

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

April 2, 2002
3:02 p.m.

MEMBERS PRESENT

Representative Fred Dyson, Chair
Representative Peggy Wilson, Vice Chair
Representative John Coghill
Representative Vic Kohring
Representative Sharon Cissna

MEMBERS ABSENT

Representative Gary Stevens
Representative Reggie Joule

COMMITTEE CALENDAR

CONFIRMATION HEARINGS

Professional Teaching Practices Commission

Donna Peterson, Ed.D. - Kenai
Vickie McCubbin - Anchorage

- CONFIRMATIONS ADVANCED

State Board Of Education and Early Development

Sally Rue - Juneau

- CONFIRMATION ADVANCED

HOUSE BILL NO. 407

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

- HEARD AND HELD

HOUSE BILL NO. 464

"An Act relating to statewide school district correspondence study programs."

- BILL HEARING CANCELED

PREVIOUS ACTION

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
03/28/02		(H)	Heard & Held
			MINUTE(HES)
04/02/02		(H)	HES AT 3:00 PM CAPITOL 106

WITNESS REGISTER

DONNA PETERSON, Ed.D., Appointee
to the Professional Teaching Practices Commission
52856 Tenakee Loop
Kenai, Alaska 99611

POSITION STATEMENT: Testified as appointee to the Professional
Teaching Practices Commission.

VICKIE McCUBBIN, Appointee
to the Professional Teaching Practices Commission
4272 Birch Run Drive

Anchorage, Alaska 99507

POSITION STATEMENT: Testified as appointee to the Professional Teaching Practices Commission.

SALLY RUE, Appointee

to the State Board of Education and Early Development

7083 Hendrickson Road

Juneau, Alaska 99801

POSITION STATEMENT: Testified as appointee to the State Board of Education and Early Development.

KATHY CRONIN, Chief Executive Officer

North Star Behavioral Health System

4500 Business Park Boulevard, Building C, Suite 10

Anchorage, Alaska 99503

POSITION STATEMENT: During hearing on HB 407, explained Amendments 1 and 2.

ELMER LINDSTROM, Deputy Commissioner

Department of Health and Social Services

P.O. Box 110601

Juneau, Alaska 99811-0601

POSITION STATEMENT: During hearing on HB 407, concurred with the need for more residential psychiatric treatment beds in the state, but expressed concern that Amendment 1 fails to include conversion of all types of beds.

JIM HOLM, Member

Board of Directors

Fairbanks Memorial Hospital Association

1041 Gilmore Street

Fairbanks, Alaska 99701

POSITION STATEMENT: During hearing on HB 407, explained the foundation of the Fairbanks Memorial Hospital and expressed concern regarding impacts of the proposed removal of the certificate of need (CON).

DENNIS MURRAY, Administrator

Heritage Place Nursing Facility

232 Rockwell Avenue

Soldotna, Alaska 99669

POSITION STATEMENT: Testified in opposition to HB 407; suggested that eliminating the CON would significantly increase the state's general fund obligation.

CATHY DIMON

(No address provided)

North Pole, Alaska 99705

POSITION STATEMENT: Testified in support of HB 407 and building of a new surgery center in the Fairbanks area.

MIKE POWERS, Administrator
Fairbanks Memorial Hospital
(No address provide)

POSITION STATEMENT: During hearing on HB 407, offered anecdotes about the negative impact of removing the CON in other states and said its removal would have dire consequences for Alaska's larger communities.

JANICE WILKINSON

P.O. Box 75231

Fairbanks, Alaska 99707

POSITION STATEMENT: Testified in support of HB 407 and SB 256, its companion bill.

BARBARA FLEMING, Member
Board of Directors
Providence Health System
737 West Fifth Avenue, Number G
Anchorage, Alaska 99501-2129

POSITION STATEMENT: Testified in opposition to HB 407; explained that many services would be impossible to provide without revenue sharing from the more profitable services that Providence provides.

CAROLYN WATTS, Ph.D.

19920 174th Avenue Northeast
Woodinville, Washington 98072

POSITION STATEMENT: Testified in opposition to HB 407 on behalf of Fairbanks Memorial Hospital.

RICK SOLIE, Trustee
Greater Fairbanks Community Hospital Foundation Board
4437 Stanford Drive
Fairbanks, Alaska 99709

POSITION STATEMENT: Testified in opposition to HB 407; suggested a task force to study the CON would be appropriate.

