

**ALASKA STATE LEGISLATURE
HOUSE COMMUNITY AND REGIONAL AFFAIRS
STANDING COMMITTEE**

March 19, 2002
8:10 a.m.

MEMBERS PRESENT

Representative Kevin Meyer, Co-Chair
Representative Carl Morgan, Co-Chair
Representative Andrew Halcro
Representative Drew Scalzi
Representative Lisa Murkowski
Representative Gretchen Guess
Representative Beth Kerttula

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

HOUSE BILL NO. 474

"An Act relating to public rights-of-way and easements for surface transportation affecting the Anchorage Coastal Wildlife Refuge."

- MOVED CSHB 474(CRA) OUT OF COMMITTEE

HOUSE BILL NO. 407

"An Act relating to the certificate of need program."

- HEARD AND HELD

HOUSE BILL NO. 299

"An Act providing for the naming and renaming of Alaska geographic features."

- SCHEDULED BUT NOT HEARD

PREVIOUS ACTION

BILL: HB 474

SHORT TITLE: ANCHORAGE COASTAL WILDLIFE REFUGE

SPONSOR(S): REPRESENTATIVE(S) GREEN

Jrn-Date	Jrn-Page	Action
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HOUSE CRA COMMITTEE

-1-

March 19, 2002

02/19/02	2315	(H)	READ THE FIRST TIME - REFERRALS
02/19/02	2315	(H)	CRA, RES
03/05/02		(H)	CRA AT 8:00 AM CAPITOL 124
03/05/02		(H)	Heard & Held
03/05/02		(H)	MINUTE(CRA)
03/19/02		(H)	CRA AT 8:00 AM CAPITOL 124

BILL: HB 407

SHORT TITLE: CERTIFICATE OF NEED PROGRAM

SPONSOR(S): REPRESENTATIVE(S) COGHILL

Jrn-Date	Jrn-Page		Action
02/13/02	2232	(H)	READ THE FIRST TIME - REFERRALS
02/13/02	2232	(H)	CRA, HES
03/04/02	2469	(H)	COSPONSOR(S): JAMES
03/13/02	2530	(H)	COSPONSOR(S): SCALZI
03/14/02		(H)	CRA AT 8:00 AM CAPITOL 124
03/14/02		(H)	Scheduled But Not Heard
03/18/02	2593	(H)	COSPONSOR(S): DYSON
03/19/02		(H)	CRA AT 8:00 AM CAPITOL 124

WITNESS REGISTER

LAURA ACHEE, Staff
to Representative Joe Green
Alaska State Legislature
Capitol Building, Room 404
Juneau, Alaska 99801

POSITION STATEMENT: Testified on behalf of the sponsor of HB 474, Representative Green.

JANEL FEIERABEND, Director
Friends of Potter Marsh and the Anchorage Coastal Wildlife
Refuge (ACWR)

3170 Marathon Circle
Anchorage, Alaska 99515

POSITION STATEMENT: Testified that [HB 474] helps protect [the ACWR].

CHERYL SHOYER, Member
Oceanview Community Council
PO Box 113264
Anchorage, Alaska 99511

POSITION STATEMENT: Testified in support of HB 474.

JIM DOKOOZIAN, President
Bayshore/Klatt Community Council
1700 Shore
Anchorage, Alaska 99515
POSITION STATEMENT: Testified in support of HB 474.

RYNNIEVA MOSS, Staff
to Representative John Coghill
Alaska State Legislature
Capitol Building, Room 102
Juneau, Alaska 99801
POSITION STATEMENT: Testified on behalf of the sponsor of HB
474, Representative Coghill.

ELMER LINDSTROM, Deputy Commissioner
Department of Health & Social Services
PO Box 110601
Juneau, Alaska 99811-0601
POSITION STATEMENT: Testified on HB 407.

CATHY CRONIN
North Star Hospital
(No address provided)
POSITION STATEMENT: Offered to work on the expansion of the
psychiatric beds in the House Health, Education and Social
Services Standing Committee.

DAVID McGUIRE, Independent Practitioner
(No address provided)
POSITION STATEMENT: Urged passage of HB 407.

ELIZABETH RIPLEY, Director
Community Health Planning
Valley Hospital
PO Box 1687
Palmer, Alaska 99645
POSITION STATEMENT: Recommended establishing a working group
comprised of legislators and providers in order to examine the
CON process.

REBECCA PARKER, Employee
Providence Alaska Medical Center
3200 Providence Drive
Anchorage, Alaska 99508
POSITION STATEMENT: Testified in opposition to HB 407.

ALLAN SNIDER

PO Box 16216
Two Rivers, Alaska 99716
POSITION STATEMENT: Testified in support of HB 407.

JOHN LUNDQUIST, Employee
Fairbanks Memorial Hospital
752 Donohue Drive
Fairbanks, Alaska 99709
POSITION STATEMENT: Testified in opposition to HB 407.

MARTY O'LONE, Employee
Fairbanks Memorial Hospital
3825 Ridgeview Drive
Fairbanks, Alaska 99709
POSITION STATEMENT: Testified in opposition to HB 407.

LIZ WOODYARD, Nurse
PO Box 85109
Fairbanks, Alaska 99708
POSITION STATEMENT: Testified in opposition to changes to the
CON program.

CORLIS TAYLOR, Employee
Fairbanks Memorial Hospital
1335 Viewpointe Drive
Fairbanks, Alaska 99709
POSITION STATEMENT: Testified in opposition to HB 407.

ACTION NARRATIVE

TAPE 02-15, SIDE A
Number 0001

CO-CHAIR KEVIN MEYER called the House Community and Regional
Affairs Standing Committee meeting to order at 8:10 a.m.
Representatives Morgan, Meyer, Scalzi, and Murkowski were
present at the call to order. Representatives Scalzi, Guess,
and Kerttula arrived as the meeting was in progress.

