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**The Honorable Kurt Olson**
**Alaska House of Representatives**
**House Labor & Commerce Committee**
**State Capitol, Room 24-A**
**Juneau, AK 99801-1182**

February 2, 2010

Dear Chairman Olson:

The physicians at Alaska Spine Institute have concerns regarding HB 314 - **"An Act relating to fees and charges for medical treatment or services, the crime of unsworn falsification, investigations, and penalties as they relate to workers' compensation; and providing for an effective date."**

First, we are concerned with the new language in Section 2, page2, lines 14-21/ Subsection AS23.30.097 (a) (1) (D). The new subsection reads:

**provided on or after December 31, 2010, not to exceed the fees or other charges as specified in a usual, customary, and referenced in regulation; the fee schedule must include the most recent Current Procedural Terminology codes for both category I and category II medical treatment or other services published by the American Medical Association; not withstanding AS 44.62.010 - 44.62.290, the board shall update the schedule annually by order;**

This revised language provides "the board" with an undefined and unlimited scope of authority to make changes and establish policy with respect to the medical fee schedule.

There are no specifications re: the personnel who constitute board members or their special areas of interest. Those medical providers and practices who will be most impacted by the decisions of the "board" may not be adequately represented in this body.

In addition, there are no listed frequencies as to how often the fee schedule can be or is required to be changed or updated. Further, there is no information as to how "board" representatives are selected or replaced should this be needed.

There are no provisions for making appeals to the "board's" determinations about fee schedule decisions as the language provided gives them compete authority to make these determinations. The "board" could in one year utilize the usual, reasonable and customary fees for this area using Ingenix but could then elect to use another standard for setting the fee schedule in another year such as a Medicare based fee schedule.

This would severely limit most medical practices in their ability to forecast financial risks associated with adding new equipment and new procedures and limit their ability to provide Alaska's injured workers the most current treatment technologies allowing them to remain in the state for care v/s traveling to other locations outside of Alaska.

Although we understand the need to address the fee schedule due to rising insurance costs to employers, significant changes in the medical fee schedule that include unilateral control by the "board" may limit access to local physicians in the same fashion that Medicare, Medicaid and Federal Workers' Compensation have impacted access. There are few medical providers willing to accept a new patient with Federal Workers' Compensation as the payer and these patients must travel outside Alaska for even simple procedures such as carpal tunnel release.

Second, Alaska Spine Institute has no objections to the update of the CPT (current procedural terminology) codes as this is long overdue. The code list has not been updated for many years and many new codes have been added or new procedures have been assigned codes from the AMA (American Medical Association) that are not reflected on the Alaska Workers' Compensation Fee Schedule.

However, there is no provision outlining which of these codes, both existing ones and additionally added ones, will be considered covered and reimbursable by the States' workers' compensation carriers. Will this then fall under the "board's" scope of authority to make these decisions?

Finally, the MSRC (Medical Services Review Committee) was formed under Gov. Murkowski's administration and was tasked with taking on this complex issue to provide their recommendations to the administration.

The MSRC worked for many months to review the issues and review several options to help create their report to the administration. Many of them volunteered time during the work week and on their own time as well to review an extensive reference manual that was created for them and to perform independent research on what other states were doing with regard to Worker's Compensation. It is unfortunate that none of the committee's recommendations are included in HB 314.

We appreciate your attention to, and consideration of, the concerns we have raised regarding this measure.

Respectfully,

Michel L. Gevaert, MD

On Behalf of:

J. Michael James, MD Larry A. Levine, MD Shawn P. Johnston, MD