ACTION NARRATIVE

TAPE 02-27, SIDE A
Number 0001

CHAIR FRED DYSON called the House Health, Education and Social Services Standing Committee meeting to order at 3:02 p.m. Representatives Dyson, Wilson, Coghill, Kohring, and Cissna were present at the call to order.

CONFIRMATION HEARINGS

CHAIR DYSON announced the first order of business, the confirmation hearings for the Professional Teaching Practices Commission and the State Board of Education and Early Development.

Professional Teaching Practices Commission

Number 0153

DONNA PETERSON, Ed.D., Appointee to the Professional Teaching Practices Commission (PTPC), testified via teleconference, noting that she has been superintendent in the Kenai Peninsula Borough School District since 1999, before which she served in various teaching and leadership positions in the district. She said the one superintendent seat on the PTPC affords the opportunity to bring this perspective when reviewing the fitness of professionals in education, including teachers.

Number 0250

CHAIR DYSON remarked that Dr. Peterson has an impressive resume. He asked if the education profession in Alaska is doing a good job of policing its own ranks and "getting rid of the bad apples."

DR. PETERSON replied that in positions she has held in various states, the issues of competence and the value of teaching have been discussed at all levels. She offered that some teachers need coaching, assistance, and mentoring. She mentioned having a licensing and oversight body such as the PTPC to determine whether actions are appropriate. Hiring and evaluating are district and site decisions, she said; the evaluative process is in place, and most districts are fairly strong in the ability to "take care of people that shouldn't be with our children."

Number 0356

REPRESENTATIVE KOHRING asked how Dr. Peterson's would address a [tenured] person who lacked the proper attitude or competence.

DR. PETERSON answered that once a person is licensed in the state, that person is considered competent. Next, it must be considered whether this person matches his/her position and has been given the opportunity to change. She recounted that one of the best lessons she learned, as a principal of 25 staff members who used different methods, was that if the end is appropriate and [the teacher] is showing progress in student achievement and appropriate interactions with children, then the method is less important than the end itself. As to the ability to terminate a teacher who isn't doing what he/she should, Dr. Peterson offered her opinion that the evaluative processes are strong enough and, when used appropriately, can be powerful tools in "taking care of those people who aren't doing their job."

Number 0480

VICKIE McCUBBIN, Appointee to the Professional Teaching Practices Commission, testified via teleconference. She explained that she grew up in the Anchorage schools and in a family of eight, always wanting to be a teacher. Because her brothers and sisters had difficulty in school, she wanted to be a teacher who was a leader. She explained that she'd worked with the National Education Association (NEA) to be a leader in her building; this is an interest of hers. She has worked through NEA as part of [Excellence in Education] and a mentoring program, thereby adding to the profession. This would be her second term on the PTPC; she reported that she views her role as continuing to address the moral and ethical leadership of teachers and others who come before the PTPC.

Number 0590

CHAIR DYSON inquired whether, during her service on the PTPC, the commission had recommended that someone not stay in his/her teaching position. He also asked how frequently that happens.

MS. McCUBBIN responded that during her time on the commission - almost three years - there have been two hearings when that occurred. In addition, the commission has had stipulated agreements before them and has recommended a sanction through a revocation or suspension of the person's license. She added, "There have been several times per year when I have voted my conscience and known that I would not want to have a child of mine in that classroom, and that they were not appropriate for the job."

CHAIR DYSON asked how often during that time the commission has voted to have someone excluded from the profession.

MS. McCUBBIN estimated it occurred about 25 times.

CHAIR DYSON thanked Ms. McCubbin for her willingness to serve the children of Alaska by "looking over the shoulders of the teachers."

[Although no formal motion was made, the confirmations of Dr. Peterson and Ms. McCubbin were treated as advanced from the House Health, Education and Social Services Standing Committee.]

State Board of Education and Early Development

Number 0710

SALLY RUE, Appointee to the State Board of Education and Early Development, noted that she has been on the board for two years. A parent of two children who have gone through the Anchorage and Juneau public school systems, she said she feels privileged to have seen the best the system has to offer, and wants to make certain that "we spread that around so that all kids have that opportunity." Active in education ever since her nearly grown children were in preschool, she said her involvement has included working in classrooms, on school district committees, and on school site councils, followed by two terms on the City and Borough of Juneau Board of Education. She reported that she took a break from board service while maintaining her involvement in schools; she was then appointed to the state board two years ago.

