

**ALASKA STATE LEGISLATURE  
HOUSE HEALTH, EDUCATION AND SOCIAL SERVICES  
STANDING COMMITTEE**

March 28, 2002

3:01 p.m.

**MEMBERS PRESENT**

Representative Fred Dyson, Chair  
Representative John Coghill  
Representative Vic Kohring  
Representative Sharon Cissna  
Representative Reggie Joule

**MEMBERS ABSENT**

Representative Peggy Wilson, Vice Chair  
Representative Gary Stevens

**OTHER LEGISLATORS PRESENT**

Representative Joe Hayes (via teleconference)

**COMMITTEE CALENDAR**

CONFIRMATION HEARING

Commissioner, Department of Health and Social Services

Jay Livey - Juneau

- CONFIRMATION ADVANCED

SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 292

"An Act relating to child care grants; and providing for an effective date."

- MOVED SSHB 292 OUT OF COMMITTEE

HOUSE BILL NO. 407

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

- HEARD AND HELD

HOUSE BILL NO. 309

"An Act relating to the Interstate Compact on Placement of Children."

- SCHEDULED BUT NOT HEARD

HOUSE BILL NO. 259

"An Act relating to testing public and private school students for abnormal spinal curvature."

- BILL HEARING POSTPONED TO 4/4/02

HOUSE BILL NO. 408

"An Act relating to questionnaires and surveys administered in the public schools."

- BILL HEARING CANCELED

**PREVIOUS ACTION**

BILL: HB 292

SHORT TITLE: INCREASE CHILD CARE GRANTS

SPONSOR(S): REPRESENTATIVE(S) HAYES

Jrn-Date	Jrn-Page		Action
01/14/02	1951	(H)	PREFILE RELEASED 1/4/02
01/14/02	1951	(H)	READ THE FIRST TIME - REFERRALS
01/14/02	1951	(H)	HES, FIN
01/28/02	2086	(H)	COSPONSOR(S): GUESS
02/01/02	2115	(H)	SPONSOR SUBSTITUTE INTRODUCED
02/01/02	2115	(H)	READ THE FIRST TIME - REFERRALS
02/01/02	2115	(H)	HES, FIN
03/19/02		(H)	HES AT 3:00 PM CAPITOL 106
03/19/02		(H)	-- Meeting Canceled --
03/21/02		(H)	HES AT 3:00 PM CAPITOL 106
03/21/02		(H)	-- Meeting Canceled --
03/28/02		(H)	HES AT 3:00 PM CAPITOL 106

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
03/19/02		(H)	Heard & Held
03/19/02		(H)	MINUTE(CRA)
03/21/02		(H)	CRA AT 8:00 AM CAPITOL 124
03/21/02		(H)	Moved Out of Committee
03/21/02		(H)	MINUTE(CRA)
03/22/02	2638	(H)	CRA RPT 2DP 2NR 3AM
03/22/02	2638	(H)	DP: SCALZI, MEYER; NR: GUESS, HALCRO;
03/22/02	2638	(H)	AM: KERTTULA, MURKOWSKI, MORGAN
03/22/02	2638	(H)	FN1: (HSS)
03/26/02		(H)	HES AT 3:00 PM CAPITOL 106
03/26/02		(H)	Heard & Held
03/26/02		(H)	MINUTE(HES)
03/28/02		(H)	HES AT 3:00 PM CAPITOL 106

**WITNESS REGISTER**

JAY LIVEY, Commissioner  
 Department of Health and Social Services  
 P.O. Box 110601  
 Juneau, Alaska 99811-0601  
 POSITION STATEMENT: Testified as appointed commissioner of the  
 Department of Health and Social Services.

MELINDA BRUNO, Staff  
 to Representative Joe Hayes  
 Alaska State Legislature  
 Capitol Building, Room 422  
 Juneau, Alaska 99801  
 POSITION STATEMENT: Presented SSHB 292 on behalf of  
 Representative Hayes, sponsor.

YVONNE CHASE, Deputy Commissioner of Early Development  
 Office of the Commissioner  
 Department of Education and Early Development (EED)  
 333 West Fourth Avenue, Suite 320  
 Anchorage, Alaska 99501-2341  
 POSITION STATEMENT: Offered EED's support for SSHB 292.

KALEN SAXTON, Child Care Connection  
 P.O. Box 141689  
 Anchorage, Alaska 99504

POSITION STATEMENT: During hearing on SSHB 292, expressed support for the geographic cost differential.

ELIZABETH RIPLEY, Director  
Community Health Planning  
Valley Hospital  
515 East Dahlia  
Palmer, Alaska 99645

POSITION STATEMENT: Testified in opposition to the population delimiter in SSHB 292, saying Valley Hospital supports, with certain provisions, retaining the certificate-of-need threshold at \$1 million for equipment and raising it to a \$2 million for buildings.

