	
TOTALS - 38 Communities		7	31	24	20	43	50	5	1	72	71

= 143

*: Urban communities are defined as Anchorage, Fairbanks, and Juneau and their adjoining metropolitan areas.

Chart Compiled by DHSS/DPH Cooperative Agreement Project 10/29/93

Source: State of Alaska, State Medical Board, Directory of Licensed Physicians, Osteopaths, Podiatrists, Physician Assistants and Paramedics with License Expiration date of 12/31/94; Printed April 22, 1993.



alaska academy of physician assistants

MEDICAID REIMBURSEMENT FOR PHYSICIAN ASSISTANT SERVICES

Since 1971 Physician Assistants (PA's) have been licensed to practice medicine in Alaska with supervision by a physician. The methods of supervision are established in individual "collaborative agreements" which are required for each physician/physician assistant team.

Medicaid reimbursement has historically occurred through two mechanisms. Services performed by PA's who work as solo practitioners in designated "Rural Health Clinics" are directly reimbursed at a set fee per patient seen. Services performed by PA's working in physician clinics have been reimbursed by Medicaid as "incident to" services i.e. the services are billed under the physician's name as if the physician had provided the service.

The Problem

Two problems arose in 1993 with reimbursement of PA services. In the first instance a PA who had been hired as a solo practitioner at a rural clinic site was informed she could not be reimbursed for Medicaid services because her clinic was not formally designated a "Rural Health Clinic". In the second instance, several PA's who work in physician clinics were told by Medicaid personnel in Anchorage that Medicaid did not cover any PA services billed under the physician's name and it was fraud to do so. A regulation from the Alaska Administrative Code (7 AAC 43.110b) which prohibits reimbursement to hospital employed PA's for surgical assisting services was cited as supporting this interpretation.

After discussion with Division of Medical Assistance administrators in Juneau, a letter of opinion was provided by the head of the Division which stated that there was no intention on the part of the Division to discontinue reimbursement for "incident to" services performed by PA's at the present time. It also confirmed that PA's who are rural solo practitioners must be in a designated "Rural Health Clinic" to be reimbursed.

Existing Regulations

Medicaid regulations (7 AAC 43.035) list as eligible providers: " a person currently licensed by the State of Alaska to practice medicine...". "Practice of Medicine" is defined under AS 08.64380(7B) as meaning : " to use or display a title in connection with a persons name including "doctor of medicine", "physician", "M.D." or "doctor of osteopathic medicine", or "D.O." or a specialist designation including " surgeon" or "dentist" or a similar title, or any title which tends to show that the person is willing or qualified to diagnose or treat the sick or injured."

Nurse practitioners, who provide an equivalent level of medical service as PA's but who are not required to have physician supervision, were added as Medicaid providers under legislation passed in 1992. There are, however no regulations which address Medicaid reimbursement for primary care services provided by physician assistants.

Desired Outcome

The Alaska Academy of Physician Assistants would like to have legislation passed which includes PA's as approved Medicaid providers in all settings, including nursing homes. With no specific regulation pertaining to our services we will repeatedly be subject to differing interpretations by Division of Medical Assistance personnel. We want full reimbursement for our services, and would reject any attempt to reimburse PA's at a discounted percentage of physician charges. We provide an equal service to that provided by the physician within our scope of practice. The status quo would be preferable to receiving a discounted reimbursement rate as this would discourage physicians from utilizing PA services for Medicaid patients.

Financial Impact

We believe that the financial impact to the Division of Medical Assistance budget will be minimal since the majority of PA services are already being reimbursed as "incident to" services to the collaborating physician. Any additional reimbursement made to solo practice PA's would serve to increase access to the public in those areas, which are typically underserved medically.

John Riley PA-C
President, Alaska Academy of Physician Assistants
11/8/93



alaska academy of physician assistants

November 21, 1993

Jay Livey
Deputy Commissioner
DHSS, State of Alaska
P.O. Box 110601
Juneau, Alaska 99811-0601

Dear Mr. Livey:

This letter is to follow up our discussion at the October Health Care Reform meeting about physician assistant (PA) concerns regarding our Alaska regulations. We feel that several State regulations create barriers to our practice.

Our first concern regards Medicaid reimbursement for our services. Medicaid reimbursement for PA services has historically occurred through two mechanisms. Services performed by PAs who work as solo practioners in designated "Rural Health Clinics" are reimbursed to the clinics at a capitated rate. Services performed by PAs working in physician clinics have been reimbursed by Medicaid as "incident to" services, i.e. the services are billed under the physician's name as if the physician had provided the service. However there is no regulation defining PA reimbursement for "incident to" services.

Two problems arose in 1993 with reimbursement of PA services. In the first instance a PA who had been hired as a solo practioner at a rural clinic site was informed she could not be reimbursed for Medicaid services because her clinic was not formally designated a "Rural Health Clinic". In the second instance, several PA's who work in physician clinics were told by Medicaid personnel in Anchorage that Medicaid did not cover any PA services billed under the physician's name and it was fraud to do so. A regulation from the Alaska Administrative Code (7AAC 43.110b) which prohibits reimbursement to hospital employed PA's for surgical assisting services was cited as supporting this interpretation.

After discussion with Division of Medical Assistance administrators in Juneau, a letter of opinion was provided by the head of the Division which stated that there was no intention on the part of the Division to discontinue reimbursement for "incident to" services performed by PA's at the present time. It also confirmed that PA's who are rural solo practioners must be in a designated "Rural Health Clinic" to be reimbursed.

Legislation was passed in 1992 which added as Medicaid providers nurse practioners who practice outside of physician clinics. PAs who provide care in solo practices

should also be recognized by the Division of Medical Assistance as legitimate providers of Medicaid services. There are several rural communities which are not formally designated Rural Health Clinics where PAs are the only providers of care. Medicaid eligible patients in these communities, however, must travel hundreds of miles to receive Medicaid services. In addition we would like to have a statement in the regulations clarifying that services provided by PAs in physician clinics are covered by Medicaid. Otherwise the allowability of coverage for our services are subject to reinterpretation. We don't feel that these changes represent any significant impact on Medicaid budgetary outlays as most PA services to Medicaid patients are already being reimbursed as "incident to" service to PA collaborating physicians.

This Medicaid issue is an urgent one for the Alaska Academy of Physician Assistants. We have contacted legislators and lobbyists regarding a legislative solution, but were advised by a lobbyist that an internal solution such as an executive amendment would be preferable.

Our second area of concern regards our licensing regulations. Our remote site regulations require 160 hours of practice at the site of the physician preceptor before a PA may work in a remote setting. The intent was to make sure the physician and PA "understand" each other, but in reality it is a cumbersome and financially burdensome formality. The physician can make an adequate appraisal of PA abilities from an interview with the PA, recommendations from previous supervising physicians and the PAs past work experience. Once the PA has begun work at a remote site, the physician can tell much more about the PA's practice abilities by telephone contact and chart review than 160 hours in a non-remote setting.

Another problematic regulation requires that when there is a change in collaborating physician, even though the PA with the same collaborative agreement remains in the same location, seeing the same patients, the PA is still required to apply for and purchase a temporary license and later another permanent license to practice. We would like to see the temporary license requirement in this situation eliminated.

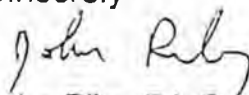
We are currently required to use our physicians DEA number on all prescriptions. This past year the DEA began issuing DEA numbers to all PAs and nurse practitioners. We would like our regulations changed so that we can register our own DEA numbers with the Board of Pharmacy and use them on our prescriptions for controlled substances. We feel this would permit better tracking of PA prescriptive practice than exists now and brings State regulations up to date with national practice.

There are approximately 400 licensed non-physician medical providers in Alaska (excluding health aides) and approximately 1100 licensed physicians. Non-physician providers therefore comprise almost 1/3 of the medical providers of the State. We make a significant impact on improving access to quality cost effective care in Alaska.

President Clinton's health care reform proposals stress increasing and improving utilization of non-physician providers and calls for removing barriers to our practices.

I look forward to discussing these and other PA regulatory matters with you at our meeting which Mary Durbrow scheduled with you for Wednesday December 1 at 9AM at the Health Summit Conference in Anchorage.

Sincerely

A handwritten signature in cursive script that reads "John Riley".

John Riley PA-C
President, AKAPA
1217 E. 10TH Ave.
Anchorage, AK 99501
TEL: 257-4603



HEALTH CARE COALITION OF ALASKA

January 27, 1994

Mr. John Riley,
President
Alaska Academy of Physician Assistants
Anchorage Neighborhood Health Center
1217 East 10th Avenue
Anchorage, Alaska 99501

Dear Mr. Riley:

The Health Care Coalition (HCC) of Alaska is pleased to support HB341 and SB231, which allows Physician Assistants to bill for their services to the Medicaid program. The current situation works a particular hardship upon rural communities, where solo PAs are working. Even in those clinics that are federally designated as Rural Clinics Medicaid will only reimburse on a flat fee basis, with the result that the clinics are often not able to recover actual costs on cases which may consume inordinate amounts of the practitioner's time. Without question, the current system works a hardship on Medicaid eligible patients who may have to travel long distances in order to use that resource for their care.

The HCC also strongly supports SB 235, providing for the forgiveness of student loans for several categories of health care professionals (including PAs). This program is much needed as a means for meeting the severe shortage of providers in Alaska. It covers physicians, osteopaths, physical therapists, occupational therapists, registered nurses and physician assistants.

Finally, the HCC is in strong support of current efforts to preserve the MEDEX Northwest PA Training Program at Sitka, and the Alaska Center for Rural Health, at the University of Alaska Fairbanks. The Legislature will be requested to increase the University budget to continue both those programs.

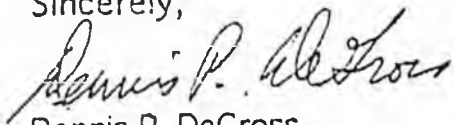
ALASKA ACADEMY OF PHYSICIANS ASSISTANTS • ALASKA PHARMACEUTICAL ASSOCIATION • ALASKA PUBLIC HEALTH ASSOCIATION
ALASKA STATE MEDICAL ASSOCIATION • HEALTH ASSOCIATION OF ALASKA • ALASKA NATIVE HEALTH BOARD • ALASKA NURSES ASSOCIATION • ALASKA DENTAL SOCIETY

working together . . . caring together

4107 Laurel Street Anchorage, AK 99508 (907) 562-2662 Fax 551-2063

Thank you for this opportunity to comment on these health measures.

Sincerely,

A handwritten signature in cursive script that reads "Dennis P. DeGross". The signature is written in dark ink and is positioned above the printed name.

Dennis P. DeGross
President and Co-Chair

CC: HCC members

Alaska Public Health Association

*Robert L. Cole, President
P.O. Box 4 - 1825
Anchorage, Alaska 99505*

February 3, 1994

*Mr. John Riley, President
Alaska Academy of Physician Assistants
Anchorage Neighborhood Health Center
1217 East 10th Avenue
Anchorage, AK 99501*

Dear Mr. Riley:

The Alaska Public Health Association strongly supports two pieces of legislation now before the Alaska Legislature. These are HB341 and SB231, which allow Physician Assistants to bill for their services to the Medicaid program.

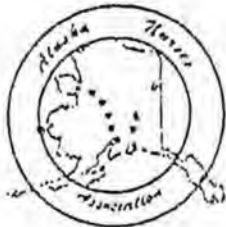
Currently, rural communities employing solo PAs are greatly disadvantaged. Even those communities with federally designated Rural Clinics Medicaid will only reimburse on a flat fee basis, with the unfortunate result that the clinics are often not able to recover actual costs on cases which may consume inordinate amounts of the practitioner's time. The current system is especially tough on Medicaid-eligible patients who may have to travel long distances in order to use that resource for their care.