HB 474-ANCHORAGE COASTAL WILDLIFE REFUGE

CO-CHAIR MEYER announced that the first order of business would
be HOUSE BILL NO. 474, "An Act relating to public rights-of-way
and easements for surface transportation affecting the Anchorage
Coastal Wildlife Refuge."

LAURA ACHEE, Staff to Representative Joe Green, Alaska State Legislature, informed the committee that Tim Rogers, Municipality of Anchorage, shared his concerns with her. She said that Mr. Rogers felt that the original legislation encroached on the municipality's authority over their land that extends into the refuge. Upon review, she agreed with Mr. Rogers and thus she had an amendment drafted. She explained that on page 1, lines 13-14, HB 474 says, "a right-of-way or other easement for surface transportation may not be created", with which the municipality took issue because the municipality does have some land that extends into the refuge. Therefore, the amendment changes the aforementioned language to read, "the state shall not acquire or create a right-of-way or other easement for surface transportation". With the amendment, the municipality would be able to place any surface transportation on their land that extends into the refuge.

REPRESENTATIVE MURKOWSKI related her understanding then that the issue is the state acquiring the easement.

MS. ACHEE replied yes. In further response to Representative Murkowski, Ms. Achee said that this was the only issue she was aware that the municipality had.

Number 0648

JANEL FEIERABEND, Director, Friends of Potter Marsh and the Anchorage Coastal Wildlife Refuge (ACWR), testified via teleconference. She mentioned that the [goal] of the organization is to protect the integrity of the marsh through education. Ms. Feierabend discussed the Lesser Sandhill Crane, which eats, sleeps, and nests in the ACWR because the habitat so perfectly supports its well being. The 32,000 acres of ACWR was designated as a state refuge in 1988 by the legislature. The state was wise to think of the future and establish the refuge. Ms. Feierabend mentioned the February 19, 1991, Alaska Coastal Wildlife Refuge Management Plan by ADF&G, which includes a comprehensive list of those species found in the refuge. She noted that the list has grown since that time.

MS. FEIERABEND emphasized that talk of development of any kind in this state refuge should raise major concern. Any possibility of encroachment into the refuge should be studied and analyzed by state decision makers. She suggested that the state decision makers should read "The Wildlife Study 2001: South Extension of the Coastal Trail Final Report" as well as

books regarding the human and canine impact to wildlife. This state refuge is a unique and special place that hosts a wealth of plant and invertebrate communities, and a range of wild animals. She expressed the need for wise statesman, who think beyond municipal borders and concerns, to be part of the check-and-balance system when it relates to state and even broader funded projects. "It is up to the state legislators to weigh in on the protection of the very area it deemed worthy to reserve as a refuge," she said. Ms. Feierabend said that HB 474 helps to protect this treasure, [ACWR], that belongs to all of Alaska.

Number 0946

CHERYL SHOYER, Member, Oceanview Community Council, testified via teleconference in support of HB 474. As a whole, the Oceanview Community Council values the ACWR. In participating in the process, the council has become disappointed, disillusioned, disheartened, and discouraged. The council attempted to stay neutral, but that turned out to be impossible after going through the public process at length. Over and over it seemed as if [the council] had never been there, which was very discouraging. Ms. Shoyer informed the committee that the council hired individuals to review the process, but time after time those individuals would report that the process was biased. She felt that the worst of it was when the governor announced he wanted the trail to go through the marsh. Therefore, Ms. Shoyer felt that it would be great if the legislature had a watchdog over this obvious bias from the governor. She expressed hope that HB 474 could balance this obvious imbalance.

Number 1290

JIM DOKOOZIAN, President, Bayshore/Klatt Community Council, testified via teleconference in support of HB 474. Mr. Dokoozian announced that he was present on behalf of the president of the Oceanview Community Council as well as the president of the Sand Lake Community Council. Mr. Dokoozian informed the committee that all three of the community councils voted in separate votes in favor of the inland trail if a trail was to exist. It was only after a few concerned citizens were frustrated that they advocated a trail that would connect [the communities] on an inland route, the gold route. There was a great amount of support from the community councils for the gold route. Furthermore, there is a petition with over 2,500 signatures, including the former governor Jay Hammond, in support of preserving the refuge.

MR. DOKOOZIAN turned to the governor's announcement that the trail should go through the marsh. That announcement galvanized the residents of south Anchorage, who thought they were part of a public process of evaluating various routes. "We are weary of the lack of responsiveness of the project team," he noted. He also indicated that there is much disappointment in the process and thus expressed the need to have [legislative] oversight.

CO-CHAIR MEYER, upon no one else wishing to testify, closed the public testimony.

Number 1515

REPRESENTATIVE MURKOWSKI moved that the committee adopt Amendment 1, which reads as follows:

Page 1, line 10, after "and Fire Island.":

Insert, "Except for the public right-of-way and utility corridor created in this subsection and identified in the management plan, for a realignment of the right-of-way for the new Seward Highway, and for a realignment of the right-of-way for the Alaska Railroad, the state shall not acquire or create a right-of-way or other easement for surface transportation below the crest of the coastal bluff or below Campbell Lake without the prior approval of the legislature by law."

REPRESENTATIVE KERTTULA surmised that all the amendment is doing is stopping DOT&PF from acquiring. She asked whether a legal opinion had been obtained regarding the right of the department to proceed without approval.

MR. ACHEE replied that she spoke with the Legislative Legal and Research Division, who said that it was a gray area.

CO-CHAIR MEYER asked if there was any objection. There being no objection, Amendment 1 was adopted.