JAN OWEN-DENTON  
7209 Richardson Highway  
Salcha, Alaska 99714

POSITION STATEMENT: Testified in opposition to HB 407, saying it will exacerbate the shortage of health care workers.

JEROME SELBY, Regional Director  
Planning, Development, and Advocacy  
Providence Health System in Alaska  
P.O. Box 1962  
Kodiak, Alaska 99615-1962

POSITION STATEMENT: Spoke in opposition to the 55,000-population threshold in HB 407; suggested language changes.

KAREN LOSINSKI, R.N., Manager  
Home Health Care  
Fairbanks Memorial Hospital  
3479 Sharon Road  
North Pole, Alaska 99705

POSITION STATEMENT: Testified in opposition to HB 407, saying it will promulgate building unnecessary health care facilities.

SHEILA SIEGLER, Patient Service Finance Manager  
Fairbanks Memorial Hospital  
1905 Esquire Avenue  
Fairbanks, Alaska 99709

POSITION STATEMENT: Testified in opposition to HB 407, saying it wouldn't foster good competition in the field of health care.

CHARLES HOLYFIELD, Respiratory Therapist and Manager  
Respiratory Care and Cardiology Departments  
Sleep Disorders Lab  
Fairbanks Memorial Hospital

1223 Wildrose Avenue  
Fairbanks, Alaska 99701

POSITION STATEMENT: Testified in opposition to HB 407; conveyed strong support for retaining the certificate of need.

PATRICIA CONNELLY, R.N.  
Fairbanks Memorial Hospital  
4525 Woodriver Drive  
Fairbanks, Alaska 99709

POSITION STATEMENT: Testified in opposition to HB 407, concurring with her colleagues.

CAROL BARNETT, Registered Health Information Administrator  
Medical Record Department  
Fairbanks Memorial Hospital  
1696 Dredgeview Drive  
Fairbanks, Alaska 99712

POSITION STATEMENT: Spoke in opposition to HB 407, indicating the number of Fairbanks patients is stable and that added facilities would unevenly divide this limited population among providers.

#### **ACTION NARRATIVE**

TAPE 02-26, SIDE A  
Number 0001

CHAIR FRED DYSON called the House Health, Education and Social Services Standing Committee meeting to order at 3:01 p.m. Representatives Dyson, Coghill, and Kohring were present at the call to order. Representatives Cissna and Joule arrived as the meeting was in progress.

#### CONFIRMATION HEARING

##### Commissioner, Department of Health and Social Services

CHAIR DYSON announced the first order of business, the confirmation hearing on the appointment of Jay Livey as commissioner of the Department of Health and Social Services.

Number 0160

JAY LIVEY, Commissioner, Department of Health and Social Services (DHSS), offered background information, noting that he came to Alaska in 1973 to work in Bethel for the Yukon-Kuskokwim Health Corporation, where he worked on and off for about ten

years; he also worked as Bethel's city planner for a few years, in addition to other jobs. He returned to school, received a master's degree in 1982, and moved to Juneau, where he worked three years in what was then the House of Representatives Research Agency. In 1987, he became the department's special assistant to the commissioner, staying on as a deputy commissioner through the Hickel Administration and Knowles Administration through last October. He added that for six or eight months he served as the administrative director for the department.

COMMISSIONER LIVEY noted his difficulty in being a "self-promoter," but offered his belief that he is the right person for the job as commissioner; he cited his experience in the department, his knowledge of most of the issues, and that it seems to be a "good fit." He had been working on projects in the department, he said, and wished to finish those; therefore, he'd decided it would be a good job for him.

Number 0342

REPRESENTATIVE COGHILL said he has learned a great deal from [Commissioner] Livey, who he agreed knows the issues well. He expressed appreciation for his work.

REPRESENTATIVE KOHRING also offered appreciation for Commissioner Livey's work, despite possible philosophical differences. He asked for his views on the size of the DHSS budget and ways to trim it. He also asked, "What can we do to explore non-government-type funding of programs?"

Number 0420

COMMISSIONER LIVEY replied that this is on "department minds" as well, since the budget is big and growing. He explained three responsibilities of the commissioner. First, because DHSS provides many direct services and grant management, the department manages a lot of money; therefore, the commissioner needs to be a good manager and possess the sense to hire others who are good managers as well. Second, the commissioner has a charge to be an advocate for Alaskans who don't have a voice, whether they are poor, disabled, or low-income; many philosophical discussions [at DHSS] center on [this] function of the commissioner and the department. Third, a responsibility exists to continually try to find more efficient, less expensive ways to do things. Furthermore, DHSS must seek out other

partners, including the federal government, for assistance, which the department has been doing.

REPRESENTATIVE KOHRING reported that many of his constituents have been helped by the department. He said the goal of helping people is a shared one, although [he and Commissioner Livey] don't share the same path to reach that goal.