The Alaska Public Health Association welcomes this opportunity to comment on this legislation.

Sincerely,



*Robert Cole
President*



ALASKA NURSES ASSOCIATION

237 E. 3rd Avenue #3 Anchorage, AK 99501 2533
(907) 274-0827 FAX (907) 272-0292

February 1, 1994

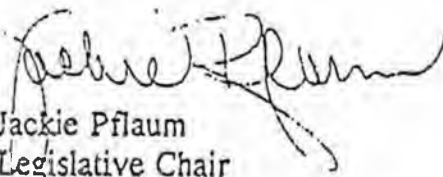
Representative Jeannette James
House of Representatives
State Capitol Room 501C
Juneau, Alaska 99801-1182

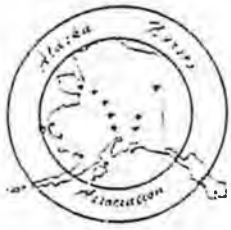
Dear Representative James:

This letter is written in support of HB 341, sponsored by yourself, and SB 231, sponsored by Senator Kertulla which permits Medicaid reimbursement for physician assistant (PA) services. Currently, physician assistants practicing outside a physician's office or a designated Rural Health Clinic do not qualify as Medicaid providers. This is a critical issue in rural communities where the midlevel practitioners are the only health care providers. Medicaid-eligible patients in these communities may have to travel long distances to obtain Medicaid services. The lack of reimbursement in these settings is a direct obstacle to health care for Medicaid recipients.

HB 341 and SB 231 also amend the statutes so that PA's are permitted to perform Workman's Compensation evaluations and requires private insurance companies to reimburse for PA services. The bills also enable physician assistants to issue handicapped parking permits.

Sincerely,


Jackie Pflaum
Legislative Chair



ALASKA NURSES ASSOCIATION

237 E. 3rd Avenue #3 Anchorage, AK 99501-2523
(907) 274-0827 FAX: (907) 272-0292

February 1, 1994

Dear

This letter is written in support of HB 341, sponsored by Representative James, and SB 231, sponsored by Senator Kertulla which permits Medicaid reimbursement for physician assistant (PA) services. Currently, physician assistants practicing outside a physician's office or a designated Rural Health Clinic do not qualify as Medicaid providers. This is a critical issue in rural communities where the midlevel practitioners are the only health care providers. Medicaid-eligible patients in these communities may have to travel long distances to obtain Medicaid services. The lack of reimbursement in these settings is a direct obstacle to health care for Medicaid recipients.

HB 341 and SB 231 also amend the statutes so that PA's are permitted to perform Workman's Compensation evaluations and requires private insurance companies to reimburse for PA services. The bills also enable physician assistants to issue handicapped parking permits.

Sincerely,

Jackie Pflaum
Legislative Chair

PHYSICIAN ASSISTANTS

Physician assistants (PAs) practice medicine with supervision by licensed physicians, providing patients with services ranging from primary medicine to very specialized surgical care. A physician assistant's scope of practice is determined by state law, the supervising physician's delegation of responsibilities, the PA's education and experience, and the specialty and setting in which he works.

Physician Assistant Education

PAs are educated in accredited programs located at schools of medicine or allied health, universities and teaching hospitals. Prerequisites for admission generally include two years of relevant college coursework, plus patient care experience. PA education is usually 102 weeks (as compared with 152 weeks of medical school).

The first phase of the program consists of intensive classroom and laboratory study, providing students with an indepth understanding of the medical sciences. Subjects include anatomy, pharmacology, physiology, clinical laboratory medicine and microbiology, pathophysiology, physical diagnosis, medical ethics and behavioral sciences. The second phase consists of clinical rotations with physician preceptors in a variety of settings, such as hospitals, long term care facilities, and physicians' offices. Most programs require clinical rotations in internal medicine, family medicine, surgery, pediatrics, obstetrics/gynecology, psychiatry, emergency medicine and geriatric medicine.

PA programs are accredited by the American Medical Association's Committee on Allied Health Education and Accreditation (CAHEA).

National Certification

The National Commission on Certification of Physician Assistants is an independent organization established to assure the competency of physician assistants. In conjunction with the National Board of Medical Examiners, it administers a national certifying examination to graduates of accredited PA programs. Only those individuals who pass the exam may use the title "Physician Assistant-Certified" or "PA-C." In order to remain certified, PAs must complete 100 hours of continuing medical education every two years and take a recertification examination every six years. In large measure, this private voluntary certification process has been adopted as a state licensing requirement.

Practice Settings

In the 25 years since the first PAs began practicing, the profession has shown remarkable growth. In 1991 there were over 21,000 clinically practicing PAs in the United States, more than double the number just 10 years ago. They are located in almost all health care settings and in every medical and surgical specialty. Fifteen percent of all PAs practice in rural areas where they may be the only full-time providers of care (state laws stipulate the conditions for remote supervision by a physician). Twenty-one percent of the PA profession work in urban and inner city areas.

The majority of PAs are in primary care; one quarter practice in surgical specialties. Over three quarters of PAs practice in outpatient settings, with 24 percent located in inpatient settings. According to the US Department of Health and Human Services' 1990 report to the President and Congress, "Physician assistants are more evenly distributed than any other primary care providers and can greatly improve access to health care in many areas."

In 1991 PAs had 147 million patient contacts and wrote 112 million prescriptions. Eighty percent of all PAs work in states that allow prescriptive practice. (The percentage of PAs in rural areas is higher in states with prescriptive privileges.) PAs have proven adaptable to the changes in medicine over the last quarter century and are filling roles that could not have been anticipated when the profession began. For example, many hospitals, faced with a shortage of medical residents or restrictions on resident work hours, have discovered the value of physician assistants.

Growth of the PA Profession

Demand for PA services continues to grow. Factors that have contributed to this growth include Medicare coverage for the services provided by PAs (reimbursement is made to the PA's employer) and increased recognition of the quality of care that PAs provide. The US Department of Labor predicts a 23 percent increase in the number of PA positions over the next decade. Nationally, the demand for PAs exceeds the supply of graduates by 7.5 to 1.

Physician Assistant Organizations

The **American Academy of Physician Assistants** is the national professional society for PAs. It has chapters in all 50 states, the District of Columbia, Guam, the military services, the US Public Health Service and the Veterans Administration. Over two-thirds of all PAs are members of AAPA. Major activities of the organization include government relations, research and data collection, publications, and continuing medical education.

The **Association of Physician Assistant Programs** shares its national headquarters with the AAPA. Whereas the Academy's members are individual physician assistants and PA students, the members of APAP are the more than 50 accredited physician assistant educational programs. The Association serves as a national information center on PA education. Both organizations are currently located at 950 North Washington Street, Alexandria, Virginia 22314. (703-836-2272)

The **National Commission on Certification of Physician Assistants**, which administers the certifying examinations described above, is located at 2845 Henderson Mill Road NE, Atlanta, Georgia 30341. (404-493-9100)

WALTER J. HICKEL, GOVERNOR

PLEASE REPLY TO:

1031 WEST 4TH AVENUE, SUITE 200
ANCHORAGE, ALASKA 99501-1994
PHONE: (907) 259-5100
FAX: (907) 276-3697

KEY BANK BUILDING
100 CUSHMAN ST., SUITE 400
FAIRBANKS, ALASKA 99701-4679
PHONE: (907) 451-2811
FAX: (907) 451-2846

P.O. BOX 110300 - STATE CAPITOL
JUNEAU, ALASKA 99811-3300
PHONE: (907) 465-3600
FAX: (907) 463-5255

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

August 4, 1993

Senator Suzanne Little
34824 Kalifonsky Beach Road
Soldotna, Alaska 99669-9728

Dear Senator Little:

The purpose of this letter is to confirm my telephone conversations with you and your staff member Leslie Ridle. In our initial telephone conversation, you indicated that you were concerned about the Medicaid policy regarding whether physician's assistants were allowed to bill for their services. You stated that you had been contacted by the Physician's Assistants Association regarding what was an apparent change in the policy. Members of the association were upset due to the fact that they had recently been informed that Medicaid would not pay for services performed by a physician's assistant. As I indicated to you on the phone, although I knew that physicians' assistants could not enroll as providers, I thought that under proper circumstances their services could be billed for by an enrolled provider. Therefore, I promised to look into the issue and let you know once I had contacted the Division of Medical Assistance to clarify the policy.

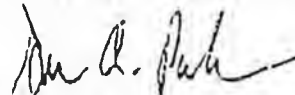
At a recent meeting, I did speak to the Division of Medical Assistance in Anchorage and was told that their policy is in fact to not pay for services rendered by physicians' assistants. Due to my prior understanding to the contrary, I have drafted a memo to Kimberly Busch, the Director of the Division of Medical Assistance, requesting clarification of the policy in writing. When I receive the clarification, I will be happy to forward the response to you.

Senator Suzanne Little

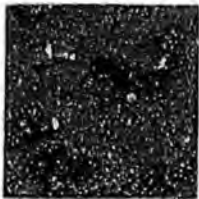
August 4, 1993

I am sorry that it is taking so long to get this information back to you. However, as I indicated to you in our first telephone conversation, I work in the Medicaid Provider Fraud Unit. My area of work and expertise is criminal law not interpretation or formation of Medicaid policy. However, once a written policy statement is received, I would be happy to discuss with you options for addressing the policy or direct you to another assistant attorney general who is more appropriate to any further request. If you have any questions, please give me a call at 269-5132.

Sincerely,

CHARLES E. COLE
ATTORNEY GENERALSusan A. Parkes
Assistant Attorney General

SAP:sj



LASKA STATE MEDICAL ASSOCIATION

4107 Laurel Street • Anchorage, Alaska 99508-5334 • (907) 562-2662

*cc. + K you
File Back up*

January 28, 1994

FEB 3 1994

Senator Jalmar Kerttula
Alaska State Legislature
P.O. Box V (MS 3100)
Juneau, AK 99811

Dear Senator Kerttula:

I am writing in support of your Senate Bill 231 which permits Medicaid reimbursement for physician assistant (PA services). Currently physician assistants practicing outside a physician's office or designated rural health clinics do not qualify as Medicaid providers. This is a critical issue in rural communities where the PA is the only health care provider. Medicaid eligible patients in these communities may have to travel long distances to obtain Medicaid services. The lack of reimbursement in these settings is a direct obstacle to health care for Medicaid recipients. Your bill would also amend the statute so that PA's would be permitted to perform Workman's Compensation evaluations and allow private insurance companies to reimburse for physician's assistant's services. This bill will also enable a physician assistant to issue handicap parking permits. I believe this bill will benefit health care for all Alaskans. If I can be of any assistance to you on this bill, do not hesitate to contact me.

Sincerely yours,

Donald R. Lehmann, M.D.
Chairman, Legislative Affairs Committee
President, Alaska State Medical Association.

CC: Byron Mallot, John Riley, PA-C

JOHN WINKLMANN, P.A.-C

KENDRICK D. BLAIS, D.O.

HEALY CLINIC

P.O. Box 62
Healy, Alaska 99743
(907) 683-2211

March 29, 1994

Attention Senate Hess Committee Members

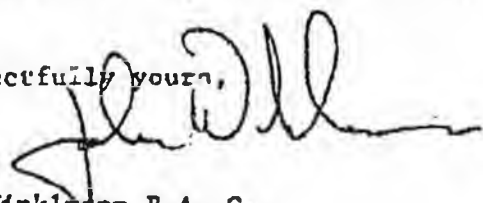
To Whom It May Concern:

Considering the interests of Medicaid recipients who reside throughout rural Alaska, especially the young and elderly who are additionally constrained by their inability to voluntarily travel to a metropolitan area, when in need of medical care. This is to state my support for Senate Bill 231 for the following reasons.