Number 1625

REPRESENTATIVE SCALZI moved to report HB 474 as amended out of committee with individual recommendations and the accompanying zero fiscal note. There being no objection, CSHB 474(CRA) was reported from the House Community and Regional Affairs Standing Committee.

The committee took a brief at-ease.

HB 407-CERTIFICATE OF NEED PROGRAM

CO-CHAIR MEYER announced that the next order of business before the committee would be HOUSE BILL NO. 407, "An Act relating to the certificate of need program."

Number 1685

RYNNIEVA MOSS, Staff to Representative John Coghill, Alaska State Legislature, testified on behalf of the sponsor, Representative Coghill. Ms. Moss read the sponsor statement as follows:

Representative Coghill feels that [in] trying to preserve the free enterprise system, legislators should do all they can to protect the open market and consumer choice. This bill is an attempt to do this in the world of health care.

Under the current state statutes, if a health care provider in Fairbanks or Mat-Su Borough wanted to build a \$10 million dollar clinic, they would have to obtain a Certificate of Need (CON). In applying for that Certificate [Of Need] they would have to show that they would not adversely affect any other health care facilities in the vicinity. Representative Coghill feels that the question needs to be asked: "Whatever happened to competition and the open market place?" He doesn't believe that by eliminating Certificates Of Need requirements for larger Alaskan communities, there will be a large influx of new medical facilities. This may have been true when the federal government subsidized Certificate of Need programs, but the federal Certificate of Need law was repealed in 1996. Since the repeal of the federal law, 14 states have repealed their Certificate of Need statutes. Another ten states have eliminated Certificate of Need requirements for acute care facilities, and an additional nine states do not require Certificates of Need for ambulatory surgical centers.

More ambulatory surgical centers in Fairbanks would not mean less business for existing facilities. It would mean that fewer Fairbanksans would have to

travel to Anchorage or the Lower 48 for medical procedure[s]. The savings in travel alone could have a positive effect on the medical costs and medical insurance costs. According to an article from "Heartland" in 1996 - and I've attached this article to your background information - the Federal Trade Commission estimated that Certificate of Need regulations increased the cost of hospital care nationwide by more than \$1.3 billion annually. Health care is expensive and the lack of competition could be a partial reason for that. This legislation would encourage competition in the larger Alaskan communities where the population would support the competition while protecting the fragile balance of health care services in smaller Alaskan communities.

MS. MOSS turned to the question as to why HB 407 chose the population figure of 55,000 and provided the committee with [a document entitled, "What is the Right Population Number?" She explained that the 2000 U.S. Census considers a significant community to be one with a population of 25,000. The federal formula for Alaska provides an additional 25 percent on any figure. Therefore, the population [of what is considered a significant community] would be brought up to 31,250. Then the Medicaid formulas for medical reimbursements were reviewed, and the middle, 175 percent, was chosen and thus the population requirement would rise to 54,688. Therefore, the population figure of 55,000 was chosen. Ms. Moss pointed out that the aforementioned document lists the populations of the organized boroughs in order to illustrate which communities will be impacted by HB 407. Obviously, the Anchorage Borough, Fairbanks North Star Borough, and the Matanuska-Susitna Borough will be impacted.

Number 1930

MS. MOSS directed attention to the fiscal implications of nonprofit medical providers. She pointed out that Providence Alaska Medical Center will have excess revenues of approximately \$189 million between 1998 and 2004. Although she wasn't sure where that excess revenue goes, she was fairly sure that it didn't stay in Alaska. Therefore, Ms. Moss felt that Anchorage has an atmosphere for competition in medical facilities. She reiterated that Representative Coghill feels that competition is good in all free enterprises, including medical facilities. Ms. Moss provided the committee with a chart that specifies which states have a CON program. She also provided the committee with

an article entitled, "Certificates of Need: A Bad Idea Whose Time Has Passed." That article discusses the results of CON programs, which are the creation and staffing of new taxpayer-funded bureaucracies with expensive and time-consuming application processes. Those costs are passed to the consumer. The CON programs have also resulted in local community dissatisfaction with health care planners who are often far away and perceived as insensitive to local needs.

MS. MOSS turned to the fiscal note, and informed the committee that Representative Coghill will be requesting some amendments to HB 407 in the House Health, Education and Social Services Standing Committee. Those amendments would eliminate most of the fiscal note through the exemption of nursing homes and acute psychiatric beds. Therefore, the elimination of the aforementioned beds would eliminate page 2 of the fiscal note and result in a fiscal note of approximately \$150,000. However, Representative Coghill believes that nursing home and acute psychiatric beds should be addressed, and that the state should reimburse hospitals for beds that aren't being used. Perhaps the Medicaid formula [for hospitals] would be changed such that Medicaid money is only used for the beds that are used and the services that are delivered.

Number 2098

REPRESENTATIVE SCALZI inquired as to why there is a fiscal note.

MS. MOSS explained her understanding that the state pays for a certain number of [psychiatric] beds whether those beds are used or not, which is also the case with nursing home beds. Ms. Moss recalled that there is an 80 percent user rate that is paid.

REPRESENTATIVE SCALZI related his understanding then that if the CON is eliminated, the funding for those beds, whether they are used or not, would be eliminated as well.

MS. MOSS clarified that if the CON is eliminated the beds would still be paid for albeit the bed might be in a different facility that might be full. Therefore, two beds are being paid for.

REPRESENTATIVE SCALZI surmised then that [the state] may pay for duplicate services, if the CON is eliminated.

MS. MOSS replied yes.

CO-CHAIR MEYER asked if that is how Ms. Moss arrived at the \$150,000 annual operating cost.

MS. MOSS answered yes.