Number 0600

CHAIR DYSON offered his impression that Commissioner Livey has integrity and that many people have been helped. He said he might not agree with Commissioner Livey on everything, but that it has been a pleasure working with him, and that he has a growing level of confidence in him. [Although no formal motion was made, Commissioner Livey's confirmation was treated as advanced from the House Health, Education and Social Services Standing Committee.]

#### HB 292-INCREASE CHILD CARE GRANTS

CHAIR DYSON announced the next order of business, SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 292, "An Act relating to child care grants; and providing for an effective date."

[Representative Joe Hayes, sponsor, explained via teleconference that he would listen in while his staff person presented the bill to the committee.]

Number 0715

MELINDA BRUNO, Staff to Representative Joe Hayes, Alaska State Legislature, presented SSHB 292 on behalf of Representative Hayes, sponsor. Calling SSHB 292 a simple but important bill, she explained that current statute calls for a child care grant to not exceed \$50. Statute also calls for [child care] grants to be adjusted on a geographic basis by the same adjustment factors used for funding school districts. This statute is AS 14.[17].460.

MS. BRUNO noted that a geographic adjustment is not possible in several communities with a grant cap set at \$50. If the statute were revised to cap the base rate at \$50, it would provide the opportunity, given the availability of funding in any fiscal year, for a rate increase to occur. Therefore, SSHB 292 will change the \$50 cap to a \$50 maximum base rate. Currently, child

care grants are available a program that is fully funded with federal dollars. Therefore, it won't cost the state anything.

MS. BRUNO indicated federal funds cannot be fully utilized with the cap in statute. Alaska now receives a little more than \$3.7 million; unless the change is made to a maximum base, these funds will not be fully utilized. This will allow the state to adjust for the geographical cost index and distribute more money.

Number 0835

YVONNE CHASE, Deputy Commissioner of Early Development, Office of the Commissioner, Department of Education and Early Development (EED), testified via teleconference in support of SSHB 292. She explained that the state-funded child care grant program was created in 1981 as a small-business subsidy for licensed child care providers, with a statutory cap of \$50 a month for each full-time-equivalent child attending the facility. She offered her belief that the original intent of the child care grant was to ensure that spaces were available for children in the subsidy program, since language required participating providers to have a certain percentage of available slots reserved for subsidized families. She pointed out that the department doesn't take issue with that.

MS. CHASE explained that over the years the department has attempted, when funds have been available, to increase the rate. Because the program is now federally funded and receives an appropriation at the beginning of the year and "as providers either come or go in the program," the rate may vary. She told members, "We would like to have the ability to have the rate be flexible, based on the amount of funding that's there at any point in time." She said this is why the fiscal note is zero.

CHAIR DYSON asked why the administration hadn't brought this bill forward.

Number 0970

MS. CHASE answered, "Well, it could be that Representative Hayes beat us to the punch." She reiterated that the department is very supportive of the bill.

CHAIR DYSON asked whether, over the last 20 years, anyone in the administration had thought it necessary to request this change.

MS. CHASE offered her thought that during the early years of the program, the funding was relatively [stable], and when the program began, the monthly base rate was as low as \$8.31 a child. "So, it seemed like a long way to \$50 at the time," she concluded.

Number 1000

KALEN SAXTON, Child Care Connection, testified via teleconference, noting that her resource-and-referral agency has worked with family child care homes and centers from Glennallen to Unalaska. She expressed support for the geographic differential as a better way to share the funds, which are needed and appreciated.

CHAIR DYSON temporarily suspended the hearing on SSSH 292.

HB 407-CERTIFICATE OF NEED PROGRAM

CHAIR DYSON announced the next order of business, HOUSE BILL NO. 407, "An Act relating to the certificate of need program." [Before the committee was Version F, 22-LS1389\F, Lauterbach, 3/21/02, adopted as a work draft on 3/26/02.]

Number 1133

ELIZABETH RIPLEY, Director, Community Health Planning, Valley Hospital, testified via teleconference, noting that Valley Hospital opposes the proposed population delimiter in HB 407. Valley Hospital serves one of the only large communities affected by the proposed delimiter for the certificate of need (CON) process, she reported; a private business and a not-for-profit enterprise, it receives no assistance from the borough government, which has "limited health powers."

MS. RIPLEY said the hospital competes directly with Anchorage providers. She offered that 16,000 Matanuska-Susitna area residents travel daily to Anchorage for work; studies have shown that most of those commuters receive their health care in Anchorage. She reported that over the last five years, Valley Hospital has made \$1.5 million to \$2.5 million in net revenue, which is invested into the hospital's infrastructure for new equipment in order to stay competitive, and also in the workforce. She predicted that the nation's health care workforce shortage won't improve in the near future; consequently, a great deal must be invested in the workforce.