REPRESENTATIVE KOHRING inquired about the length of the [state school board] term.

MS. RUE replied that it is for five years and would be effective immediately; she indicated her term expired in January.

Number 0870

REPRESENTATIVE KOHRING requested Ms. Rue to outline her thoughts about tenure: First, is it appropriate? And second, can a teacher be removed who is tenured in the system, short of criminal [action] or gross negligence?

MS. RUE replied that tenure has both some good points and some drawbacks. She remarked, "But I think you can remove teachers - it's not to say it's easy."

REPRESENTATIVE KOHRING added, "So you're not necessarily locked in and guaranteed a position, regardless of your competence or your ability to be able to teach in class, just because you're tenured?" He noted that he has heard this to be true.

MS. RUE disagreed that this is the case. She offered that if teachers aren't competent, they shouldn't be teaching in the classroom.

REPRESENTATIVE KOHRING asked, "Just by virtue of being tenured doesn't guarantee them a job?"

MS. RUE replied, "Well, if they're doing their job, it does; but if they're not doing their job, I don't believe it does."

REPRESENTATIVE KOHRING asked how it is determined whether a teacher is doing the job.

MS. RUE offered her belief that there should be good systems for professional evaluation so that every school or district is responsible for having those tools in place, implementing them all along. This would allow districts to keep track of teachers' performance and work with them when they aren't performing up to a high standard.

REPRESENTATIVE KOHRING asked Ms. Rue why tenure is needed if an evaluation system is already in place.

MS. RUE noted that one argument for tenure is that it allows teachers to teach without fear of harassment or "being chased out of a system" for inappropriate reasons.

Number 0978

CHAIR DYSON thanked Ms. Rue for her service.

[Although no formal motion was made, the confirmation of Ms. Rue was treated as advanced from the House Health, Education and Social Services Standing Committee.]

CHAIR DYSON called an at-ease at 3:16 p.m. He reconvened the meeting at 3:19 p.m.

HB 407-CERTIFICATE OF NEED PROGRAM

[Contains testimony relating to SB 256, the companion bill]

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 1142

CHAIR DYSON called an at-ease at 3:22 p.m. He reconvened the meeting at 3:24 p.m.

Number 1246

CHAIR DYSON moved to adopt Amendment 1, which read [original punctuation and line numbering provided]:

- 1 Page 2, following line 19:
- 2 Insert new bill section to read:
- 3 ****Sec. 3** AS 18.07.031 is amended by adding a new
subsection to read:
- 4 (d) Notwithstanding the expenditure
5 thresholds, population thresholds, and
6 other provisions of this section, a person may
7 not convert the use of a bed in a health
8 care facility to another bed, including
9 converting adult psychiatric beds to psychiatric
10 beds designated for adolescents and children,
11 unless authorized under the terms of a
12 certificate of need issued by the department."
13
- 10 Renumber Sections as appropriate.
- 11 Page 6, line 3:
- 12 Delete "secs. 1 - 12"
- 13 Insert "secs. 1 - 13"

REPRESENTATIVE WILSON objected for purposes of discussion.

Number 1281

KATHY CRONIN, Chief Executive Officer, North Star Behavioral Health System ("North Star"), explained that Amendment 1 requires a facility to stay within the provisions of its original certificate of need (CON). If the facility wants to convert those beds to another type of bed, it would need to go

through the CON process. She said North Star believes this to be important because of the large Medicaid impact on mental health beds.

MS. CRONIN explained that in 1996 the legislature recognized the need to control expansion of nursing home beds because of the large Medicaid impact. She said psychiatric beds are similar in that 85 percent of all psychiatric beds are paid for through the Medicaid system. As funds become increasingly tighter, she said, North Star feels it is important to look at the best use of state dollars for treatment and to provide those dollars where treatment is most necessary. Her experience at North Star has shown her that the greatest need for services is for residential treatment, which is different from hospitalization. Currently, Alaska has 400 children in residential treatment centers outside the state.

MS. CRONIN told members, "I think it's really incumbent upon all of us as citizens that these kids come home and receive treatment in their home community." She suggested that the only way these children will be able to return is for the number of these beds to be expanded in the state, which requires funds. If [Alaska] continues to provide funding for acute, intensive beds, however, she doesn't believe money will be left for residential beds. Therefore, Amendment 1 protects the number of acute-care psychiatric beds currently in the system, and it requires that new beds must go through the CON process.