Number 2196

REPRESENTATIVE GUESS turned to the concept of cherry picking, which she feels is the controversial conflict. When there are situations in which there is an oligopoly and one of the participants is regulated, she asked whether cherry picking would exist because those facilities that accept all patients will be at a disadvantage.

MS. MOSS said that she believes that is the reason Representative Coghill is willing to amend HB 407 because the cherry picking is going to happen with nursing home care and psychiatric beds. In regard to the rest [of the beds] there is a larger share of private pay. The cherry picking will occur for the beds that are Medicaid paid, which are the nursing home and psychiatric beds.

REPRESENTATIVE GUESS related her understanding that in Ms. Moss' analysis of basic medical situations, the market is such that there won't be any [cherry picking].

MS. MOSS replied, "We don't believe so."

REPRESENTATIVE GUESS asked if there is an analysis from someone that supports that belief.

MS. MOSS explained that this belief was developed after reading [various] articles, two of which have been supplied to the committee. One of the articles is actually testimony before the Joint House and Senate Health Committees in the State of Georgia.

Number 2312

REPRESENTATIVE MURKOWSKI pointed out that there is the possibility of eliminating the CON program entirely for all communities. Therefore, she inquired as to why the aforementioned option wasn't chosen.

MS. MOSS said that Representative Coghill was concerned about the smaller communities where there are private medical facilities. For instance, in Tok and Delta nonprofit medical

facilities have moved in and made it difficult for private medical clinics to compete with nonprofit medical facilities.

REPRESENTATIVE MURKOWSKI related her understanding then that Representative Coghill believes that the smaller communities aren't going to have access to a larger health care market.

MS. MOSS replied yes.

Number 2389

REPRESENTATIVE SCALZI noted that Representative Coghill is interested in reducing state spending and the amount of dollars the state puts into health care and how those dollars could be used more efficiently. According to the fiscal note, there may be an impact; however, he questioned how the removal of the CON would benefit the state in the long term.

MS. MOSS said that the articles she has provided to the committee will offer some of the thinking that Representative Coghill has. In the long run, Representative Coghill feels that [elimination of the CON] will create better services at a better cost.

REPRESENTATIVE SCALZI said, "If we're somehow going to eliminate the duplication of services and empty beds in the long run because those beds will eventually be full and paid for. I guess the qualification of the -- whether it's a nonprofit or private enterprise that comes in, the tie theoretically will not be split and pay for empty beds. ... is that where we're going?"

MS. MOSS agreed that is a problem and that is why Representative Coghill is willing to amend that in the House Health, Education and Social Services Standing Committee. However, Representative Coghill feels that with a new administration the process of paying for medical services could change. That change in process would merely require that the Department of Health & Social Services change its agreement with the federal government. Part of that change would be to only pay for those services that are delivered.

Number 2514

REPRESENTATIVE MURKOWSKI turned to the letter from Valley Hospital in opposition to HB 407. The final paragraph of that letter recommends that the legislature create a working group of

legislators and providers to examine the CON process. Also, she recalled that the Senate is reviewing a measure to establish such a task force. She requested that Ms. Moss comment.

MS. MOSS clarified that Representative Murkowski was referring to SB 256, sponsored by Senator Green. Senator Green's legislation deals with changing the application process in certain areas that she is exempting, which Ms. Moss recalled were the psychiatric beds and nursing home beds. Ms. Moss explained that Representative Coghill chose to narrow HB 407 to the whole concept of CON because Representative Coghill wants to push the concept of free enterprise and competition. Ms. Moss remarked that the working group is one of Representative Coghill's concerns and the other is the nursing home and psychiatric beds. In further response to Representative Murkowski, Ms. Moss specified that Representative Coghill wouldn't be adverse to establishing a working group on this issue.

Number 2643

ELMER LINDSTROM, Deputy Commissioner, Department of Health & Social Services, began by saying that HB 407 impacts the department's business in many ways. He explained that the purpose of the CON program is two-fold. The CON program was designed to provide some assurance that very expensive health facilities are built only if they are needed and economically efficient. Over time, the CON program has taken on an aspect of cost control, which relates to the Medicaid program.

MR. LINDSTROM remarked that it is important for the committee to understand who pays for health care in Alaska. For instance, the nursing home and psychiatric beds are paid for by the state and the State Medicaid program. If one isn't eligible for Medicaid upon entrance into a nursing home facility, odds are that person will be shortly thereafter because the cost of a nursing home bed in Alaska is thousands of dollars a month. In total, the Medicaid program pays for about 85 percent of the total budget for nursing home beds. As a cost containment issue, the department is keenly supportive of the CON process as it relates to long-term care beds. Therefore, he urged the committee to consider adjusting HB 407 so that the CON would still apply to nursing home beds. He related his understanding that Representative Coghill isn't hostile to that. The area that [the state] pays is for the acute psychiatric beds, which he urged the committee to give that some thought as well.

Number 2800

MR. LINDSTROM said, "Intuitively it makes some sense, I think, the bill trying to differentiate between the health care market in a large community ... like Anchorage, and maybe Fairbanks, and maybe the Mat-Su as opposed to other areas in the state." However, there is no data to paint that picture and thus [the department] can't say that it can support that approach. The CON program in Alaska consists of one staff person who reviews all the CONs. Historically, the CON program was part of a larger health planning process. Mr. Lindstrom pointed out that along with the elimination of the federal government's requirement, all the federal funding that supported the CON program as well as a broader health plan was eliminated. He explained that typically the evaluation of a CON would be done in the context of a community health plan or state health plan. The last state health plan was written in 1983 and thus the planning infrastructure that would support the CON program doesn't exist in Alaska. He reiterated that the department doesn't have the data to support whether the concept of treating Anchorage, the Mat-Su, and Fairbanks makes sense or not.