1. It will improve the availability of medical care to Medicaid recipients who live in rural areas of the state.
2. It will correct a current and glaring inequity in that P.A.'s would be reimbursed for providing medical services at an equal rate as that of Nurse Practitioners, who provide a similar level of medical care.
3. It would prohibit an insurance company from denying coverage to rural Alaskans whose primary medical care is provided by a Physical Assistant.

Thank you for your attention to this matter. I would be glad to expand on any of the above or about the general issue. You may contact me at the above address.

Respectfully yours,



John Winkmann P.A.-C.

Home phone: 683-2305

SB

248

SENATE COMMITTEE REPORT

DATE: 1/14/94

FURTHER: STATE AFFAIRS
FINANCE

Date of 5-Day Notice: 1/27/94
(in accordance with Uniform Rule 23)

DATE TURNED
INTO OFFICE: 2/17/94

HES Committee considered SB 248

"An Act relating to services for and protection of vulnerable adults; and providing for an effective date."

and recommends:

- [] replace with _____ CS SB 248 (HES)
 or [] adopt previous _____ CS _____
 [] attaches amendment(s)

- same title
 new title
 technical title change (HF only)

- [] adopts _____ Letter of Intent
 [] further referral to the _____

- [] do pass
 [] do not pass
 [] no recommendation
 [] individual recommendations

NEW FISCAL NOTES

Department	Date	Zero	Fiscal
Public Safety	2/2/94	<input checked="" type="checkbox"/>	

PREVIOUS FISCAL NOTES

Department	Date	Zero	Fiscal
HSS - Purchased Services	1/14/94		(364.5)
HSS - Family Youth Services	1/14/94		(68.0)
HSS Family + Youth Services	1/14/94		(127.1)
Administration	1/14/94	<input checked="" type="checkbox"/>	
Administration	1/14/94		559.6

[] Appropriation No Fiscal Note

DO PASS:

OTHER RECOMMENDATIONS:

Mike Miller No Rec
J. Duncan No Rec
J. E. Sals No Rec
Grant Adams No Rec

Steve King Do Pass
 Chair: Signature and Recommendation

WALTER J. HICKEL
GOVERNOR



P. O. Box 110001
Juneau, Alaska 99811-0001
(907) 485-3500

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

January 14, 1994

The Honorable Rick Haltord
President of the Senate
Alaska State Legislature
State Capitol
Juneau, AK 99801-1182

Dear Mr. President:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to services for and protection of vulnerable adults. This bill will place responsibility for the delivery of services to vulnerable adults within the Department of Administration. This bill also extends the scope of existing adult protective services to include all vulnerable adults who are in need of such services.

Section 1 of the bill clarifies the circumstances that give rise to a duty to make a report of a vulnerable adult. The circumstances are abandonment, exploitation, abuse, neglect, or self-neglect. Under this section, the report will be made to the Department of Administration. This section also deletes the existing liability immunity provisions, which are later reestablished in sec. 6 of the bill.

Section 2 sets out the duties of the Department of Administration regarding services and protection for vulnerable adults. The duties include establishing a central information and referral service for vulnerable adults, establishing criteria and procedures for the delivery of community-based services, designation of local service providers as department designees to meet local service needs, and adoption of regulations to implement the program.

Section 2 also sets out provisions regarding certain reports of abandonment, exploitation, abuse, neglect, or self-neglect, and regarding the action that is to be taken on all reports. The investigation required to be done by the Department of Administration includes a face-to-face interview and a written report of findings. Section 2 also provides for delivery of protective services and assures that, to the extent practicable, the services will be delivered in a timely and culturally relevant manner.

The Honorable Rick Halford
January 14, 1994
Page 2

Section 2 provides authorization for family members or friends to be surrogate decision makers for a vulnerable adult who is in need of protective services but is unable to consent to services. This provision allows for the delivery of necessary protective services without the necessity of seeking an emergency guardianship in adult abuse cases. Section 2 also sets out the procedures available for providing protective services when court action to protect the adult is necessary.

Section 3 repeals and reenacts an existing statute to provide for monitoring of vulnerable adults who are receiving ongoing protective services. Section 4 addresses the confidentiality of reports made under these provisions; sec. 5 requires that regulations being adopted by the Department of Administration be provided to the Older Alaskans Commission; and sec. 6 provides for immunity from liability for individuals who make reports of vulnerable adults.

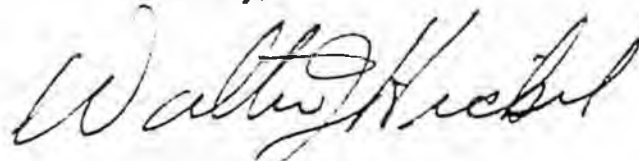
Section 7 sets out, in a more appropriate location, definitions for terms used in AS 47.24. The existing definition section is repealed in sec. 8. Section 8 of the bill also repeals existing statutes that address reports of abuse of elderly and disabled persons to the Department of Health and Social Services.

Section 11 provides a July 1, 1994 effective date for the statutory changes made by the bill.

If this bill is enacted into law, the revisor of statutes will need to make appropriate changes to the existing article structure of AS 47.24.

I urge your support of this important legislation.

Sincerely,

A handwritten signature in cursive script, reading "Walter J. Hickel".

Walter J. Hickel
Governor

SIPK
Markup Feb. 15
- 4 pages total -

SENATE BILL NO. 248

IN THE LEGISLATURE OF THE STATE OF ALASKA

EIGHTEENTH LEGISLATURE - SECOND SESSION

BY THE SENATE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

Introduced: 1/14/94
Referred: HES, STA, FIN

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to services for and protection of vulnerable adults; and
2 providing for an effective date."

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

4 * Section 1. AS 47.24.010 is amended to read:

5 Sec. 47.24.010. PROTECTIVE REPORTS REGARDING VULNERABLE
6 ADULTS [REPORTS OF HARM]. (a) Except as provided in (e) and (f) of this
7 section, the [THE] following persons who, in the performance of their professional
8 duties, have reasonable cause to believe that a vulnerable adult suffers from
9 abandonment, exploitation, abuse, neglect, or self-neglect [AN ELDERLY PERSON
10 HAS SUFFERED HARM] shall, not later than 24 hours after first having cause for the
11 belief, report the belief to the department's central information and referral service
12 for vulnerable adults [HARM TO THE DEPARTMENT OF HEALTH AND SOCIAL
13 SERVICES]:

14 (1) a physician or other licensed health care provider;

1 any person required by (a) of this section to report who fails to comply with this
2 section. A person listed in (a) of this section who, because of the circumstances,
3 should have had reasonable cause to believe that a vulnerable adult suffers from
4 abandonment, exploitation, abuse, neglect, or self-neglect but who fails to comply
5 with this section is guilty of a violation as defined in AS 11.81.900(b).

6 (d) This section does not prohibit a person listed in (a) of this section, or any
7 other person, from reporting cases of abandonment, exploitation, abuse, neglect, or
8 self-neglect of a vulnerable adult [ECONOMIC OR PHYSICAL HARM TO AN
9 ELDERLY PERSON] that have come to the person's attention [IN A
10 NONPROFESSIONAL CAPACITY. THIS SECTION DOES NOT PROHIBIT ANY
11 OTHER PERSON FROM REPORTING ECONOMIC HARM TO AN ELDERLY
12 PERSON THAT THE PERSON HAS REASONABLE CAUSE TO BELIEVE IS A
13 RESULT OF THEFT, FRAUD, OR COERCION BY A CARETAKER OF THE
14 ELDERLY PERSON, OR PHYSICAL HARM TO AN ELDERLY PERSON THAT
15 THE PERSON HAS REASONABLE CAUSE TO BELIEVE IS A RESULT OF
16 ABUSE, NEGLECT, OR ABANDONMENT].

17 (e) If a person making a report under this section believes that immediate
18 action is necessary to protect the vulnerable adult [ELDERLY PERSON] from
19 imminent risk ^{of serious ~~but~~ physical harm} due to abandonment, exploitation, abuse, neglect, or self-neglect and
20 the reporting person cannot immediately contact the department's central
21 information and referral service for vulnerable adults [HARM], the reporting
22 person may [SHALL] make the report [OF HARM] to a police officer or a village
23 public safety officer. The police officer or village public safety officer shall take
24 immediate action to protect the vulnerable adult [ELDERLY PERSON] and shall, at
25 the earliest opportunity, notify the department.

26 (f) A person listed in (a) of this section who reports to the long term care
27 ombudsman under AS 44.21.232, or to the Department of Health and Social
28 Services, that a vulnerable adult has been exploited, abused, or neglected in an
29 out-of-home care facility is considered to have met the duty to report under (a)
30 of this section. [A PERSON WHO, IN GOOD FAITH MAKES A REPORT OF
31 ECONOMIC OR PHYSICAL HARM TO AN ELDERLY PERSON UNDER

- 1 adults who are in need of protective services;
- 2 (4) establish criteria and procedures for the authorization and
3 supervision of other state agencies or community-based service providers to serve as
4 designees of the department under AS 47.24;
- 5 (5) in accordance with this chapter, designate other state agencies or
6 community-based service providers to deliver supportive and protective services to
7 vulnerable adults who are in need of protective services;
- 8 (6) develop within the central information and referral service for
9 vulnerable adults a central registry for reports of vulnerable adults in need of protective
10 services;
- 11 (7) maintain confidentiality of records as provided for in AS 47.24.050;
12 and
- 13 (8) adopt regulations to carry out the purposes of this chapter.
- 14 Sec. 47.24.013. REPORTS OF ABANDONMENT, EXPLOITATION, ABUSE,
15 NEGLECT, OR SELF-NEGLECT OF VULNERABLE ADULTS IN OUT-OF-HOME
16 CARE FACILITIES. (a) If a report received under AS 47.24.010 regards the
17 abandonment, exploitation, abuse, neglect, or self-neglect of a vulnerable adult who is
18 60 years of age or older that is alleged to have been committed by or to have resulted
19 from the negligence of the staff or a volunteer of an out-of-home care facility,
20 including a facility licensed under AS 18.20, in which the vulnerable adult resides, and
21 if the Department of Health and Social Services licenses that type of facility, the
22 Department of Administration shall transfer the report for investigation to the long
23 term care ombudsman under AS 44.21.232 and the Department of Health and Social
24 Services.
- 25 (b) The department shall transfer to the Department of Health and Social
26 Services, for investigation, a report received under AS 47.24.010 regarding the
27 abandonment, exploitation, abuse, neglect, or self-neglect of a vulnerable adult who is
28 less than 60 years of age that is alleged to have been committed by or to have resulted
29 from the negligence of the staff or a volunteer of an out-of-home care facility in which
30 the vulnerable adult resides, if the Department of Health and Social Services licenses
31 that type of facility.

1 (b) After the department conducts an investigation under (a) of this section,
2 the department shall prepare a written report of the investigation, including findings,
3 recommendations, and a determination of whether and what kind of supportive or
4 protective services are needed by and are to be offered to the vulnerable adult. After
5 the department's designee conducts an investigation under (a) of this section, the
6 designee shall prepare a written report of the investigation, including findings,
7 recommendations, and a proposed determination of whether and what kind of
8 supportive or protective services are to be offered to the vulnerable adult. The
9 department shall prepare, and attach to the designee's report, a final determination
10 regarding services to be offered to the vulnerable adult.

11 (c) The department, or its designee, shall immediately terminate an
12 investigation under this section upon the request of the vulnerable adult who is the
13 subject of the report made under AS 47.24.010. However, if the investigation to that
14 point has resulted in reasonable cause to believe that the vulnerable adult is in need
15 of protective services,

16 (1) the department may petition the court as set out in AS 47.24.019;
17 or

18 (2) the department or its designee may refer the report made to the
19 department under AS 47.24.010 to a police officer for criminal investigation.

20 (d) Upon request, a person who made a report to the department under
21 AS 47.24.010 regarding a vulnerable adult shall be notified of the status of the
22 investigation conducted under (a) of this section regarding that vulnerable adult.