Number 1409

CHAIR DYSON expressed his understanding that Amendment 1 calls for [providers] seeking to change the designation of beds to go before the [Department of Health and Social Services] with an amendment, in essence, to the original CON.

MS. CRONIN replied, "Essentially, I believe it would be a new application that would explain or would prove the need for additional psychiatric beds."

CHAIR DYSON inquired about a hypothetical facility [should HB 407 pass with Amendment 1] that hadn't gone through the CON process originally and that changed the use of a bed.

MS. CRONIN answered, "I believe under this amendment, in order to change that level of service, it would require a certificate of need."

Number 1480

CHAIR DYSON asked, "If Representative Coghill's bill [HB 407] passes and becomes law, and a facility can be built without a certificate of need, why would you want them to have to have a certificate of need to change ... what they were doing?"

MS. CRONIN replied that she was limiting the scope of her testimony to psychiatric care; it is [North Star's] contention that because of the great impact on the state budget and because of the need to expand services, those services should be required to go through the CON. In further response, she expressed her understanding that under HB 407, areas not requiring a CON would not need one [to change the designation of beds].

Number 1540

REPRESENTATIVE WILSON inquired about lines 6 and 7 [of Amendment 1], which read in part, "including converting adult psychiatric beds to psychiatric beds designated for adolescents and children".

MS. CRONIN replied that the majority of Medicaid funds for mental health treatment are for services for children and adolescents, rather than adults. Thus there would be a large fiscal impact if adult beds were changed to beds for children and adolescents, for two reasons: first, there are more admissions for children and adolescents, and, second, the length of stay for children and adolescents is much greater when they are hospitalized.

Number 1586

MS. CRONIN, in further response to Representative Wilson, said her basic concern is simple: the cost of acute-care services for mental health can range from \$1,500 to \$562 a day, whereas the cost for residential treatment is \$325 a day. She said:

If we truly believe, as a state, that it's important to bring the 400 children who are Outside in treatment centers home for treatment, we need to stretch our Medicaid dollars as far as we can. If we continue to build and support or convert acute-care beds at that 1,500- or 500-dollar-a-day rate, I don't believe there'll be enough money left for the service that is really needed, which is residential treatment, which

is reimbursed at \$325 a day. So, in a nutshell, what we are trying to educate the legislature about is the huge difference in payment for acute care versus residential treatment, and being able to preserve dollars so that we can expand residential treatment services, so we can bring these kids home.

Number 1651

REPRESENTATIVE WILSON asked, "Instead of taking care of one patient, you want to take care of three patients?"

MS. CRONIN said that was correct. She added that [North Star] believes it is a more appropriate placement for these children. She explained that on any given day at North Star Hospital, 9 to 15 children are hospitalized at that higher acute-care rate, waiting for a residential treatment bed outside of Alaska. She said, "They shouldn't be there. They should be in a residential program, which is a different method of treatment than acute care." Adding that she has observed that [acute care] is not a healthy placement, she remarked, "We hope that people will understand this and will fund those kids' going to this lower level of care." She likened it to keeping a patient in intensive care instead of a more appropriate assisted-living facility. "We think it's better for the kids, and we know it's more cost-effective for the state, and that's what's we're trying to do," she concluded.

Number 1708

CHAIR DYSON noted that in an earlier conversation with Ms. Cronin, he'd struggled with understanding why, if the need is for residential beds, facilities aren't being built; why the marketplace demand isn't making it work; and why the government needs to be involved. He asked, "By forcing people to go through some kind of an approval process, what good is it going to do?"

MS. CRONIN responded from a business perspective, noting that the state is the primary payer, since 85 percent of all bills are paid by the state. The Medicaid system in Alaska has a priority ranking for how bills are paid. Acute care gets paid first, which is appropriate because these patients are the most ill. The levels of payment decrease; once the monies are gone, the other items on the list are not funded at all. For many years, items on the list such as psychological and social work services never get funded because there isn't enough money to

reach that [lower] priority ranking. She added, "My concern is, if we continue to build and support that highest level of care, that most expensive level of service, as you go down that list, there's less and less money available." Therefore, an institution would have to seek a loan and build a facility without knowing whether there will be [Medicaid] funds left to pay for the lower level of care.