Number 2927

MR. LINDSTROM turned to the fiscal note and directed attention to page 2, which includes a list of potential projects in Anchorage, Fairbanks, and the Mat-Su. He didn't believe that CONs had been submitted for all these projects, although there has been some indication that these projects could be constructed. Whether these facilities are constructed or not would be decisions by the various entities. The fiscal note merely sums the total of [possible] CON projects and applies the percentage of what the [state] pays. In the case of nursing home [beds], in excess of 85 percent of the cost will be paid by the state. A similar percentage applies to the psychiatric beds. Mr. Lindstrom acknowledged that the fiscal note isn't precise.

CO-CHAIR MEYER advised the committee not to get too involved with the fiscal note but rather leave it to the House Finance Committee to debate.

TAPE 02-15, SIDE B

REPRESENTATIVE HALCRO asked if all the beds are full every day of the year.

MR. LINDSTROM said that he didn't know. However, he guessed that the assumptions do [assume] that all the beds are full every day.

Number 2995

REPRESENTATIVE HALCRO questioned how the fiscal note was derived. He related his interpretation that every bed would be full every day of the year. He asked if the plan is for people to get sick. He also asked if there is concern with regard to disbursement of existing patients into these facilities.

MR. LINDSTROM pointed out that over the last decade [the state] has done a good job of not building nursing home beds. However, the home and community-based system has been nurtured to try to put in place less costly alternatives to nursing home care in communities [with] assisted living home beds. Ten years ago, there were no assisted living home beds, and furthermore Alaska didn't even have a licensure for something called assisted living. That system has grown over the last ten years so that there are probably more people in assisted living beds than are in nursing home beds. Using the CON has discouraged the building of those nursing home beds. In the absence of the CON process, it's likely that a number of these projects will be built and people will gravitate to those more expensive nursing home beds. However, whether those beds are full moves into another very complicated issue in regard to how the Medicaid system reimburses nursing home and acute care facilities. [The Medicaid system] has a formula with its own rate-setting mechanism that is partly governed by some federal requirements. However, he pointed out that in the end beds that might not be filled are paid for in some sense. To the extent that utilization is less than 100 percent, the unit cost for that bed will be higher than it would otherwise. He clarified that 85 percent of the cost of those beds will be borne by the state.

Number 2848

REPRESENTATIVE SCALZI related his understanding that although most states support CONs, those states also strongly support long-term care. That support of long-term care is consistent with the sponsor's comments. Representative Scalzi recalled the struggle the local hospital on the Kenai Peninsula had when attempting to obtain its long-term CON. Representative Scalzi remarked, "Long-term care makes sense because you can't tell when a person's going to check out."

REPRESENTATIVE SCALZI turned to the issue of psychiatric beds and related his belief that without an incentive for a cure ratio, then the problem may be exacerbated because of a need to fill the beds. Therefore, there is a disincentive for the private sector to develop a cheaper method of service. In the long term, everyone's objective is to provide care to the community. Therefore, he inquired as to Mr. Lindstrom's view of Alaska's health care system in the long term. He asked if Alaska is providing a disincentive by continuing the CON program.

MR. LINDSTROM reiterated that [the state pays about 85 percent of the cost] for long-term care and psychiatric beds. For other acute care services [in facilities subject to a CON the state pays] about 20 percent of the cost. Mr. Lindstrom suspected that others would be able to provide a better answer to Representative Scalzi.

MR. LINDSTROM turned to the fundamental purpose of the CON program, which is to ensure that the [health care] system in any community is efficient and that facilities aren't needlessly built. He posed an example in which a community has a community hospital and an ambulatory surgical facility. "If the demand for the services isn't really there, then "the pie" is simply being divided between more facilities, and therefore there will be some inefficiencies in the system. He attributed those inefficiencies to the rate-setting system. He explained that because there will be fewer units of surgery performed at the hospital, the unit cost is going to increase and thus [the state] will reimburse at a higher rate for a fewer number of procedures at that hospital. In regard to the ambulatory surgical center, it won't be reimbursed through the facility rate-setting system but rather will be treated as an outpatient [facility], he explained. In short, Mr. Lindstrom believes that the CON program will provide a more efficient system than otherwise.

Number 2621

REPRESENTATIVE MURKOWSKI pointed out that one of the arguments against the CON program is that it just doesn't work. Representative Murkowski turned to information provided to the committee that says that in the past five years 100 percent of all hospital CON applications were approved, while 0 percent of nonhospital [applications] were approved. She explained the argument as follows: "The hospitals have what the hospitals have and ... they are able to maintain that, and anybody who's

looking to come in and through the process, as it is set up, work within that process and obtain a certificate of need, they are denied while the hospitals are not denied." She asked if the argument that hospitals are able to obtain CONs [due to what] they have, while others [attempting] to obtain a CON are denied is accurate.

MR. LINDSTROM answered that although he wasn't sure whether that argument was true, he could provide the committee with information. He wasn't sure of the number of ambulatory surgical facility applications that have been received in the last few years. However, he recalled that there were three [such facilities trying to obtain CONs] in Fairbanks. All three of those applications were denied because the CON review indicated that no new operating facilities were necessary in the area. He also recalled that there was a desire to replace a surgical center in Anchorage, which resulted in legislation two years ago. That legislation passed and thus allowed that operator to replace the facility without going through the CON process.

Number 2515

REPRESENTATIVE MURKOWSKI said that if it is true that hospitals are being approved for CONs while ambulatory facilities aren't, then she is curious as to why. Representative Murkowski turned to the notion that hospitals are attempting to get around the CON requirement by leasing equipment or using a captive foundation to build a facility. Representative Murkowski expressed her curiosity as to the administration's response to these remarks.