Number 1223

MS. RIPLEY told members that despite these costs, Valley Hospital takes its not-for-profit status very seriously; it invests 10 percent of net revenues - in excess of expenses - into its Healthy Communities program. This is a way for the hospital to give back to the community out of its revenue to raise health status. Suggesting the hospital is very fiscally responsive to the community by providing such programs, she said, "Acknowledging the benefits of fair competition, we assert that this proposed delimiter does nothing to support a level playing field. And we are particularly concerned about the establishment of medical 'boutiques' that ... limit services to those without third-party insurance, thereby 'cherry-picking' most of the paying customers."

MS. RIPLEY pointed out that the Matanuska-Susitna Borough has the highest per-capita rate of Medicaid [eligible] patients of any borough in the state; that is the fastest-growing payer segment in [the borough's] population. Furthermore, the Medicare population is expected to double in the next eight to ten years, from 6 percent to 12 percent. In the last three months, self-pay clients at Valley Hospital doubled from 8 to 16 percent; this has a huge fiscal impact. The hospital writes off about 80 percent of these bills from patients who have no insurance. She noted that Valley Hospital is legally and ethically bound to serve all patients who walk through its doors, regardless of ability to pay. Conversely, a medical "boutique" such as a freestanding imaging or surgery center does not operate under the same regulations and may, in fact, limit customers of a particular payer status. She reported that there are physicians in the [Matanuska-Susitna area] and throughout the state who don't accept Medicaid and Medicare or who limit the number of clients who fall into those payer categories.

MS. RIPLEY told members that Valley Hospital supports retention of the CON at a \$1-million threshold for equipment and raising the CON to a \$2-million threshold for buildings. She explained that [Valley Hospital] can support altering the CON so long as the following provisions are included in the legislation: first, all providers, including private physicians, must meet the terms of the CON; and second, all providers must provide care for all financial classes. She noted that if this level playing field could be created to generate competition, [Valley Hospital] would be "all for it." She indicated the payers must reflect the locale within which the [provider] operates. She suggested that the current CON bureaucracy could track this.

All expenditures, whether for capital, equipment, operations, or bricks and mortar, must fall under the \$2-million threshold, she said. She noted that she would provide written comments.

Number 1384

CHAIR DYSON asked how, were the committee to aim at a level playing field, she suggested the committee deal with differences in the taxes paid by [for-profit] and nonprofit [providers]. He said it appears it would be an advantage for the nonprofits that don't pay taxes.

MS. RIPLEY replied that the question of accountability of not-for-profit [providers] has been raised in earlier committee hearings. She said the spirit of the 501(c)(3) code requires nonprofits to give back and invest in their communities, whereas shareholder profits can go anywhere, even outside of Alaska. As a not-for-profit, [Valley Hospital] is being responsive to its community in ways that are different from for-profit [providers]. By example, 95 percent of hospitals nationwide invest less than 1 percent into their communities in terms of health care, whereas [Valley Hospital] is investing 10 percent. So although it doesn't pay taxes, chances are that it would demonstrate a greater investment in its community, compared with most for-profit [providers], which must make profits for their shareholders. She reported that the hospital has been recognized nationally for its program.

Number 1486

CHAIR DYSON offered his understanding, then, that her answer is that the 10 percent given for community health is equivalent to the taxes paid by for-profit [providers]. He asked whether [Valley Hospital] charges the same rate for the same service, regardless of the [payer].

MS. RIPLEY replied that the way the Medicaid and Medicare regulations work is that these programs must be able to take advantage of the lowest price the hospital would charge. In other words, that discount must be available to everyone, should any discount or incentive be offered. She reiterated that [Valley Hospital] competes with providers in Anchorage, and charges the same rate for services.

CHAIR DYSON queried, "So there's only one price and ... someone who's indigent or the one that pays their own bills or has a third-party payer, all pay exactly the same rate?"

MS. RIPLEY replied, "That's correct." She said the hospital has an active charity care program and writes off up to 2 percent of its bills through this program. She added that bad debt costs the hospital about \$25 million. Combining both charity care and bad debt, that represents another \$25 million back into the community each year, she said.

CHAIR DYSON expressed his understanding that large groups with insurance would receive a significant discount over the individual payer who has only the buying power of one person. He noted that he understood this to be true in all hospitals in the state. He asked if this is the case.

MS. RIPLEY replied, "We do have preferred provider agreements where we offer that discount, but we have to match that discount for Medicaid [and] Medicare." She added, "We're writing off 80 percent of every self-pay bill."

Number 1580

CHAIR DYSON asked whether it is correct that those who pay their own bills must pay the top rate, without a discount.

MS. RIPLEY responded that the hospital negotiates with individuals to put them on a payment plan to facilitate recouping some revenue. She explained that their customer service program negotiates with people to get those bills paid in whatever way possible. She offered to look more closely at those numbers.

CHAIR DYSON said he'd like that information, but that his point is that the rare people who pay their own bills are paying the very highest rate. He requested confirmation.