CHAIR DYSON asked whether all the acute-care beds are filled.

MS. CRONIN replied yes. She mentioned, however, that if there were more residential beds, she doesn't believe all of [North Star's] acute-care beds would be filled. "No kids stand in line waiting to go Outside for acute-care treatment, but there are kids every day in our state waiting in line to go Outside for residential," she added.

Number 1825

CHAIR DYSON offered his understanding that if [North Star] had the residential beds, Ms. Cronin, as a professional, would put children in these placements that are two to five times cheaper because it's more appropriate, even though the reimbursement for acute-care beds is far higher.

MS. CRONIN concurred and added, "In fact, that's what we've done." She explained that [North Star] had two facilities licensed as acute-care facilities. Recognizing that [Alaska] was sending a high number of children Outside, however, [North Star] decided to convert one to a residential treatment center, which has had 100-percent occupancy since the conversion.

CHAIR DYSON asked if a CON was required to do that conversion.

MS. CRONIN replied, "No. But we had to give up our acute-care license to do [it]."

CHAIR DYSON inquired, "If [Amendment 1] to this bill passes, would you have had to do a CON to convert those?"

MS. CRONIN replied yes.

Number 1878

ELMER LINDSTROM, Deputy Commissioner, Department of Health and Social Services (DHSS), concurred with Ms. Cronin's statement about the need for additional residential capacity in the state.

He referred to SCR 21, previously heard by the committee, and said this resolution makes the statement that [Alaska] needs additional non-acute beds; the department supported that and believes it needs to be done, he said.

MR. LINDSTROM stated that [DHSS] could accept [Amendment 1], but that it's only half of the equation. He expressed his understanding that the sponsor [Representative Coghill] might offer an amendment related to AS 18.07.031(b) that reads:

(b) Notwithstanding the expenditure threshold in (a) of this section, a person may not convert a building or part of a building to a nursing home that requires licensure under AS 18.20.020 unless authorized under the terms of a certificate of need issued by the department.

MR. LINDSTROM explained that this provision in existing law precludes the creation of any additional nursing home beds in Alaska by converting from another type of bed. Those are beds that [the state] pays for at 85 percent of the market. He offered that the department also agrees with Ms. Cronin's statement that psychiatric beds are similar. Medicaid "pays the freight" on those beds; therefore, it might make good sense to control costs by precluding the conversion of any beds to acute psychiatric beds, because the [state] will pay the bulk of those costs.

MR. LINDSTROM noted that [Amendment 1] does this in part. He suggested that the committee consider amending the foregoing statute to simply include acute psychiatric beds. The deficiency in [Amendment 1] is that, for example, some existing residential beds of any type could be converted to psychiatric beds without a CON. [Amendment 1] precludes conversion of bed licensed as an acute bed or other health care facility for which statute has a definition; however, it would not preclude conversion of other types of beds. He stated that [DHSS] believes that if this step is taken, it ought to include all conversions.

Number 2010

CHAIR DYSON asked why additional acute psychiatric beds would be created if there aren't enough patients to fill them.

MR. LINDSTROM replied that he believes those acute-care beds are full, as are all the existing [residential treatment psychiatric

care] beds. He said he also believes, based on numbers from [the Division of Family and Youth Services (DFYS)] he has reviewed, that the occupancy rate has been approaching 90 percent of other types of residential beds. He said, "I think the real answer, Mr. Chairman, is perhaps we need capacity across the entire spectrum of care here." He added that since acute-care beds are the most expensive, it is wise to proceed with care. "All the beds are full, is the short answer," he concluded.

CHAIR DYSON remarked that he still didn't see why [Alaska] would want to put any restriction on building all the beds people want; then the people who need those beds would fill them.

Number 2085

MR. LINDSTROM answered that [the state], as the payer, needs to be careful about those most expensive type of beds; those are the beds controllable by the certificate-of-need process.

CHAIR DYSON asked whether Mr. Lindstrom is concerned that if the acute beds are filled, people will end up in these beds who shouldn't be there.

MR. LINDSTROM responded, "I think that's a concern."

CHAIR DYSON offered that instead of working on the medical-ethics portion wherein only people needing the most expensive beds would fill them, this is seeking to control the number of beds available. He asked if this was correct. He said it seems the best way to ensure that only those needing acute beds are in them is to have careful, ethical medical professionals assigning patients to those beds. Therefore, the payer is not paying for patients who don't need them to be in expensive beds. He said, "You must not have confidence that that process is working perfectly, so you're wanting to control the number of beds."