MR. LINDSTROM offered to respond to those [arguments] point-by-point once he has received the document to which Representative Murkowski is referring.

Number 2451

REPRESENTATIVE GUESS inquired as to the regulations regarding who has to take Medicaid patients and who can choose not to accept Medicaid patients or those who can't pay.

MR. LINDSTROM related his belief that no one is compelled to enroll as a Medicaid provider. He suspected Representative Guess' question is really in regard to what community hospitals are required to do. As a licensure requirement, there are some requirements regarding the hours of operation and who is served.

That licensure requirement isn't related to Medicaid reimbursement.

REPRESENTATIVE GUESS asked if HB 407 received a Finance referral because upon introduction, it didn't have a Finance referral.

CO-CHAIR MEYER related his belief that since the bill has a fiscal note, it would automatically receive a Finance referral.

Number 2330

CATHY CRONIN, North Star Hospital, testified via teleconference. Ms. Cronin shared Representative Coghill's concern with regard to an expansion of psychiatric beds and thus she said she was prepared to work on that matter in the House Health, Education and Social Services Standing Committee.

DAVID MCGUIRE, Independent Practitioner, testified via teleconference. Mr. McGuire characterized the [CON program] as one which never worked. It's fundamental theory is upside down. The notion that to have cheaper gasoline would require having one gas station in town doesn't work. Similarly, such a situation wouldn't work in the health care realm. Therefore, the federal government eliminated [the CON program]. The [CON] process has become highly political and unfair. For example, the Fairbanks Memorial Hospital was allowed to construct a \$10 million oncology center without a CON. That was done by having the Board of Trustees own the facility. Since [the Board of Trustees] wasn't a health care provider, Mr. Pearce (ph) ruled that no CON was necessary. "We, in turn, asked for the same treatment by having a nonprofit agency buy the building and we were told that would not be allowed; principally because he said so," Mr. McGuire explained.

MR. MCGUIRE turned to the issue of cherry picking. He related his belief that patients want to go where they feel most comfortable that the care [desired] will be delivered. He wasn't sure that a patient's primary interest is ensuring that a nonprofit, perhaps an inefficient nonprofit, stays profitable. Mr. McGuire urged the committee to pass HB 407 from committee. He noted that he wasn't sure of the fiscal note, and offered the information that outpatient facilities are reimbursed less for the same procedure, than inpatient facilities. Therefore, outpatient procedures should save the state money. He questioned whether that is reflected in the fiscal note.

Number 2121

ELIZABETH RIPLEY, Director, Community Health Planning, Valley Hospital, testifying via teleconference noted that she had faxed written testimony to the committee. Ms. Ripley clarified that Valley Hospital is a private nonprofit free-standing hospital that is opposed to the population delimiter in HB 407. She pointed out that [the Mat-Su Borough] is one of the three communities that would fall outside the population delimiter. In regard to the earlier question of what happened to competition, Ms. Ripley acknowledged the benefits of competition and asserted that the proposed delimiter does nothing to support a level playing field. She expressed concern regarding the establishment of medical boutiques and cherry picking.

MS. RIPLEY turned to how [Valley Hospital] competes right now. She explained that Valley Hospital competes with Anchorage. Although [Valley Hospital] has sole community provider status, studies show that most of the 16,000 Valley residents commute to Anchorage and most get their [health care] services there as well. Those commuters make more than those who don't commute and a much higher percentage have health insurance or a third party insurance. Currently, 6 percent of [Valley Hospital's] patients are on Medicare, which is expected to double in eight to ten years. Additionally, [Valley Hospital] has one of the highest rates of Medicaid persons per capita per borough. Furthermore, those Medicaid persons are the fastest growing payer segment for [Valley Hospital]. Moreover, [Valley Hospital] has seen its self-pay double in the last quarter, which is drastic.

Number 1992

MS. RIPLEY announced support for keeping the CON program at the \$1 million threshold for equipment and raising it to a \$2 million threshold for building. Ms. Ripley said:

If you care about preserving competition, then you'll consider the following. First of all, all providers, including private physicians, must meet the terms of the CON. Right now, a private provider doesn't have to [meet the terms of the CON] -- one single physician opening up something specific. All providers must provide for all financial classes and their payer mix must reflect the payer mix of the locale within which they operate. And Dave Pearce (ph) and the CON department could track this.

MS. RIPLEY recalled a prior question regarding whether hospitals are getting around [the CON program] with leasing. To that, Ms. Ripley suggested making all expenditures fall under the aforementioned \$2 million threshold. In regard to the fiscal implications of a nonprofit, Ms. Ripley emphasized that Valley Hospital takes its nonprofit status seriously. She informed the committee that Valley Hospital's net revenues for the past five years have run between \$2-\$3 million. From that net revenue, 10 percent is returned to the community in a healthy communities program that is designed to raise health status. For instance, a dental clinic in Talkeetna was created. That net revenue is also reinvested into the equipment because [Valley Hospital] has to compete with the Anchorage providers. Furthermore, the net revenue is reinvested in the staff. Therefore, Valley Hospital is barely making it with a net revenue of \$2-\$3 million.

MS. RIPLEY concluded by relating her belief that there are many problems with HB 407. She recommended that the legislature establish a working group comprised of legislators and providers in order to examine the CON process.

Number 1828

REPRESENTATIVE SCALZI inquired as to whether [Palmer] has a mill rate that contributes to Valley Hospital.

MS. RIPLEY replied no, and reiterated that Valley Hospital is a private nonprofit free-standing hospital. She explained that the Mat-Su Borough has limited health powers, and therefore the borough does virtually nothing in the health care arena. In her opinion, she didn't believe that the borough would consider doing anything in the health care arena.