23 Sec. 47.24.016. SURROGATE DECISION MAKERS FOR VULNERABLE
24 ADULTS. (a) If the department determines under AS 47.24.015 that a vulnerable
25 adult is in need of protective services, but the department cannot obtain the vulnerable
26 adult's consent to receive the services because the vulnerable adult is unable to consent
27 or lacks decision making capacity, and has no guardian or attorney in fact to serve as
28 the vulnerable adult's surrogate decision maker, the department may select from the
29 following list, in the order of priority listed, an individual who is willing to be the
30 vulnerable adult's surrogate decision maker for the purpose of deciding whether to
31 consent to the vulnerable adult's receipt of protective services:

CORRECTION

**THIS DOCUMENT
HAS BEEN REPHOTOGRAPHED
TO ASSURE LEGIBILITY**

SIPK
Markup Feb. 15
- 4 pages total -

SENATE BILL NO. 248

IN THE LEGISLATURE OF THE STATE OF ALASKA

EIGHTEENTH LEGISLATURE - SECOND SESSION

BY THE SENATE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

Introduced: 1/14/94
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8 duties, have reasonable cause to believe that a vulnerable adult suffers from
9 abandonment, exploitation, abuse, neglect, or self-neglect [AN ELDERLY PERSON
10 HAS SUFFERED HARM] shall, not later than 24 hours after first having cause for the
11 belief, report the belief to the department's central information and referral service
12 for vulnerable adults [HARM TO THE DEPARTMENT OF HEALTH AND SOCIAL
13 SERVICES]:

14 (1) a physician or other licensed health care provider;

1 re-insert
2 leave in
3 the marital therapists

(2) a mental health professional as defined in AS 47.30.915(11) ^{AND}
~~INCLUDING A MARITAL AND FAMILY THERAPIST LICENSED UNDER~~
AS 08.63f;

leave this all in
in regular type no
brackets

- 4 (3) a pharmacist;
- 5 (4) an administrator of a nursing home, residential care or health care
- 6 facility;
- 7 (5) a guardian or conservator;
- 8 (6) a police officer;
- 9 (7) a village public safety officer;
- 10 (8) a village health aide;
- 11 (9) a social worker;
- 12 (10) a member of the clergy;
- 13 (11) a staff employee of a project funded by the Department of
- 14 Administration for the provision of services to older Alaskans, the Department of
- 15 Health and Social Services, or the Council on Domestic Violence and Sexual
- 16 Assault [OLDER ALASKANS COMMISSION];
- 17 (12) an employee of a personal care [HOMEMAKER PROGRAM] or
- 18 home health aide program;
- 19 (13) an emergency medical technician or a mobile intensive care
- 20 paramedic;
- 21 (14) a caregiver of the vulnerable adult.

22 (b) A report [OF HARM] made under this section may include the name and

23 address of the reporting person [REPORTING THE HARM] and shall include

- 24 (1) the name and address of the vulnerable adult [ELDERLY
- 25 PERSON];
- 26 (2) information relating to the nature and extent of the abandonment,
- 27 exploitation, abuse, neglect, or self-neglect [HARM];
- 28 (3) other information that the reporting person [REPORTING THE
- 29 HARM] believes might be helpful in an investigation of the case or in providing
- 30 protection for the vulnerable adult [ELDERLY PERSON].

31 (c) The department or its designees shall report to the Department of Law

1 any person required by (a) of this section to report who fails to comply with this
2 section. A person listed in (a) of this section who, because of the circumstances,
3 should have had reasonable cause to believe that a vulnerable adult suffers from
4 abandonment, exploitation, abuse, neglect, or self-neglect but who fails to comply
5 with this section is guilty of a violation as defined in AS 11.81.900(b).

6 (d) This section does not prohibit a person listed in (a) of this section, or any
7 other person, from reporting cases of abandonment, exploitation, abuse, neglect, or
8 self-neglect of a vulnerable adult [ECONOMIC OR PHYSICAL HARM TO AN
9 ELDERLY PERSON] that have come to the person's attention [IN A
10 NONPROFESSIONAL CAPACITY. THIS SECTION DOES NOT PROHIBIT ANY
11 OTHER PERSON FROM REPORTING ECONOMIC HARM TO AN ELDERLY
12 PERSON THAT THE PERSON HAS REASONABLE CAUSE TO BELIEVE IS A
13 RESULT OF THEFT, FRAUD, OR COERCION BY A CARETAKER OF THE
14 ELDERLY PERSON, OR PHYSICAL HARM TO AN ELDERLY PERSON THAT
15 THE PERSON HAS REASONABLE CAUSE TO BELIEVE IS A RESULT OF
16 ABUSE, NEGLECT, OR ABANDONMENT].

17 (e) If a person making a report under this section believes that immediate
18 action is necessary to, protect the vulnerable adult [ELDERLY PERSON] from
19 of serious ~~to physical harm~~ imminent risk due to abandonment, exploitation, abuse, neglect, or self-neglect and
20 the reporting person cannot immediately contact the department's central
21 information and referral service for vulnerable adults [HARM], the reporting
22 person may [SHALL] make the report [OF HARM] to a police officer or a village
23 public safety officer. The police officer or village public safety officer shall take
24 immediate action to protect the vulnerable adult [ELDERLY PERSON] and shall, at
25 the earliest opportunity, notify the department.

26 (f) A person listed in (a) of this section who reports to the long term care
27 ombudsman under AS 44.21.232, or to the Department of Health and Social
28 Services, that a vulnerable adult has been exploited, abused, or neglected in an
29 out-of-home care facility is considered to have met the duty to report under (a)
30 of this section. [A PERSON WHO, IN GOOD FAITH MAKES A REPORT OF
31 ECONOMIC OR PHYSICAL HARM TO AN ELDERLY PERSON UNDER

1 AS 47.24.010 - 47.24.100, OR WHO PARTICIPATES IN JUDICIAL PROCEEDINGS
2 RELATED TO THE SUBMISSION OF REPORTS UNDER AS 47.24.010 -
3 47.24.100, IS IMMUNE FROM ANY CIVIL OR CRIMINAL LIABILITY THAT
4 MIGHT OTHERWISE BE INCURRED OR IMPOSED.]

5 (g) [FAILURE TO MAKE A REPORT UNDER SUBSECTIONS (a) AND (d)
6 OF THIS SECTION IS NOT THE BASIS OF CIVIL LIABILITY UNLESS
7 OTHERWISE PROVIDED BY LAW.]

8 (h) [IF A PERSON MAKES A GOOD FAITH REPORT OF HARM UNDER
9 THIS SECTION, AN EMPLOYER OR SUPERVISOR OF THE PERSON, OR A
10 PUBLIC OR PRIVATE AGENCY OR ENTITY THAT PROVIDES BENEFITS,
11 SERVICES, OR HOUSING TO THE PERSON, MAY NOT DISCHARGE, DEMOTE,
12 TRANSFER, REDUCE THE PAY OR BENEFITS OR WORK PRIVILEGES OF,
13 PREPARE A NEGATIVE WORK PERFORMANCE EVALUATION OF, DENY OR
14 WITHHOLD BENEFITS OR SERVICES, EVICT, OR TAKE OTHER
15 DETRIMENTAL ACTION AGAINST THE PERSON BECAUSE OF THE REPORT.
16 THE PERSON MAKING THE REPORT MAY BRING A CIVIL ACTION FOR
17 COMPENSATORY AND PUNITIVE DAMAGES AGAINST AN EMPLOYER,
18 SUPERVISOR, AGENCY, OR ENTITY THAT VIOLATES THIS SUBSECTION.
19 IN THE CIVIL ACTION THERE IS A REBUTTABLE PRESUMPTION THAT THE
20 DETRIMENTAL ACTION WAS RETALIATORY IF IT WAS TAKEN WITHIN 90
21 DAYS AFTER THE REPORT OF HARM WAS MADE.]

22 * Sec. 2. AS 47.24 is amended by adding new sections to read:

23 Sec. 47.24.011. DUTIES OF THE DEPARTMENT REGARDING SERVICES
24 AND PROTECTION FOR VULNERABLE ADULTS. In order to facilitate the
25 provision of supportive and protective services for vulnerable adults, the department
26 shall

27 (1) compile information on available supportive and protective services
28 for vulnerable adults in the state;

29 (2) establish, publicize, and maintain a central information and referral
30 service for vulnerable adults;

31 (3) develop and coordinate a statewide system to serve vulnerable

1 adults who are in need of protective services;

2 (4) establish criteria and procedures for the authorization and
3 supervision of other state agencies or community-based service providers to serve as
4 designees of the department under AS 47.24;

5 (5) in accordance with this chapter, designate other state agencies or
6 community-based service providers to deliver supportive and protective services to
7 vulnerable adults who are in need of protective services;

8 (6) develop within the central information and referral service for
9 vulnerable adults a central registry for reports of vulnerable adults in need of protective
10 services;

11 (7) maintain confidentiality of records as provided for in AS 47.24.050;
12 and

13 (8) adopt regulations to carry out the purposes of this chapter.

14 **Sec. 47.24.013. REPORTS OF ABANDONMENT, EXPLOITATION, ABUSE,**
15 **NEGLECT, OR SELF-NEGLECT OF VULNERABLE ADULTS IN OUT-OF-HOME**
16 **CARE FACILITIES.** (a) If a report received under AS 47.24.010 regards the
17 abandonment, exploitation, abuse, neglect, or self-neglect of a vulnerable adult who is
18 60 years of age or older that is alleged to have been committed by or to have resulted
19 from the negligence of the staff or a volunteer of an out-of-home care facility
20 including a facility licensed under AS 18.20, in which the vulnerable adult resides, and
21 if the Department of Health and Social Services licenses that type of facility, the
22 Department of Administration shall transfer the report for investigation to the long
23 term care ombudsman under AS 44.21.232 and the Department of Health and Social
24 Services.

25 (b) The department shall transfer to the Department of Health and Social
26 Services, for investigation, a report received under AS 47.24.010 regarding the
27 abandonment, exploitation, abuse, neglect, or self-neglect of a vulnerable adult who is
28 less than 60 years of age that is alleged to have been committed by or to have resulted
29 from the negligence of the staff or a volunteer of an out-of-home care facility in which
30 the vulnerable adult resides, if the Department of Health and Social Services licenses
31 that type of facility.

1 (c) Upon receipt of a report from the department under (a) or (b) of this
2 section, the long term care ombudsman and the Department of Health and Social
3 Services shall

4 (1) conduct an investigation as appropriate under AS 44.21.232 or
5 AS 47, respectively;

6 (2) coordinate and cooperate in their responses to and investigations of
7 the report if their jurisdictions overlap;

8 (3) provide the results of their actions or investigations to the central
9 information and referral service of the department within 60 days after the receipt of
10 the report.

11 (d) If the long term care ombudsman or the Department of Health and Social
12 Services receives directly a report regarding the abandonment, exploitation, abuse,
13 neglect, or self-neglect of a vulnerable adult in an out-of-home care facility, the
14 ombudsman or the Department of Health and Social Services shall provide the report,
15 and the results of their actions or investigations regarding the report, to the central
16 information and referral service of the Department of Administration. The Department
17 of Administration may investigate the report as described in AS 47.24.015 if the
18 department determines that action is appropriate.

19 (e) If the results of an investigation by the long term care ombudsman or the
20 Department of Health and Social Services are provided to the Department of
21 Administration under (c) or (d) of this section, the Department of Administration may
22 make a final determination as described in AS 47.24.015(b), based on the investigation
23 results provided, regarding services to be offered to the vulnerable adult.