MS. RIPLEY replied, "Well, they don't get an advertised discount, but I'm wondering if once they go through our customer service process ... that, in effect, they get that discount or better." She added that when people come into the [Valley Hospital] system, they receive care and are then billed. This is very different from an electric company where the power would be shut off for lack of payment, because the operation [or service] has been completed, and the hospital must work very hard to secure the revenue to pay its staff and bills.

CHAIR DYSON remarked that he appreciates that and the fact that they never turn anyone away.

Number 1678

JAN OWEN-DENTON, Nurse Manager, Fairbanks Memorial Hospital, testified via teleconference in opposition to HB 407, noting that she has been a nurse since 1977, practicing in Fairbanks since 1981 and raising her family there. She indicated she has worked for many of the clinics and medical facilities in Fairbanks. She told members that her main concern centers on providing experienced, qualified staff to care for patients. She said although most people realize the nation is facing a shortage of nurses, similar shortages exist in radiology and pharmacy positions.

MS. OWEN-DENTON expressed her fear that having multiple medical [facilities] in a community the size of Fairbanks will only add to the shortage problem. Facilities that can entice staff with the highest wages and best benefits will do so. The facilities that might serve only the best payers, primarily private insurance companies, will [have no] obligation to provide care to the poor, she suggested. She indicated that these facilities would recruit staff from facilities such as Fairbanks Memorial Hospital that truly serve the community.

Number 1776

JEROME SELBY, Regional Director; Planning, Development, and Advocacy; Providence Health System in Alaska ("Providence"), testified on HB 407 via teleconference. Drawing attention to page 2, line 13, he suggested deleting "without obtaining" and inserting "by submitting a written request to the department for a certificate", and later indicating this certificate should be issued within a reasonable amount of time. He offered that the department might be better able to [suggest a reasonable timeframe], but he suggested 60 days. This is pertaining to replacement facilities, he noted, and provides for the requesting and receipt of the certificate, "pretty much no questions asked."

MR. SELBY pointed out that the significance of this [proposed change] is related to eligibility under the federal guidelines for reimbursement. He remarked, "So, what we're concerned about here is, for example, we know the Wrangell folks want to replace their hospital; we're suggesting they should be able to do that without a certificate of need, since there isn't any other hospital around." He noted, however, that if "it stays the way it is" and Wrangell doesn't get a CON, the \$8 million slated for

the hospital's replacement wouldn't be recoverable under the federal system. On the other hand, if Wrangell is issued a certificate, that community investment could be recovered over time, he said. This is a significant issue, particularly for the smaller communities.

MR. SELBY stated, in addition to the items he'd covered at the last hearing, that quality is a huge concern with the proposed [legislation]. He urged members to delete the 55,000-population [threshold] and leave the CON for everyone in the state, to ensure a level playing field and avoid such quality-of-care issues. He referenced his recent testimony wherein he'd cited a study indicating a 21-percent increase in mortality in states without a CON. He reemphasized the damage this would do to Alaska: it would prohibit the ability of [providers] in Fairbanks and the Anchorage area to generate funds that allow them to deliver "high-level, ... heavy-duty medical care here in Alaska for Alaskans."

MR. SELBY observed that providers in these areas have been striving for this high level of care over the course of the last 20 years that the CON has been in place; this positive outcome is a result of having a CON in place. He urged members to "really think about not destroying that by leaving this 55,000 population thing in here, basically having a feeding frenzy, a free-for-all, in the three larger areas of the state."

Number 1906

MR. SELBY suggested that Providence should back away from things it has planned, such as the PET [positron emission tomography] scanner, which has a highly advanced ability to detect pre-cancerous cells in the body, preventing the patient from ever getting cancer. He noted that Providence would like to bring this equipment to Alaska, but that it is a significant investment. He said, "But we should set that on the side and go build about ten surgery centers around the state and get real competitive. If folks really want competition, we can compete; we're not afraid of competition." He suggested that members did not want Providence to do so; it does not advance medical care in the state. However, this is the one way that Providence could continue its revenue stream to allow it, in four or five years, "after the dust settles," to return to the task of developing high-level medical care.

MR. SELBY said this will be a great cost to the state, as well as a great cost to some of the physician groups around the state

with whom Providence would be competing. He concluded, "We don't want to go there. We would ask you to not make us go there. And we think that this thing [has] a really negative effect on the state of Alaska's health care system." He mentioned that other provisions in the bill are positive, but said the 55,000-population threshold for the removal of the CON is "a showstopper" for this bill.

Number 1980

REPRESENTATIVE COGHILL requested that Mr. Selby fax suggested language for Section 2 of the bill. He added that he would be willing to entertain some sort of a review process to discuss this matter. He mentioned discussion with department personnel and said these suggestions might be a "good fix."

MR. SELBY reported that the Kodiak Legislative Information Office (LIO) would be faxing that momentarily.