Number 1780

REPRESENTATIVE HALCRO said that he has heard those supportive of eliminating the CON process express concern that in the larger cities the nonprofit hospitals use the CON as a shield to competition and therefore, are able to amass a great amount of dollars that fuels their growth and needlessly holds down competition. In Anchorage, this wealth has been used for purchases unrelated to providing medical services. Representative Halcro requested that Ms. Ripley respond to those charges and explain the federal requirements the nonprofit falls under.

MS. RIPLEY answered that as a private nonprofit, [Valley Hospital] is accountable. She related her belief that the country is at a crossroads in regard to whether to make [medical] nonprofits accountable. Valley Hospital's Board of Directors has reviewed that and created the Healthy Communities Program in an attempt to be accountable. She reiterated that Valley Hospital invests 10 percent of its net revenues back into the community. However, typically most hospitals reinvest less than 1 percent. She said that although she believes Valley Hospital's board and chief executive officer agree with some of the statements regarding how nonprofits can be held accountable, [they] feel that Valley Hospital has more than stepped up to the plate to be held accountable to the community.

MS. RIPLEY turned to the mention of providers amassing funds, and explained that is why [Valley Hospital] established the criteria it did. If one wants to have a level playing field and competition, she suggested making all hospitals and private providers meet these terms as well as making sure that they are providing care to all financial classes. "Because we're not seeing that," she said. Valley Hospital already experiences competition in its outpatient sector for radiology. Ethically and legally, Valley Hospital's ER has to take anyone who comes in. However, individual providers don't have to do so. For instance, there are providers in [the Mat-Su] Valley who don't accept patients with Medicaid or Medicare. She reiterated her earlier statement that [Valley Hospital's] outpatient sector is supporting the inpatient sector. Ms. Ripley expressed her belief that [Valley Hospital] could support legislation that built in a level playing field and accountability for nonprofits.

Number 1505

REBECCA PARKER, Employee, Providence Alaska Medical Center, testified via teleconference. Ms. Parker informed the committee that the Providence Alaska Medical Center has served hundreds of thousands of Alaskans regardless of their ability to pay. Ms. Parker also informed the committee that Providence Alaska Medical Center spent over \$40 million to expand its emergency room. The prior year Providence Alaska Medical Center purchased a new helicopter and thus expanded the number of patients that can be carried in an emergency. In the next five to ten years, Providence Alaska Medical Center will be investing over \$100 million in capital improvements and expansions merely to meet the emerging needs of various programs in health care in Anchorage.

MS. PARKER explained that Providence Alaska Medical Center opposes HB 407 because it places many existing programs in jeopardy. Furthermore, this legislation will allow surgery centers to be built without any review or consideration as to whether the community can financially support such facilities. Ms. Parker said that nationwide a duplication of medical services has contributed to the existing costs of health care. Providence Alaska Medical Center provides services that it knows won't be reimbursed to cover the real cost. Five years ago, Providence Alaska Medical Center provided over \$11 million in charity costs, which has risen to more than \$25 million. She acknowledged the expectation to see less dollars available for primary health care and health care reimbursements from both the federal and state government. Furthermore, there is also the expectation that the aforementioned will impact the cost of charity care during this time when revenues are expected to decline. Ms. Parker specified that [Providence Alaska Medical Center's] greatest concern is maintaining the programs already in place while increasing those that are expected to grow, such as the cancer therapy center. "Who, if we don't, will offer the broad spectrum of services to Alaska's patients," she asked. Eliminating the CON process in urban areas would allow for new surgery centers that will serve only a small number of patients who can afford to pay, which will quickly erode the financial stability of the medical center and its ability to provide the many unreimbursed costs of operating a true tertiary acute care center for all Alaskans.

Number 1273

CO-CHAIR MEYER recalled that Anchorage has competition that seems to be working. Therefore, he didn't understand why [Alaska Providence Medical Center] would be opposed to HB 407.

MS. PARKER agreed that Anchorage currently has healthy competition. However, with the passage of HB 407, the building of new surgical centers are anticipated. Those surgery centers will be able to serve those who can afford to pay, while Alaska Providence Medical Center will remain open 24 hours a day and serve everyone regardless of their ability to pay. Today, Alaska Providence Medical Center's charity costs amount to over \$25 million and that is expected to continue to grow. She reiterated, "Who in the community will serve those people if Providence doesn't?"

REPRESENTATIVE MURKOWSKI turned to the sponsor statement for HB 407, which refers to the repeal of the federal CON program. The sponsor statement says since the federal repeal of the CON program, 14 states have repealed the CON. Representative Murkowski asked if Ms. Parker has any information regarding what has happened in those states, especially in relation to those hospitals similar to Alaska Providence Medical Center, where the CON program has been repealed.

MS. PARKER said that she didn't have any information on that, but offered to provide statistics to Representative Murkowski.

Number 0984

MS. PARKER, in response to Representative Halcro, confirmed that charity costs are defined as [the cost for] those patients that are unable to pay for their services. In further response to Representative Halcro, Ms. Parker reiterated that charity costs for Alaska Providence Medical Center has increased from \$11 million to \$25 million over five years. That charity care segment is growing rapidly.

CO-CHAIR MEYER asked if Ms. Parker would anticipate the same numbers [in regard to charity costs] for Alaska Regional Hospital.

MS. PARKER answered that she didn't know. She related her impression that Alaska Providence Medical Center is serving more of the underserved in the community than anyone else.