24 Sec. 47.24.015. ACTION ON REPORTS. (a) Upon the department's receipt
25 of a report under AS 47.24.010 that is not transferred under AS 47.24.013, the
26 department, or its designee, shall promptly initiate an investigation to determine
27 whether the vulnerable adult who is the subject of the report suffers from
28 abandonment, exploitation, abuse, neglect, or self-neglect. The department, or its
29 designee, shall conduct a face-to-face interview with the subject of the report unless
30 that person is unconscious or the department, or its designee, has determined that a
31 face-to-face interview could further endanger the vulnerable adult.

1 (b) After the department conducts an investigation under (a) of this section,
2 the department shall prepare a written report of the investigation, including findings,
3 recommendations, and a determination of whether and what kind of supportive or
4 protective services are needed by and are to be offered to the vulnerable adult. After
5 the department's designee conducts an investigation under (a) of this section, the
6 designee shall prepare a written report of the investigation, including findings,
7 recommendations, and a proposed determination of whether and what kind of
8 supportive or protective services are to be offered to the vulnerable adult. The
9 department shall prepare, and attach to the designee's report, a final determination
10 regarding services to be offered to the vulnerable adult.

11 (c) The department, or its designee, shall immediately terminate an
12 investigation under this section upon the request of the vulnerable adult who is the
13 subject of the report made under AS 47.24.010. However, if the investigation to that
14 point has resulted in reasonable cause to believe that the vulnerable adult is in need
15 of protective services,

16 (1) the department may petition the court as set out in AS 47.24.019;

17 or

18 (2) the department or its designee may refer the report made to the
19 department under AS 47.24.010 to a police officer for criminal investigation.

20 (d) Upon request, a person who made a report to the department under
21 AS 47.24.010 regarding a vulnerable adult shall be notified of the status of the
22 investigation conducted under (a) of this section regarding that vulnerable adult.

23 **Sec. 47.24.016. SURROGATE DECISION MAKERS FOR VULNERABLE**
24 **ADULTS.** (a) If the department determines under AS 47.24.015 that a vulnerable
25 adult is in need of protective services, but the department cannot obtain the vulnerable
26 adult's consent to receive the services because the vulnerable adult is unable to consent
27 or lacks decision making capacity, and has no guardian or attorney in fact to serve as
28 the vulnerable adult's surrogate decision maker, the department may select from the
29 following list, in the order of priority listed, an individual who is willing to be the
30 vulnerable adult's surrogate decision maker for the purpose of deciding whether to
31 consent to the vulnerable adult's receipt of protective services:

When the vulnerable adult is no longer unable to consent or requires decision-making and (d) capacity, the department may no longer use the consent given by the surrogate decision maker as a basis for continuation of protective services to the vulnerable adult.

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- (1) the vulnerable adult's spouse, unless
 - (A) the vulnerable adult and the spouse have separate domiciles;
 - or
 - (B) the vulnerable adult or the spouse have initiated divorce or dissolution proceedings;
- (2) an individual who lives with the vulnerable adult in a spousal relationship or as a domestic partner and who is 18 years of age or older;
- (3) a son or daughter of the vulnerable adult who is 18 years of age or older;
- (4) a parent of the vulnerable adult;
- (5) a brother or sister of the vulnerable adult who is 18 years of age or older; or
- (6) a close friend or relative of the vulnerable adult who is 18 years of age or older.

(b) An individual from the list in (a) of this section may not be selected as a surrogate decision maker if

- (1) the department determines that individual does not possess decision making capacity; or
- (2) there are allegations that individual is a perpetrator of the abandonment, exploitation, abuse, or neglect of the vulnerable adult.

(c) If the department intends to select a surrogate decision maker from a priority level in the list in (a) of this section and there is more than one individual at that priority level who is willing to be the surrogate decision maker, those individuals

- (1) may select from amongst themselves, by majority vote, an individual to serve as the surrogate decision maker; or
- (2) as a group may serve as the surrogate decision maker and reach decisions by consensus.

(d) ~~INSERT~~
Sec. 47.24.017. DELIVERY OF PROTECTIVE SERVICES FOR VULNERABLE ADULTS. (a) If the department determines under AS 47.24.015 that a vulnerable adult is in need of protective services and either the vulnerable adult, the vulnerable adult's guardian or attorney in fact, or a surrogate decision maker selected

1 under AS 47.24.016 consents to receipt of the protective services, and to the extent
2 that resources are available, the department shall ensure that the protective services for
3 the vulnerable adult are provided by the department or its designee within 10 working
4 days after the department received the report under AS 47.24.010 regarding the
5 abandonment, exploitation, abuse, neglect, or self-neglect of the vulnerable adult.
6 However, if circumstances beyond the control of the department or the department's
7 designee make it impossible to provide the protective services within the 10 working
8 days, the department shall ensure that the services are provided as soon as possible
9 after that time.

10 (b) Notwithstanding (a) of this section, if the department determines that an
11 emergency situation exists that necessitates provision of protective services to a
12 vulnerable adult, the department may provide the necessary protective services in a
13 manner determined by the department to be the most appropriate in light of the
14 emergency situation, regardless of whether the vulnerable adult or any other person has
15 consented to receipt of the services.

16 (c) To the extent practicable, protective services provided under this section
17 shall be delivered in a culturally relevant manner that protects the vulnerable adult's
18 right to the least restrictive environment and maximizes that person's own decision
19 making capabilities.

20 Sec. 47.24.019. PETITIONING COURT FOR CERTAIN PROTECTIVE
21 SERVICES. (a) If, after investigation under AS 47.24.015, the department has
22 reasonable cause to believe that a vulnerable adult is in need of protective services and
23 is an incapacitated person, the department may petition the court under AS 13.26 for
24 appointment of a guardian or temporary guardian for the vulnerable adult for the
25 purpose of deciding whether to consent to the receipt of protective services for the
26 vulnerable adult.

27 (b) If, after an investigation under AS 47.24.015, the department has
28 reasonable cause to believe that a vulnerable adult is mentally ill and as a result either
29 is likely to cause serious harm to self or others or is gravely disabled, the department
30 may petition the court under AS 47.30.700 to initiate an involuntary commitment
31 proceeding.

1 (c) If a vulnerable adult who has consented to receive protective services, or
2 on whose behalf consent to receive protective services has been given, is prevented by
3 a caregiver from receiving those services, the department may assist the vulnerable
4 adult or the person who consented to the vulnerable adult's receipt of the services to
5 petition the superior court for an injunction restraining the caregiver from interfering
6 with the provision of protective services to the vulnerable adult.

7 * Sec. 3. AS 47.24.040 is repealed and reenacted to read:

8 Sec. 47.24.040. MONITORING. If ongoing protective services are provided
9 to a vulnerable adult under AS 47.24.017, the department shall monitor the adult's
10 situation, as the department considers appropriate, until the department determines that
11 the protective services are no longer needed.

12 * Sec. 4. AS 47.24.050 is amended to read:

13 Sec. 47.24.050. CONFIDENTIALITY OF REPORTS. (a) Investigation
14 reports and reports of the abandonment, exploitation, abuse, neglect, or self-neglect
15 of a vulnerable adult [HARM] filed under this chapter [AS 47.24.010 - 47.24.100]
16 are confidential and are not subject to public inspection and copying under
17 AS 09.25.110 - 09.25.125. However, in accordance with this chapter [AS 47.24.010 -
18 47.24.100] and regulations adopted under this chapter [AS 47.24.010 - 47.24.100],
19 investigation reports may be used by appropriate [GOVERNMENTAL] agencies or
20 individuals inside and outside the state, in connection with investigations or judicial
21 proceedings involving the abandonment, exploitation, abuse, neglect, or self-neglect
22 of a vulnerable adult [HARM TO AN ELDERLY PERSON].

23 (b) The department shall disclose a report of the abandonment, exploitation,
24 abuse, neglect, or self-neglect of a vulnerable adult [HARM] if the vulnerable adult
25 [ELDERLY PERSON] who is the subject of the report consents in writing. The
26 department shall, upon request, disclose the number of verified reports of
27 abandonment, exploitation, abuse, neglect, or self-neglect of a vulnerable adult
28 [HARM] that occurred at an institution that provides [FOR] care for vulnerable
29 adults [OF THE ELDERLY].

30 * Sec. 5. AS 47.24.070 is repealed and reenacted to read:

31 Sec. 47.24.070. REGULATIONS. Before adoption by the department,

1 regulations to implement this chapter shall be provided to the Older Alaskans
2 Commission (AS 44.21.200) for review.

3 * Sec. 6. AS 47.24.120 is amended to read:

4 Sec. 47.24.120. IMMUNITY FROM LIABILITY: RETALIATION
5 PROHIBITED. (a) A person who in good faith makes a report under AS 47.24.010
6 [AS 47.24.110], regardless of whether the person is required to do so, is immune from
7 civil or criminal liability that might otherwise be incurred or imposed for making the
8 report.

9 (b) An employer or supervisor of a person who in good faith makes a report
10 under AS 47.24.010 [AS 47.24.110] may not discharge, demote, transfer, reduce pay
11 or benefits or work privileges of, prepare a negative work performance evaluation of,
12 or take other detrimental action against the person because the person made the report.
13 The person making the report may bring a civil action for compensatory and punitive
14 damages against an employer or supervisor who violates this subsection. In the civil
15 action there is a rebuttable presumption that the detrimental action by the employer or
16 supervisor was retaliatory if it was taken within 90 days after the report was made.

17 * Sec. 7. AS 47.24 is amended by adding a new section to read:

18 Sec. 47.24.900. DEFINITIONS. In this chapter,

19 (1) "abandonment" means desertion of a vulnerable adult by a
20 caregiver;

21 (2) "abuse" means

22 (A) the wilful, intentional, or reckless non-accidental, and non-
23 therapeutic infliction of physical pain, injury, or mental distress; or

24 (B) sexual assault under AS 11.41.410 or 11.41.420;

25 (3) "caregiver" means

26 (A) a person who is providing care to a vulnerable adult as a
27 result of a family relationship, or who has assumed responsibility for the care
28 of a vulnerable adult voluntarily, by contract, or by court order; or

29 (B) an employee of an out-of-home care facility who provides
30 care to one or more vulnerable adults;

31 (4) "decision making capacity" means the ability to understand and

Note:

1 appreciate the nature and consequences of 222a decision and the ability to reach and
2 communicate an informed decision;

3 (5) "department" means the Department of Administration;

4 (6) "designee" means another state agency or a community-based
5 program, individual, or provider of supportive services that has been licensed, or
6 authorized by agreement with the department, to provide one or more services to
7 vulnerable adults;

8 (7) "exploitation" means unjust or improper use of another person or
9 another person's resources for one's own profit or advantage;

10 (8) "incapacitated person" means a person whose ability to receive and
11 evaluate information or to communicate decisions is impaired to the extent that the
12 person lacks the ability to provide or arrange for the essential requirements for the
13 person's physical health or safety without court-ordered assistance;

14 (9) "neglect" means the intentional failure by a caregiver to provide
15 essential care or services necessary to maintain the physical and mental health of the
16 vulnerable adult;

17 (10) "police officer" has the meaning given in AS 18.65.290;

18 (11) "protective services" means services that are intended to prevent
19 or alleviate harm resulting from abandonment, exploitation, abuse, neglect, or self-
20 neglect and that are provided to a vulnerable adult in need of protection; "protective
21 services" includes protective placement;

22 (12) "self-neglect" means an act or omission by a vulnerable adult that
23 results, or could result in the deprivation of essential services necessary to maintain
24 minimal mental, emotional, or physical health and safety;

25 (13) "supportive services" means the range of services delivered by
26 public and private organizations and individuals that assist the elderly and vulnerable
27 adults with their social, health, educational, recreational, transportation, housing,
28 nutritional, financial, legal, or other needs;

29 (14) "unable to consent" means refusal to, or inability to, accept
30 services because

31 (A) the person is an incapacitated person or apparently is an

1 incapacitated person;

2 (B) of coercion by or fear of reprisal from the perpetrator of
3 abandonment, exploitation, abuse, or neglect;

4 (C) of dependency on the perpetrator of abandonment,
5 exploitation, abuse, or neglect for services, care, or support; or

6 (D) of an inability to perceive that refusal to consent results in
7 an imminent and substantial danger of death or irreparable harm to self or
8 others;

9 (16) "vulnerable adult" means a person 18 years of age or older who,
10 because of physical or mental impairment, is unable to meet the person's own needs
11 or to seek help without assistance.