Number 2152

MR. LINDSTROM agreed this is a good point. In fact, he said, a couple of different ethical dilemmas come into play. In addition to the aforementioned situation, if a DFYS social worker needs to place a child somewhere and an acute-care bed is the only one available, what is the ethical action for the social worker to take?

CHAIR DYSON suggested that from a medical-placement perspective, if doctors are doing their job ethically and are not motivated by greed, then [the department] should not have to worry about the number of acute-care beds. He queried, "Is what we're all after is to have enough beds available ... every day for the patients to go into, only the appropriate bed?"

MR. LINDSTROM replied, "Absolutely."

CHAIR DYSON asked Mr. Lindstrom if he believes the CON helps accomplish this.

MR. LINDSTROM answered that [DHSS] believes the CON is one tool to help control the number of those most expensive acute-care beds, and that [Amendment 1] is only half of the piece.

Number 2230

MS. CRONIN offered an example. If a family faces the decision of admitting a child to a residential treatment center in Salt Lake City or keeping the child at home, many families will choose to keep the child at home. Often what happens is that the family keeps the child at home and the child decompensates and winds up going to acute care.

CHAIR DYSON asked for a definition of "decompensates."

MS. CRONIN said, "Clinically, gets worse." She explained that one challenge in [mental] health care is that it is not as clear-cut as a broken arm, easily diagnosed with an x-ray. A child will need a level of care - in many cases, it is not hospitalization - but the services are unavailable in Alaska, so the child doesn't go Outside for treatment because the family wants to keep the child home. However, these families don't have the ability to cope with the problem, and the child gets worse and ends up hospitalized. She mentioned the number of reviews, internal and external, that a patient goes through to be hospitalized, and said it is hard to imagine that someone would be admitted to a hospital inappropriately. The problem is that there aren't services available to get the appropriate treatment at the appropriate time, she concluded.

Number 2303

MR. LINDSTROM expressed his belief that [Amendment 1] was drafted by neither [Legislative Legal and Research Services] nor the Department of Law. He said he doesn't know what the

reference to converting adult psychiatric beds to psychiatric beds for adolescents and children means. While he understands the intent, he noted that there is not a separate category of licensure for adolescent beds as opposed to adult beds. Technically, he is not confident that this language is what is legally necessary to accomplish [Amendment 1's] goal, he said. He added that in order to align with Version F, lines 12 and 13 [of the amendment] should read:

Delete "secs. 1-11"
Insert "secs. 1-12"

Number 2346

REPRESENTATIVE COGHILL, sponsor of HB 407, said this is an issue he didn't want to "wade in on." He agreed it should be discussed, and concurred with Mr. Lindstrom that it should [encompass all types of beds]. He indicated hesitance to address this issue because he didn't fully understand all of it, although he was learning as quickly as he could, he said. [Amendment 1 was withdrawn a short time later.]

TAPE 02-27, SIDE B
Number 2360

CHAIR DYSON brought attention to Amendment 2, 22-LS1389\F.3, Lauterbach, 3/27/02, which read:

Page 1, line 1, following "**program;**":
Insert "**relating to children's mental health services;**"

Page 5, following line 30:
Insert a new bill section to read:
"*** Sec. 11.** AS 47.30.660 is amended by adding a new subsection to read:
(c) The plan prepared, revised, and amended under (a) of this section must include, as a distinct component, a master plan for children's mental health services. The master plan required under this subsection must be developed in conjunction with the Alaska Mental Health Trust Authority, Alaska Mental Health Board, and Advisory Board on Alcoholism and Drug Abuse, and must provide for involvement of families of emotionally disturbed children and adolescents, community mental health providers, and providers of residential and inpatient care for

children and adolescents. After gathering information through methods determined appropriate, the department shall prepare the master plan, which must include the following:

(1) recommended principles that should be used to guide development of a comprehensive system of care to meet the mental health needs of children and adolescents;

(2) an estimate of the current and projected number of children and adolescents in the state who are suffering severe emotional, mental, and substance disorders;

(3) a description of the current system of care for children with emotional, mental, and substance disorders, including the type, capacity, and geographic availability of care;

(4) an assessment of the ability of the existing service system to meet the identified and projected needs, including an assessment of utilization and factors affecting utilization;

(5) an assessment of gaps in the type or capacity of services needed;

(6) the array and capacity of in-home, community-based, residential, and inpatient care needed to meet the current and projected need for screening, diagnosis, and treatment of children and adolescents in the state who are suffering emotional, mental, and substance disorders;

(7) an analysis of impediments limiting or preventing development or operation of the services and capacities needed;

(8) recommended priorities for action to reconfigure, expand, or enhance existing services or to develop new service alternatives;

(9) an estimate of resources needed to develop and support the system of services required."