Number 0836

REPRESENTATIVE MURKOWSKI referred to a document in the packet that addressed the 1998-2004 projections for revenues and expenses for Alaska Providence Medical Center. This document indicates that charity was \$11 million for 1998 and \$15 million for 2001. Those figures are under the heading of contractual allowances. She asked if those figures refer to charity costs that Ms. Parker has said have risen to \$25 million.

MS. PARKER replied yes.

REPRESENTATIVE SCALZI asked if CON programs pay for other services in the hospital or is it more like a dedicated program. He asked if the hospital finds that it collects more revenue than [patients it] takes care of and so that money is disbursed to other services in the hospital.

MS. PARKER clarified that [Alaska Providence Medical Center] serves acute care needs and long-term care mental health as well as many other services. Furthermore, Alaska Providence Medical Center serves Medicaid and Medicare patients that other facilities won't accept.

Number 0578

ALLAN SNIDER testified via teleconference in support of HB 407. He related a personal experience in which he had orthopedic surgery on his hand at the Tanana Valley Clinic in his doctor's office for a cost of \$400. However, Fairbanks Memorial quoted a cost of approximately \$5,000 for outpatient orthopedic surgery. Mr. Snider discussed his insurance coverage as a carpenter.

JOHN LUNDQUIST, Employee, Fairbanks Memorial Hospital, testified via teleconference. As a 50-year resident of Fairbanks, Mr. Lundquist said that he has seen many changes. One of the good changes occurred after the flood when the community supported and funded a debt-free community hospital. He related his belief that Fairbanks Memorial Hospital has served the community well and maintained relatively low prices. Therefore, Mr. Lundquist stated his opposition to HB 407 because removing the CON restrictions will result in cherry picking as well as an increase in prices. The CON program protects against unnecessary facilities.

REPRESENTATIVE MURKOWSKI inquired as to whether the beds at Fairbanks Memorial Hospital are full or over capacity.

MR. LUNDQUIST answered that although the hospital doesn't run at capacity, he wasn't sure of the percentage. There are many empty beds.

Number 0113

MARTY O'LONE, Employee, Fairbanks Memorial Hospital, testified via teleconference. Mr. O'Lone indicated that he took exception with the statistics that mix Alaska with the Lower 48 because Alaska does have a smaller population compared to the average Lower 48 state. Specifically, Mr. O'Lone questioned the comparison of Alaska to Georgia because the suburbs of Atlanta, Georgia, itself have the same population of the entire state of Alaska. Mr. O'Lone said that he is in favor of a reasonable level of state oversight of new programs. However, if the current CON regulations were changed or eliminated, the results

would be negative on the community and the only Interior hospital that has served the community since 1972. The population of the Fairbanks North Star Borough isn't large enough to support the unnecessary facilities that would emerge if the current CON was changed or eliminated.

TAPE 02-16, SIDE A

MR. O'LONE mentioned that [research has shown] that hospitals in states without CONs have lower patient levels but higher treatment costs to patients. Mr. O'Lone announced his opposition to HB 407, and he requested that the CON regulations be strengthened rather than weakened in order that the Interior population would have access to the high quality of care that already exists locally.

Number 0099

LIZ WOODYARD, Nurse, testified via teleconference. Ms. Woodyard informed the committee that she supported the current CON program. Therefore, she opposed any proposed changes to the CON program because she believes that the CON program protects the public from any unnecessary services. She echoed earlier testimony regarding the need to strengthen not weaken the CON program. Ms. Woodyard said, "As a nurse, too, I'm also concerned about the nursing shortage and the workforce shortage, and feel that the CON program does really look at the community to see if we need any additional services, and also looks at the workforce that's needed to support any services."

Number 0180

CORLIS TAYLOR, Employee, Fairbanks Memorial Hospital, testified via teleconference. She noted that she is also a consumer of health care and has probably received services from almost every facility in Fairbanks. Ms. Taylor said that she is opposed to HB 407. She explained that she is concerned with the shortage of health care workers, specifically there are shortages of RNs. This shortage is nationwide. Therefore, elimination of the CON would result in an even thinner spread of health care workers, which she said would impact the quality of care. Ms. Taylor explained that the CON process allows review of the services that are provided in order to determine whether those services are necessary in a given community, which helps with the cost of health care. In other words, if there are too many beds, then [all facilities] suffer because no place has enough patients to

maintain their financial health. Therefore, each facility would need to increase its costs in order to survive.

MS. TAYLOR turned to the comparison of health care to a grocery store. She pointed out that if she goes to a grocery store to purchase a loaf of bread, she knows exactly what to look for. However, as a consumer of health care, the consumer has to trust what the health care provider says. Therefore, facilities that feel the need to increase their finances may result in affiliated physicians ordering unnecessary tests in order to meet a financial obligation of the facility.

MS. TAYLOR remarked that community hospitals have an obligation to treat all who enter, regardless of whether the person has insurance or the means to pay. Furthermore, hospitals provide services that most clinics and free-standing facilities don't want to offer. For example, the Fairbanks [Memorial] Hospital provides mental health services, nursing home services, and a cancer treatment facility. In regard to the cancer treatment facility, Ms. Taylor explained that the facility was primarily built to keep patients in the community rather than for money.

Number 0647

MS. TAYLOR recalled earlier testimony regarding the notion of excess revenue that facilities are stockpiling. Any revenue generated by Fairbanks Memorial Hospital is put back into the community in many ways such as the aforementioned cancer treatment center. Therefore, she feels that most facilities put excess revenue back into the community.

CO-CHAIR MEYER apologized for not being able to complete the public testimony today. Therefore, he announced that HB 407 would be heard again on Thursday.

ADJOURNMENT

There being no further business before the committee, the House Community and Regional Affairs Standing Committee meeting was adjourned at 9:59 a.m.