12 * Sec. 8. AS 47.24.020, 47.24.030, 47.24.060, 47.24.075, 47.24.100, and 47.24.110 are
13 repealed.

14 * Sec. 9. TRANSITION. (a) Contracts, rights, liabilities, and obligations created by or
15 under a law repealed by this Act and in effect on June 30, 1994, remain in effect
16 notwithstanding this Act's taking effect. Records, equipment, appropriations, and other
17 property of agencies of the state whose functions are transferred under this Act shall be
18 transferred to implement the provisions of this Act.

19 (b) Litigation, hearings, investigations, and other proceedings pending under a law
20 repealed by this Act, or in connection with functions transferred by this Act, continue in effect
21 and may be continued and completed notwithstanding a transfer, amendment, or repeal
22 provided for in this Act.

23 (c) The Department of Administration may proceed to adopt regulations necessary to
24 implement the changes made by this Act. The regulations may not take effect before July 1,
25 1994.

26 * Sec. 10. Section 9(c) of this Act takes effect immediately under AS 01.10.070(c).

27 * Sec. 11. Sections 1 - 8, 9(a), and 9(b) of this Act take effect July 1, 1994.

FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO: SB 248

Revision Date: _____ Dept. Affected: Public Safety
 Title: Assist & Protect Vulnerable Adults BRU: Alaska State Troopers
 _____ Component: Detachments
 Sponsor: S. RULES by Request
 Requestor: S. HES COMPONENT SERIAL NO. 799

EXPENDITURES/REVENUES: (Thousands of Dollars) (inflation not included)

OPERATING	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL EXPENDITURES	-0-	-0-	-0-	-0-	-0-	-0-
CHANGE IN REVENUES ()	-0-	-0-	-0-	-0-	-0-	-0-
<small>Revenue Code</small>						

FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-


Estimate of current year (FY 94) impact: \$ _____

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary.)

No significant fiscal impact upon the Alaska State Troopers is anticipated.

Prepared By: Lee Ann Lucas Phone: 465-4322
 Division: Commissioner's Office Date: 2/2/94
 Approved by Commissioner:  Date: 2/2/94
 Agency: Richard S. Burton, Dept. of Public Safety

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FISCAL NOTE

No. 1

STATE OF ALASKA
1994 LEGISLATIVE SESSION

Bill Version: SB 248

(S) Publish Date: 1-14-94

Revision Date: 1/10/94 Dept. Affected: Health and Social Services
 Title: Vulnerable Adults Protective Services BRU: Purchased Services
 Component: Adult Services
 Sponsor: Rules Committee
 Requestor: by Request of Governor COMPONENT SERIAL NO. _____

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING	FY95	FY96	FY97	FY98	FY99	FY00
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS	(364.5)					
MISCELLANEOUS						
TOTAL OPERATING	(364.5)	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
----------------------	--	--	--	--	--	--

CHANGES IN REVENUES						
---------------------	--	--	--	--	--	--

FUND SOURCE

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	(342.9)					
1005 GF/Program Receipts						
1006 GF/MHTIA	(21.6)					
Other						
TOTAL	(364.5)	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY94) impact: None

ANALYSIS: (Attach a separate page if necessary)

When the existing Protection of the Elderly statute was passed in 1983, no funding was provided. In the late 70's, the department had also been given statutory responsibility for licensing adult facilities. Again no funds were provided for licensing and no funds were provided for upgrading the care of dependent adults residing in existing facilities, then called, boarding homes.

In 1983, the department obtained funds for residential and foster care for dependent adults. Those funds became the Adult Services Component of the Purchased Services BRU and are being transferred from the Division of Family and Youth Services, DHSS, to the Division of Senior Services, Department of Administration to support the Protection of Vulnerable Adults Legislation.

Prepared by: Elizabeth R. Wing, Director *Elizabeth R. Wing*
 Division: Division of Family & Youth Services

Phone: 465-3191
 Date: 01/10/94

Approved by Commissioner: Margaret Lowe, M. Ed., Ed. S.
 Agency: Department of Health & Social Services

Date: _____

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FISCAL NOTE

No. 2

Bill Version: SR 248

(S) Publish Date: 1-14-94

STATE OF ALASKA
1994 LEGISLATIVE SESSION

Revision Date: 1/10/94 Dept. Affected: Health and Social Services
 Title: Vulnerable Adults Protective Services BRU: Family & Youth Services
 Component: Northern Region
 Sponsor: Rules Committee
 Requestor: By Request of Governor COMPONENT SERIAL NO. 255

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING	FY95	FY96	FY97	FY98	FY99	FY00
PERSONAL SERVICES	(68.0)					
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	(68.0)	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGES IN REVENUES						
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FUND SOURCE

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	(68.0)					
1005 GF/Program Receipts						
1008 GF/MHTIA						
Other						
TOTAL	(68.0)	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME	1					
PART-TIME						
TEMPORARY						

Estimate of current year (FY94) impact: None

ANALYSIS: (Attach a separate page if necessary)

One Adult Protective Services (APS) specialist is being transferred from the Division of Family and Youth Services (DFYS) Northern Region to the new Division of Senior Services to support the Protection of Vulnerable Adults Legislation.

When the existing Protection of the Elderly statute was passed in 1983, no funding was provided, other than 5.0 for brochures. The specialist position in Fairbanks was created from child protective services funds. Subsequent efforts to expand funding for a credible adult protective services program have not been fruitful. The Task Force that reviewed APS within DFYS recommended it be consolidated with other senior services where it is believed the program may be better supported and developed.

Prepared by: Deborah R. Wing, Director *Deborah R. Wing*
 Division: Division of Family & Youth Services

Phone: 465-3191

Date: 01/12/94

Approved by Commissioner: Margaret R. Lowe
Margaret R. Lowe
 Margaret Lowe, M. Ed., Ed. S.

Date: 1-13-94

Agency: Department of Health & Social Services

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FISCAL NOTE

No. 3

STATE OF ALASKA
1994 LEGISLATIVE SESSION

Bill Version: SB 248

(S) Publish Date: 1-14-94

Revision Date: 1/10/94 Dept. Affected: Health and Social Services
 Title: Vulnerable Adults Protective Services BRU: Family & Youth Services
 Component: Southcentral Region
 Sponsor: Rules Committee
 Requestor: By Request of Governor COMPONENT SERIAL NO. 254

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING	FY95	FY96	FY97	FY98	FY99	FY00
PERSONAL SERVICES	(127.1)					
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	(127.1)	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGES IN REVENUES						
---------------------	--	--	--	--	--	--

FUND SOURCE

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	(127.1)					
1005 GF/Program Receipts						
1008 GF/MHTIA						
Other						
TOTAL	(127.1)	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME	2					
PART-TIME						
TEMPORARY						

Estimate of current year (FY94) impact: None

ANALYSIS: (Attach a separate page if necessary)

Two Adult Protective Services (APS) specialists are being transferred from the Division of Family and Youth Services (DFYS) Southcentral Region to the new Division of Senior Services to support the Protection of Vulnerable Adults Legislation.

When the existing protection of the Elderly statute was passed in 1983, no funding was provided, other than 5.0 for brochures. The Adult Protective Services Specialist positions in Anchorage were created from child protective services funds. Subsequent efforts to expand funding for a credible adult protective services program have not been fruitful. The Task Force that reviewed APS within DFYS recommended it be consolidated with other senior services where it is believed the program may be better supported and developed.

Prepared by: Deborah R. Wing, Director *Deborah R. Wing*
 Division: Division of Family & Youth Services

Phone: 465-3191
 Date: 01/10/94

Approved by Commissioner: Margaret R. Lowe, M. Ed., Ed. S. *Margaret R. Lowe*
 Agency: Department of Health & Social Services

Date: 1-11-94

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FISCAL NOTE

No. 4

Bill Version: SB 248

(S) Publish Date: 1-14-94

STATE OF ALASKA
1994 LEGISLATIVE SESSION

Revision Date: _____ Dept. Affected: Administration
 Title: An act relating to services for and protection BRU: Senior Services
of vulnerable adults. Component: Pioneers' Homes
 Sponsor: _____
 Requestor: Governor COMPONENT SERIAL NO. 1950

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY95	FY96	FY97	FY98	FY99	FY00
PERSONAL SERVICES	0.0	0.0	0.0	0.0	0.0	0.0
TRAVEL	0.0	0.0	0.0	0.0	0.0	0.0
CONTRACTUAL	0.0	0.0	0.0	0.0	0.0	0.0
SUPPLIES	0.0	0.0	0.0	0.0	0.0	0.0
EQUIPMENT	0.0	0.0	0.0	0.0	0.0	0.0
LAND & STRUCTURES	0.0	0.0	0.0	0.0	0.0	0.0
GRANTS, CLAIMS	0.0	0.0	0.0	0.0	0.0	0.0
MISCELLANEOUS	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
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CHANGE IN REVENUES ()						
------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts						
1006 GF/MHTIA	0.0	0.0	0.0	0.0	0.0	0.0
Other						
Total	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of current year (FY94) cost: \$ _____

POSITIONS:

FULL-TIME	(2)					
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page in necessary)

Two vacant positions will be transferred to the Senior Services Administration component.

Prepared by: Connie J. Sipe, Director Phone: 563-5654
 Division: Senior Services Date: _____
 Approved by Commissioner: [Signature] Date: 12/27/93
 Agency: Administration

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FISCAL NOTE

No. 5

Bill Version: SB 248

(S) Publish Date: 1-14-94

STATE OF ALASKA
1994 LEGISLATIVE SESSION

Revision Date: _____ Dept. Affected: Administration
 Title: An act relating to services for and protection BRU: Senior Services
of vulnerable adults. Component: Senior Services Administration
 Sponsor: _____
 Requestor: Governor COMPONENT SERIAL NO. 1981

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY95	FY96	FY97	FY98	FY99	FY00
PERSONAL SERVICES	258.5	263.7	268.9	274.3	279.8	285.4
TRAVEL	20.0	20.4	20.8	21.2	21.6	22.1
CONTRACTUAL	264.1	269.4	274.8	280.3	285.9	291.6
SUPPLIES	5.0	5.1	5.2	5.3	5.4	5.5
EQUIPMENT	12.0	12.2	12.5	12.7	13.0	13.2
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	559.6	570.8	582.2	593.9	605.7	617.8

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
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CHANGE IN REVENUES ()						
------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	538.0	549.2	560.6	572.3	584.1	596.2
1005 GF/Program Receipts						
1006 GF/MHTIA	21.6	21.6	21.6	21.6	21.6	21.6
Other						
Total	559.6	570.8	582.2	593.9	605.7	617.8

Estimate of current year (FY94) cost: \$ _____

POSITIONS:

FULL-TIME	5	5	5	5	5	5
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page in necessary)

Future costs inflated at 2% annual increase.

This fiscal note reflects the transfer of staff and support for Adult Protective Services to the Senior Services BRU. See fiscal notes from the Department of Health and Social Services for equivalent reductions.

Further analysis is on the attached pages.

Prepared by: Connie J. Sipe, Director Phone: 563-5654
 Division: Older Alaskans Commission Date: _____
 Approved by Commissioner: [Signature] Date: 1-14-94
 Agency: Administration

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Fiscal Note Analysis
Adult Protective Services

Transfers:

1. Transfer from Department of Health and Social Services, Family and Youth Services BRU, Southcentral and Northern Regional Office Components: Three full-time Social Worker positions, range 16, PCNs 06-3714, 06-3426, and 06-3725.
Total = 195.1

2. Transfer from Department of Health and Social Services, Purchased Services BRU, Adult Services Component: Adult foster/residential care, other purchased protective and contractual services.
Total = 364.5.