Number 2063

MR. SELBY, in response to a question from Chair Dyson, said that surgery centers, if allowed to proliferate, would eliminate the revenue stream that enables Providence to raise the capital to invest in that equipment. He said, "We can't go buy it because we don't have the money to do it." This is the focus of his concern; the state's surgical capacity becomes overbuilt, and this eliminates the revenue stream generated by a fairly high utilization of the surgery [resources] at Providence. This would be true of other providers doing surgery. When this capacity is overbuilt, these facilities would be treating 50 percent or less of the patients they could be treating; therefore, the revenue stream wouldn't be available to pursue the "heavy-duty medical treatment options."

CHAIR DYSON requested confirmation of his understanding, saying:

The implication is that you make enough money off of surgery, or enough extra revenue off the services beyond what it costs you to provide them, that it makes extra revenue available for you to ... transfer over into other areas of medical service, and make investments in equipment or subsidize other areas of medical-service providing that are not as remunerative.

MR. SELBY said that is true; it is the nature of health care.

Number 2140

CHAIR DYSON observed that most consumers believe they are charged whatever it costs to provide the service. He asked, "But you ... do, indeed, add some other factors when you go about deciding what to bill us? Is that correct?"

MR. SELBY responded that the health care delivery [system] is a "fairly complicated financial mess, as you know." He noted that simply put, there is a lot of care, such as intensive, advanced cancer care, for which the full charge cannot possibly be charged to [the payer]. Nor can anyone afford to reimburse to providers the cost of that treatment. He explained that for anyone to be in that business, there must be a revenue stream from another source in order to deliver that kind of care.

Number 2175

CHAIR DYSON offered his understanding, then, that "you kind of overcharge in some other areas." As a consumer, he asked in which areas of service he is charged beyond the cost, by the greatest margin.

MR. SELBY replied, "It's so complicated ... that we don't have time here today to even try to sort through that." However, he explained that he is not telling any secrets when he tells the committee that a well-organized surgical center operation is profitable when it is efficient. That is the premise on which these surgery centers and other, targeted operations establish themselves in the absence of a CON. He said it is common knowledge that money can be made with such centers, which is why they exist. He elaborated:

In most people's view, they're a guaranteed moneymaker for you, so it's a great business to go into. So, we're not making any bones about the fact that, yes, we at the hospitals also make money on surgery, and that's one of the places we count on to be able to keep our doors open on a 24-hour basis, 7 days a week, and subsidize things like emergency medicine. ... Very few emergency rooms pay their own way, just because of the huge staffing overhead that you have to keep the place open 24 hours a day, 365 days a year. That's extremely expensive.

MR. SELBY reiterated that there must be a revenue stream from somewhere to keep the emergency room open.

Number 2283

KAREN LOSINSKI, R.N., Manager, Home Health Care, Fairbanks Memorial Hospital (FMH), testified via teleconference in opposition to HB 407, saying it will allow unnecessary, physician-owned-and-operated, for-profit, ambulatory service centers into the Fairbanks area. She continued, "These physicians will then direct their patients [with] private insurance coverage to their own facilities, leaving the patients with no insurance, Medicare, or Medicaid to be served by FMH." This will cause a considerable financial impact to the hospital, jeopardizing the ability to support the vital, non-revenue-generating services such as home health care.

MS. LOSINSKI reported that FMH is the only home health care agency in the Fairbanks area providing skilled nursing and therapeutic services to homebound patients. Without these services, patients will need to stay in the hospital much longer, thus increasing the need for frequent hospitalization and emergency room visits, and it will not allow patients to die with dignity and comfort in their homes. Many Fairbanks residents will be forced to look for nursing and assisted-living homes and, in turn, will have to leave the Fairbanks community because these facilities are not available. She concluded, "The CON process is vital to protecting our community."

TAPE 02-26, SIDE B

Number 2368

SHEILA SIEGLER, Patient Service Finance Manager, Fairbanks Memorial Hospital, testified via teleconference in opposition to HB 407. She reported that she is a 17-year resident of Fairbanks. She said competition in most industries is a good thing, but that changing the existing CON policy would not create a positive, competitive market. Patients don't "shop around" for health care services as they do for other products, she explained; physicians make the purchase decision for patients and provide the service.

MS. SIEGLER said a owner's income for a freestanding ambulatory surgery center is tied directly to the amount of care [provided]; unlike other business owners, physician-owners have the power to order their own services. She noted that in this setting, physicians might be inclined to choose an inappropriate

setting for a surgical procedure because of personal financial gain; physicians would have the power to choose the place of service based on the reimbursement rather than on the most appropriate setting for the patient. She explained that studies conducted by the office of the inspector general and other government agencies have shown that referrals to entities with which physicians have a financial relationship encourage excessive use of those services, often resulting in higher costs to the health care program.

Number 2309

CHAIR DYSON said that if doctors are indeed doing things that are not medically indicated just for profit, he believes that to be a breach of professional ethics. He added his understanding that a mechanism is in place to address that. He asked, "Is that not working as well as it should?"

MS. SIEGLER replied that studies indicate physician-owned labs have more diagnostic tests ordered than labs in which the physician [doesn't have a financial interest]; this indicates to her that more diagnostic services are ordered when the physician financially benefits from the services.

Number 2271

CHAIR DYSON inquired about her comment regarding surgery being performed in inappropriate places, and the danger of that happening in a for-profit setting.

MS. SIEGLER replied, "You could have a physician that would make a decision to do a surgery in an out-patient surgery center that might be more ... appropriately done in a hospital setting, based on the condition of the patient or other medical decisions."

CHAIR DYSON queried whether the medical board's ethics enforcement might be unlikely to catch that.

MS. SIEGLER agreed.

CHAIR DYSON expressed his understanding that FMH's gross revenues are about \$160 million and asked if that is in the ballpark.

MS. SIEGLER replied, "Between the two facilities, yes." She said this represents combined revenues from FMH and [Denali Center].

CHAIR DYSON asked what the [combined] budget is and what the hospital's excess revenues were for the last accounting period.

MS. SIEGLER said she'd have to refer him to FMH's chief financial officer for those answers.

Number 2195

CHARLES HOLYFIELD, Respiratory Therapist and Manager, Respiratory Care and Cardiology Departments and the Sleep Disorders Lab, Fairbanks Memorial Hospital, testified via teleconference in opposition to HB 407. He expressed concern that if the CON is eliminated, unnecessary facilities can be built by any organization or person with enough money to do so. However, most health care programs are not profitable and must be subsidized to exist. Anyone who wishes to build a program will select only the few profitable ones: radiology, pharmacy, laboratory, and outpatient surgery. He remarked, "As a total health care community, we must be able to provide even the non-profitable programs to the public; this could be seriously jeopardized if House Bill 407 is passed." Conveying support for a strong CON law in Alaska to provide a measure of discipline to the market, he said weakening the CON statute will open the door to a multitude of problems.

Number 2125

PATRICIA CONNELLY, R.N., Fairbanks Memorial Hospital, testified via teleconference in opposition to HB 407, noting that her testimony was quite similar to that of her colleagues. A longtime Fairbanks resident and employee of FMH, she said the current CON process works for Fairbanks; 100 percent of the hospital's [net] revenue is reinvested in the community.

Number 2090

CAROL BARNETT, Registered Health Information Administrator, Medical Record Department, Fairbanks Memorial Hospital, testified via teleconference in opposition to the bill, noting that she has been a health care manager for 15 years, the last 4 in Fairbanks. She said the bill would reduce or eliminate the requirement for the CON. She related that her greatest concern is the potential for additional, freestanding ambulatory service

centers to be built in Fairbanks. She argued against this because the Fairbanks region has a stable population of patients requiring surgical services; this volume is not expected to grow, thus limiting the patient base for any facilities.

MS. BARNETT explained that whether one or five facilities provide the service, the volume remains the same. The distribution of services would be unequal, and the ambulatory surgery center would treat only profitable and less complex cases, reimbursed by private insurance on a fee schedule rather than reduced Medicaid/Medicare rates. The hospital would bear the burden of these [less profitable] cases, a high percentage of which are [covered by] Medicaid or Medicare, or which involve sicker patients or more complex cases. She indicated neither type of facility would benefit; even the [ambulatory surgery center] eventually would feel the strain of flat patient volume and would need to raise rates.

MS. BARNETT offered that her other argument was from the patient's perspective, whose primary concern is not the choice of facility but the surgeon who will perform the surgery.

Number 1940

REPRESENTATIVE COGHILL, sponsor of HB 407, in reply to comments by Representative Kohring and Chair Dyson, indicated witnesses next week would offer another perspective. He noted that some amendments would be entertained, if necessary; if convinced it was necessary, he also would work with the department on a proposed committee substitute (CS) dealing with Section 2, regarding moving facilities and the associated review process.

Number 1880

MR. SELBY, in response to Chair Dyson, said he doesn't know what "magic" there is about a population base of 55,000. If one is addressing competition, the most competitive market in Alaska is in Anchorage, where the most physicians and health care providers are competing. He said he fails to follow the logic of removing the CON from them but not the rest of the state.

Number 1814

MR. SELBY, in response to Chair Dyson, clarified that his point with regard to a CON program is that the state is keeping an eye on what is being developed and how much is being spent on facilities for health care. It doesn't matter if a proposed

facility is for Anchorage or the smallest village - the state should be aware of that and have an opportunity to look at the need is, he said. That is the premise of the CON, matching the need for facilities with the demand for services.