3. Transfer from Department of Administration, Senior Services BRU, Pioneers' Homes Component:
 - a. One full-time position (vacant) transferred within the BRU and reclassified to Clerk Typist, Anchorage.
 - b. One position will be reclassified to become a Social Worker in Anchorage for adult protective services.

Total Funds transferred = 559.6

Adult Protective Services will use the funds as follows:

Personal Services:	<u>Months</u>	<u>Subtotal</u>	<u>Total</u>
1 PFT Soc. Worker III (Fbks)	12	66.8	
2 PFT Soc. Worker III (Anch)	24	128.3	
1 PFT Soc. Worker I (Anch)	10	35.1	
1 PFT Clerk Typist (Anch)	10	<u>28.3</u>	
Total Personal Services			258.5

Note: The division will identify and cross-train personnel in one or more Pioneers' Homes in Southeast to handle Adult Protective Services cases in that region on an "as needed" basis.

Travel	20.0
--------	------

Contractual:		
Purchased protective services, adult foster/residential	190.0	
Lease space	33.0	
Telephone (800 number, 24 hr. answering/paging)	34.0	
Risk management and other contractual costs	7.1	
Total Contractual services		264.1
Supplies		5.0
Equipment: software, telephones, computers, furniture		<u>12.0</u>
Total Transferred In for Protective Services		<u>559.6</u>

Senate Bill 248

For An Act Entitled: "An Act relating to services for and protection of vulnerable adults; and providing for an effective date."

Senior Legislative Package

This bill is part of a legislative package intended to consolidate and improve services for seniors. The package includes amendments to support a Division of Senior Services within the Department of Administration (HB 378), protection of vulnerable adults (HB 376/SB 248), and licensing of adult facilities (HB 377/SB 249). By divesting itself of adult services, DFYS will be fully focused on services to children, youth and families. Key department staff participated in drafting the content of the package. We believe that moving Adult Protective Services and licensing of adult facilities out of DFYS will improve services to the elderly and to vulnerable adults as the functions are relocated to divisions specializing in those populations. The department urges review and passage of this bill as well as the remaining bills in the package.

Background for Change

In the 1992 legislative session, the department recommended that a Task Force be created to address adult protective services issues which were raised in legislation. The department stated:

DFYS activity in APS is so understaffed that neighbors of victims do not know help is possible and professionals fail to report, assuming an inadequate investigative response. In 1983 the Protection of the Elderly reporting statute was passed, but not funded. Ten years later

- We don't have a full protective services system.
- We don't provide the same level of protection to elderly and vulnerable adults as we do to children.
- We know that we don't have an adequate system.
- We want to do better. So how do we do that?

Community members tend to report incidents of suspected abuse or neglect to elderly and vulnerable adult victims, if they perceive the protective services agency as able to effectively respond. Reports of harm have grown from 78 the first year after the reporting law was passed to around 440 in recent years. This is in line with the national average, but we believe that confidence in DFYS' response to adults in need is not there. Since only one in eight cases of abuse or neglect are reported, community confidence in the responding agency is critical.

There are only three workers specializing in Adult Protective Services (two in Anchorage and one in Fairbanks). In all other areas of the state (35 field offices) adult protective services are provided by staff who are assigned to provide protective services to both children and adults. DFYS also relies heavily on other agencies to provide services to adults following the investigation and disposition of a report of harm. The APS program in DFYS has been on the frontage road rather than on the expressway.

This administration created a two tiered collaborative effort in the fall of 1992 to address APS and related issues. Members included an eight member Deputy Commissioner and Director level policy working group from the departments of Administration and Health and Social Services and a separate task force of program specialists. This bill is an outcome of those deliberations. Passage would respond to the concern of the department expressed in 1992. We believe that over time re-locating protective services for adults will result in development of a professional response system.

DEPARTMENTS POSITION

The department strongly supports this bill.

Recommended:

Deborah R. Wing

Date:

1/21/94

Deborah R. Wing, Director
Division of Family and Youth Services

Approved:

Margaret R. Lowe

Date:

1-24-94

Margaret R. Lowe, M.Ed., Ed.S.
Commissioner
Department of Health and Social Services

DEPARTMENT OF ADMINISTRATION

SENATE BILL 248 SERVICES AND PROTECTION FOR VULNERABLE ADULTS

Senate Bill 248 has been introduced by Governor Hickel with the intent to make significant improvements in the way that protective services would be provided to vulnerable adults who are victims of abuse, neglect or exploitation. The bill would transfer the authority for adult protective services from the Department of Health & Social Services (Division of Family & Youth Services) to the Department of Administration (Division of Senior Services).

The Department of Administration worked as part of Governor Hickel's Interagency Task Force on Senior Services to develop this bill. Briefly, here are the highlights of improvements and changes contained in the bill. A more detailed analysis follows.

Senate Bill 248 would:

- Combine protective services for the elderly and other adults
- Offer protection to the "vulnerable," without interfering with elderly or disabled adults capable of caring for themselves
- Streamline abuse reporting and reduce duplicative work by state investigating agencies
- Open a central information and referral service for all vulnerable adults and their caregivers
- Promote more coordination with local service provider agencies to the same population
- Use local service providers as more "friendly" outreach workers wherever possible
- Honor a competent adult's refusal of services or request to terminate investigation
- Share appropriate information on status of investigation with the reporter of the abuse
- Use family members as "surrogate decision makers" when abuse victim is not able to give consent to receipt of services
- Clarify when and for what relief the state may seek judicial intervention to protect a person
- Redefine abuse to focus on intentional or reckless - not accidental - harm to adults
- Redefine neglect to focus on intentional failure to provide care, not inability to care
- Redefine exploitation to include exploitation of the victim's person as well as resources
- Provide for a smooth transition and transfer between the departments

DETAILED ANALYSIS OF BILL'S IMPROVEMENTS

New perspective on who are "vulnerable adults" and what is "abuse." The first section of the bill, at page 1, lines 5 -13, defines the protected class of persons as "vulnerable" adults who suffer abandonment, exploitation, abuse, neglect or self-neglect. This new definition in effect combines two formerly separate statutes: one for elder abuse and one for abuse of disabled persons. The definition also more correctly recognizes that not all elderly and not all disabled persons are "vulnerable." This section transfers the function of receiving reports to a new central information and referral service to be located in the Department of Administration.

Reporting of abuse updated and streamlined. As the first section continues onto page 2, the bill amends the list of persons who are required by this law to report their belief that a vulnerable adult is suffering from one of the listed types of abuse. (For brevity's sake, this paper will use "abuse" generally to refer to the entire list of types of harm covered by the bill.)

Section 1, subsections (c) and (d), page 2, l. 31 through page 3, l.16, bring the reporting requirements into compliance with the new assignment to Administration and with the new terminology in the bill regarding vulnerable adults and the types of abuse covered.

Section 1, subsection (e), page 3., ll.17 -25 clarify that when a victim is in imminent risk, the reporting person may contact a local police officer if the reporter is unable to contact the department, so that the police officer may take action to protect the vulnerable adult.

Section 1, subsection (f) , starting page 3, l. 26, clarifies that a person who observes abuse in an out-of-home care facility may fulfill the person's duty to report by making a report to the long term care ombudsman (of the Older Alaskans Commission) or the Department of Health & Social Services (the licensing section of the Medical Assistance Division or the Division of Mental Health & Developmental Disabilities).

The deletions from subsection (f), shown on page 3, ll.30 -31 and page 4, ll. 1 -21, simply delete duplicative language on protections for reporting persons, as that subject is covered later in Section 6 of the bill.

Department of Administration's new system for serving vulnerable adults who are abused.

Section 2, starting on page 4, l. 22, describes the duties of the department under the amended law. The Department of Administration will compile information on abuse, maintain a central information and referral (I & R) line, run a statewide system to serve abused adults.

More coordination with local service providers. The Department would be able to designate other (willing) state agencies or community-based service providers to deliver some or all of the supportive and protective services needed. This would be a major improvement over the current system, as the Department could use local provider agencies more familiar and less threatening to the alleged victim of abuse, such as the outreach worker from the local senior center to make initial contact and offer services. If cases involve serious abuse, the department might immediately send its social worker, or the social worker could pick up the case after the local senior center's first contact and assessment of the situation.

Reducing duplicate investigations by state agencies. Sec. 47.24.013, starting page 5, l. 14, is one of the bill's major improvements over the current delivery system. Currently, an allegation that abuse has occurred in a nursing home or hospital requires reporting to the Division of Family & Youth Services and to the Certification and Licensing Unit of Medical Assistance. In addition, the Long Term Care Ombudsman has jurisdiction under federal and state law to investigate the same situation if the office is called. Facilities often find themselves dealing with three to five state agencies over one allegation.

The bill improves this inefficient use of state resources by stating that when a facility is licensed by Health & Social Services (nursing homes, hospitals) and the victim is over the age of 60, then the report of abuse will be transferred for investigation and action to the appropriate licensing unit in DH&SS and the long term care ombudsman's office, which will be required to investigate, coordinate their investigations and responses, and to provide a report of the results to the central I & R service of Administration within 60 days.

Similarly, when the alleged victim of abuse in a licensed out-of-home care facility is under age 60, the case will still be transferred to the appropriate licensing agency within DH&SS, and the protective services unit in Administration will not be required to duplicate efforts by investigating the same case.

Investigative duties. Sec. 47.24.015, starting at page 6, l. 24, outlines how the Department of Administration is to take action on reports of possible abuse. The department is required to initiate a prompt investigation, which must include a face-to-face interview with the subject of the report, unless a personal interview would endanger the vulnerable adult. Note that the department may use a designee agency to conduct this work. The department's investigation must be summarized in a written report, including a summary of services to be provided.

Victim's request to drop investigation. If the subject of the report requests that the investigation cease, the department or its designee must terminate the investigation. However, in an improvement over current law, the department is not forced to abandon the case altogether upon the alleged victim's request. Rather, when the investigation to date has already resulted in "reasonable cause to believe that the vulnerable adult is in need of protective services," the department may either petition the court for certain protective services or may report the case for criminal investigation.

This new procedure recognizes the reality of many cases where the alleged victim is too scared of or threatened by the perpetrator to be willing to cooperate with any investigation, or where the victim appears to be temporarily or permanently incapable of making an informed decision about his or her own safety and affairs.

Sharing of information with reporter of abuse. Page 7, lines 20 - 22, are also an attempt to cure a problem in the current delivery system for protective services for adults. This section explicitly requires the department to notify the person who made the abuse report about the status of the investigation regarding the vulnerable adult. This will improve relations with reporters who are ongoing caregivers for the subject adult, as these caregivers need to know whether the person is safe and how the caregiver can best interact with the subject adult in the future.

New use of surrogate decision makers. A new official recognition of "surrogate decision makers" for vulnerable adults is included in sec. 47.24.016, which starts at page 7, l. 23. Under this

section, when the department finds that a vulnerable adult needs protective services, but the adult victim lacks decision making capacity or is "unable to consent" due to illness, coercion, fear of reprisal from or dependency on the perpetrator, then the department may seek consent from a guardian or attorney in fact for the victim. Under this new law, if there is no guardian, the department may select from the statute's list of surrogate decision makers for the person, for the purpose of deciding whether the person will "consent" to receiving protective or supportive services.

The surrogate decision maker selection process in the bill is modeled after similar acts in several other states. It allows the department to use --in the priority order listed--the consent of the vulnerable adult's spouse, domestic partner, adult child, parent, sibling, or close adult friend or relative. An incompetent person or an alleged perpetrator of the abuse may not be used as a surrogate. If more than one willing surrogate exists at the chosen priority level--like three adult children--then those persons may choose among themselves or make surrogate decisions by a majority vote.

Allowing surrogate decision making will allow the department to more quickly move ahead with protective services in many situations, and will avoid the expense of petitioning the court for orders or for a guardianship in those many situations here the crisis is only temporary and can be remedied by health care treatments or movement to a new safer environment. (Note that this power can not be used when the vulnerable adult victim retains capacity and capability to make his or her own consent decisions.)

Delivery of protective services. Sec. 47.24.017, starting page 8, l. 28 discusses service delivery. When the department determines that a vulnerable adult needs protective services, and the person or appropriate surrogate has consented, the department will provide services within 10 days, to the extent of resources available from all sources (department, client, other agencies). When an emergency situation exists the department may provide protective services without consent. Services are always to be delivered in a culturally relevant manner that protects the adult's right to live in the "least restrictive environment" and maximizes the person's own decision making capabilities.

Petitioning the court for protective services. Section 47.24.019, starting at page 9, l. 20., gives the department authority to petition the court for appointment of a guardian in order to decide if the person will consent to services, or to petition for involuntary commitment when the person is mentally ill and likely to seriously harm self or others, or to petition the court to issue an injunction against any caregiver who is interfering with the person's receiving services which the person has consented to receive.

Confidentiality and disclosure of reports. Section 4 of the bill amends AS 47.24.050, as shown at page 10, ll. 12 - 29. Under the proposed bill, confidential reports about investigations may be shared with "appropriate agencies or individuals." The department must delineate who is appropriate and how information will be shared. This section would ease a problem in the current law where confidentiality requirements can be so strictly interpreted that, for example, a local service provider such as an adult day care center which cares for a senior five days a week can not be asked to use its professional staff to help monitor the status of a client who is living with a caregiver who has abused the client in the past.

Immunity from liability or retaliation. This protection in the current law is maintained in the bill, section 6, on page 11.

Definitions. Many of the definitions are improvements to current law. The most important changes are highlighted here. Definitions are found on pages 11 - 13 of the bill draft.

"Abuse" will no longer mean any harm to an elder or disabled person. The proposed bill says that abuse is the wilful, intentional or reckless infliction of injury or mental distress, or sexual assault. The new definition will eliminate current investigations of purely accidental harm where other professionals who witness the accidental harm (such as in a nursing home) feel compelled by law to make a formal report of the abuse.

(One actual case that could have been ignored under this new definition was the accidental dropping from two feet above to the bed by one of two nurses' aides doing a difficult transfer of a resident. Although everyone saw the aide crying in remorse over the accident, and the aide had no history of carelessness or abuse, under the current statute, the elder was "harmed" and other employees felt compelled to report this technical incident of "abuse.")

"Designee" of the department, which can assist with investigation or provision of services to vulnerable adults, includes state agencies, community-based programs, individuals, or providers of supportive services licensed or authorized by agreement with the department .

"Exploitation" will include unjust or improper use of either the vulnerable person or his or her resources for another person's profit or advantage.

"Neglect" will mean the intentional failure by a caregiver to provide essential care, and not just the financial or physical inability of the caregiver to render care.

"Protective services" can include protective placement or other services intended to prevent or alleviate harm.

"Unable to consent," as discussed earlier, will be broader than just those persons who are "incompetent," i.e. permanently incapacitated from decision making. Unable to consent will include persons who are unable to consent due to coercion, fear, dependency, or temporary inability to perceive the imminent and substantial risk of death or irreparable injury if the person refuses assistance.

"Vulnerable adult" means a person over age 18 who, because of physical or mental impairment, is unable to meet his or her own needs, or is unable to seek help. Note that the bill would change the current law's presumption that all elderly persons and all physically, developmentally or mentally disabled persons are vulnerable and subject to special protection and possible interference in their affairs by state protective services.

General provisions of the bill. Section 8, page 13, lines 12 -13 repeals the existing abuse of the disabled law . Section 9, page 13, starting line 14, specifies how the transition of resources, cases, and ongoing contracts will be transferred between agencies upon the effective date of the Act. The bill authorizes the Department of Administration to proceed with regulations while awaiting the effective date of the Act. The transition section has an immediate effective date upon the Governor's signature, and the rest of the bill would be effective July 1, 1994.

Hazel J. Edmands, Elder Care

Senate bill #248

It is apparent that the Legislative body as a whole is concerned about the treatment of our Older Alaskans, however, as a caregiver to my aged mother afflicted with Alzheimers Disease and related dementia it is also apparent that in Sect 47:24:120 that there are no provisions for curtailment of harassment by third parties who have devious desires in reporting " abandonment, exploitation, abuse, neglect, or self-neglect".

I would like to suggest to the legislative body that the above quoted section be amended to include the following statement (at least in content if not verbatim)

"INVESTIGATION OF SAID REPORTING INDIVIDUAL SHALL BE CONDUCTED BY THE AGENCY TO INSURE THAT THE REPORTING IS IN GOOD FAITH AND NOT RETALIATORY OR VINDICTIVE IN NATURE" INVESTIGATION SHALL BE DOCUMENTED AND EVIDENCE SHALL BE PRESENTED TO THE ACCUSED SO THAT REBUTTAL AND/OR REFUTING EVIDENCE MAY BE PRESENTED.

Hazel J. Edmands, Elder Care

Sec 47.33.430 COMPLAINT

(b) "The licensing agency shall investigate a complaint filed under this section unless the agency reasonably concludes that the complaint is without merit."

This subsection should be amended to include:

The licensing agency shall investigate the complainant to determine if reporting is in good faith and not retaliatory or malicious vindictiveness.

Sec 47.33.520 INVESTIGATION

A subsection under investigation should read:

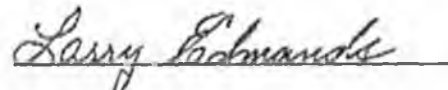
" The agency shall investigate all complainants to determine the validity of the complaint, if it is malicious in nature, or vindictive prior to subjecting the caregiver facility to rebuttal."

(e) Except as otherwise provided in AS 47.33.500(c), completed investigation reports and responses from homes are public records and should include complainant's name. (This is for the purpose of investigation into chronic complainants and those persons acting in bad faith or with malicious purpose)

Hazel J. Edmands, Elder Care

IT APPEARS THAT THE LAWMAKERS HAVE FORGOTTEN THAT THE RIGHTS OF THE ACCUSED, TO FACE THE ACCUSER, HAVE BEEN ABUSED.

I have been caring for my mother since 1986 but only since I requested licensing for a Foster Care Facility have I been subjected to harassment through anonymous accusations to the licensing facility. I have thus far answered all allegations to the satisfaction of the Agency.



Larry Edmands, Director

A M E N D M E N T

OFFERED IN THE SENATE

BY SENATOR RIEGER

TO: SB 248

Page 3, line 25, after ".":

Insert "A person may not bring an action for damages against a police officer, village public safety officer, the state, or a political subdivision of the state based on a decision under this subsection to take or not to take immediate action to protect a vulnerable adult. If a decision is made under this subsection to take immediate action to protect a vulnerable adult, a person may not bring an action for damages based on the protective actions taken unless the protective actions were performed with gross negligence or intentional misconduct: damages awarded in the action may include only direct economic compensatory damages for personal injury."

Page 7, after line 22:

Insert new subsections to read:

"(e) A person may not bring an action for damages based on a decision under this section to offer or not to offer protective services to a vulnerable adult.

(f) A person may not bring an action for damages based on the provision of protective services under this section unless the action is based on gross negligence or intentional misconduct. The damages awarded in an action under this section may include only direct economic compensatory damages for personal injury."

RECEIVED FEB 15 1994

HOMER



SENIOR

CITIZENS

January 9, 1994

*Please share
with others
on the H&SS
Committee.
Thanks!*

Senator Steve Rieger, Chair
Health, Education and Social Services Committee
Room 516 C
Juneau, Ak 99811

Ref: SB 248

The PURPOSE of this bill has the wholehearted endorsement of this Corporation which is pursuing at this time a loan from Alaska Housing Finance Corporation to build 40 units of AFFORDABLE assisted senior living housing. In order to assure that the housing will be affordable to all income groups, this Corporation has the philosophy that services already available in the community should not be duplicated by staff at its apartments. Such costs would be passed onto all tenants who may not need the services provided. This Corporation further has the philosophy that as landlords renting apartments which will become the tenants home, it has the responsibility to allow those service providers access to the tenants home to provide services.

In designing this proposed facility, the State Fire Marshall's Office REQUIRED this Corporation to sign a letter of intent that this Corporation would provide NO nursing services or allow long term bed ridden tenants in the facility BEFORE that office would allow the architects to design the facility under residential requirements in lieu of the more costly institutional requirements.

The heavy emphasis on medical terms and procedures in the "admissions" section could possibly cause this Corporation to forgo licensing of the facility as an assisted living facility. This Corporation recommends that friendly amendments be made to those sections where such terms and procedures are included. Examples would be:

- Sec. 47.33.210 ADMISSION CONTRACTS - to "Lease Agreement or Rental Agreement"
- " " " " (b)(4) "discharge of resident" - to "termination of the lease or rental agreement"
- Sec. 47.33.220 (3) "administrator of the home" - to "lessor"
- Sec. 47.33.240 EVALUATION OF ASSISTED LIVING PLAN -change "resident admitted" to "leasee"; it is also questioned as to why the distinction in evaluation times review

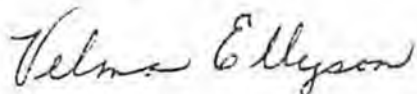
An additional section questioned by this Corporation:

Sec. 47.33.220 in which the home "shall ensure" a plan but in Section 47.33.230 (d) the home "shall prepare" the plan. This Corporation is hopeful that the tenant, tenants representative, etc. would be allowed to use the services of the Care Coordinator of South Peninsula Hospital to prepare the plan and avoid the duplication and additional cost of having to pay for a staff person at the home to also prepare one.

Because this bill will cover not only assisted living facilities for all age groups and a varying number of "beds" in the facility, this Corporation recommends that the sections which contain medical terms and procedures be review as if a homeowner in a small village such as Port Graham across the Kachemak Bay wished to become licensed under this bill. Because this Corporation with experience managing an independent living senior housing complex would have difficulty with achieving a license by these requirements, it has great sympathy for those persons who will be providing fewer beds and living in even more rural areas than Homer.

Thank you for your consideration in this matter.

Sincerely,



Velma Ellyson
Executive Director

P. S.

Yes, I'm the same Velma that served on the ASHA committee on housing in Alaska, senior housing sub-committee, a few years ago.

ALASKA STATE

HOSPITAL & NURSING HOME

ASSOCIATION

February 16, 1994

Senator Steve Reiger, Chair
Health, Education & Social Services
Committee
Alaska State Senate
Juneau, AK 99801

Re: Support SB 248, 249, 250

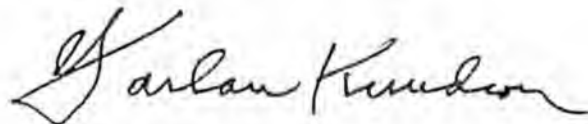
Dear Senator Reiger:

ASHNHA, representing community hospitals and nursing homes would like to add it's support for SB 248, to assist and protect vulnerable adults; SB 249, regulating assisted living homes and SB 250, revising the Older Alaskan's Commission.

The association supports the state's efforts through Project Choice that allows for a Medicaid waiver and provision of continuum of care from an individuals home through assisted living and if and when needed nursing home care. This new series of legislation, SB 248, SB 249 and SB 250 adds to the efforts to provide care as close to home and in as most cost effective manner as possible.

We ask the support of the Senate HESS Committee for SB 248, SB 249 and SB 250.

Sincerely,



Harlan R. Knudson
President/CEO