MR. SELBY said, "There's nothing magic that happens at 55,000 in terms of needed services and the ability to meet those needs. You either have a program statewide that looks at that and makes a determination that, yes, that's a needed facility and a needed thing in the state of Alaska, or no, it's not needed 'cause we've already got 50 of those." He added that the CON seeks to "keep a lid on" the facilities, because that cost translates into money from the state's budget for Medicare and Medicaid. He emphasized that the state is somehow going to help pay for each of these facilities. Capping the number of facilities built will cap the cost to the state, he suggested.

Number 1736

CHAIR DYSON thanked Mr. Selby for the clarification. He asked if Mr. Selby's responsibilities at Providence are related to facilities.

MR. SELBY said no; he is the director of planning and development for Providence.

CHAIR DYSON asked, "The Sisters [of Providence] own hospitals outside of Alaska, do they not?"

MR. SELBY answered in the affirmative.

CHAIR DYSON inquired whether those were all financially independent from one another, such that one facility doesn't subsidize another across state lines.

MR. SELBY said he believed that was correct, but was "a little fuzzy about California" because of unfamiliarity with some recent acquisitions there. He offered that Alaska operates "pretty independently," and said he knows this be true of Washington and Oregon.

CHAIR DYSON asked Mr. Selby if he was involved in the purchase of the mall on Tudor Road in Anchorage.

MR. SELBY answered that he was aware of the purchase but not directly involved.

CHAIR DYSON asked what the intention of that purchase was.

MR. SELBY said the land ownership around Providence is such that it is landlocked to the point that nothing else could be developed on those Providence properties because of the zoning regulations and parking requirements. Providence was seeking adjacent property where future development could take place. Over the course of the next 50 years, he suggested, it is obvious that adjustments and additions will need to be made. [The mall on Tudor] was the closest available property and thus provided an option for future considerations.

Number 1630

CHAIR DYSON said he could see the wisdom of that. He offered his impression that the existing retail businesses will be allowed to operate there.

MR. SELBY replied that [Providence] has no immediate plans; it is a long-term, strategic holding.

CHAIR DYSON asked whether [Providence] would be paying taxes on that property before it is converted to hospital use.

MR. SELBY answered yes; those properties, because of their leasehold nature, aren't part of [Providence's] normal operation and do pay income tax. As to whether property taxes would still be paid, he said he didn't know. He said each business has a leasehold agreement.

CHAIR DYSON asked Mr. Selby to find that answer for the committee. [HB 407 was held over.]

HB 292-INCREASE CHILD CARE GRANTS

CHAIR DYSON returned the committee's attention to SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 292, "An Act relating to child care grants; and providing for an effective date."

Number 1538

REPRESENTATIVE JOULE moved to report SSHB 292 out of committee with individual recommendations and the accompanying zero fiscal note.

REPRESENTATIVE KOHRING objected and requested a synopsis of the bill.

Number 1515

MELINDA BRUNO, Staff to Representative Joe Hayes, Alaska State Legislature, speaking on behalf of Representative Hayes, sponsor, said the bill allows the state to increase the grants awarded to child care facilities for quality measures under the child care grant program. She added, "We have this federal money, and we want to be able to give out the maximum amount. So this allows them to adjust the amount that's given out."

REPRESENTATIVE KOHRING asked what the money is used for.

MS. BRUNO referenced the bill packet, noting that the sponsor statement lists what the child care grant program does. She said that it betters these facilities by providing funds for additional staff and training, thereby improving the environment for children.

REPRESENTATIVE KOHRING expressed concern that these are private businesses receiving government subsidies, and offered his philosophical objection. He asked, "If they're being given monies, then why should not other entities and different industries be given money, too, from government?" He noted that he struggles with this underlying concept. He indicated he wished to maintain his objection.

Number 1425

REPRESENTATIVE COGHILL asked if the child care grant could be used for anything from playground equipment to augmenting wages.

MS. BRUNO said she believed that to be correct.

REPRESENTATIVE COGHILL surmised that the \$50 base amount could expand rather rapidly, depending on the funds.

MS. BRUNO said it depends on the amount of federal funding being used; it will not be a cost to the state. This makes the maximum amount of federal money available to adjust for the geographical differences.

REPRESENTATIVE COGHILL said he disagreed with the whole concept.

Number 1354

REPRESENTATIVE CISSNA suggested SSHB 292 is an economical way to provide professional care for children. Noting that she has worked with kids off and on for over 40 years, she remarked that in the past 10 years, Alaska's children have taken the largest "hit" because [the state] has systematically lowered standards of care. She pointed out that wages of state workers and most others are much higher than those of people who work with children. She spoke in support of the bill.

Number 1213

A roll call vote was taken. Representatives Dyson, Joule, Coghill, and Cissna voted to move [SSHB 292] out of committee. Representative Kohring voted against it. Therefore, SSHB 292 was reported out of the House Health, Education and Social Services Standing Committee by a vote of 4-1.

#### **ADJOURNMENT**

There being no further business before the committee, the House Health, Education and Social Services Standing Committee meeting was adjourned at 4:18 p.m.