Renumber the following bill sections accordingly.

Page 6, line 3:

Delete "secs. 1 - 11"

Insert "secs. 1 - 10 and 12"

Page 6, following line 5:

Insert a new bill section to read:

"* Sec. 14. The uncodified law of the State of Alaska is amended by adding a new section to read:

MASTER PLAN FOR CHILDREN'S MENTAL HEALTH SERVICES. The initial master plan required to be prepared under AS 47.30.660(c), added by sec. 11 of this Act, shall be completed and delivered to the governor by the first day of the First Regular Session of the Twenty-Third Alaska State Legislature, and the Department of Health and Social Services shall notify the legislature that the master plan is available for review."

Renumber the following bill section accordingly.

[End of Amendment 2]

CHAIR DYSON withdrew [Amendment 1]. He asked Ms. Cronin to explain [Amendment 2].

Number 2320

MS. CRONIN explained that Amendment 2 establishes a workgroup charged with creating a master plan for children's mental health services. She reiterated that 400 children are Outside for treatment, and that there are funding issues to address. She expressed her belief that [Alaska] needs a master plan on how to best treat children with mental health needs within the state and how to do it in the most economical manner.

CHAIR DYSON told Ms. Cronin that she would have to convince him before April 4 why [Amendment 2] fits in a CON bill. He returned to the subject of the 400 children Outside for treatment, offering his understanding that the average cost is over \$800 a day. This is a grave concern, both economically and as an issue of separation from families, he said. "I'm sympathetic on the issue; I need some convincing that this is the vehicle to accomplish what apparently we both agree on," he concluded. [There was no motion to adopt Amendment 2.]

Number 2230

JIM HOLM, Member, Board of Directors, Fairbanks Memorial Hospital Association, noting that he is a Fairbanks businessman, testified to provide [the board's] assessment of what the proposed CON change might do to [Fairbanks Memorial Hospital (FMH)]. He reported that in 1967 there was a flood in Fairbanks, where Saint Joseph Hospital, run by the Sisters of Providence, was the only hospital. He elaborated:

The hospital was damaged sufficiently enough that the Sisters of Providence decided that they could no longer support the medical and health care needs of the people of Fairbanks. The community itself got together, and with the visionaries such as Dr. William R. Wood and Harry "Red" Porter (ph) and people that had been there for many, many years, they set up a foundation to see what we could do about a community creating its own hospital, providing the health care ... for the people of Fairbanks. ... I'm one, but there's many others that gave a few dollars when we didn't have money, to help get this thing ... on its feet. And then, over the past 30 years, this hospital has become a really fine institution.

Number 2164

MR. HOLM stated that FMH currently "provides the lowest ambulatory surgery care" in the state. In addition, it provides home care, which costs in excess of \$250,000 more than is recovered. Other services such as inebriate programs, a neonatal facility, adult psychiatric care, and emergency room care aren't profitable. He said 25 members of the Fairbanks community serve on the board for no compensation. [Members] believe that this matter needs to be looked at more carefully, he noted,; it can adversely affect the hospital's ability to function because the hospital is required to provide services without compensation. Therefore, if the hospital is put in a position in which services can be "cherry-picked" away, it will be unable to afford the services it must provide for free.

Number 2113

DENNIS MURRAY, Administrator, Heritage Place Nursing Facility, testified via teleconference in opposition to HB 407, conveying particular concern about the fiscal note, which suggests that eliminating the CON in the state's three major population centers would significantly increase the state's general fund obligation. He offered that in his experience, the CON statute isn't perfect, but that the state won't be well served by removing that process from two-thirds of the state's population.

MR. MURRAY said as a member of the Long-Term Care Task Force, he knows the task force wrestled with the balance between community nursing-home beds and other community options. The language in the current [statute], coupled with legislation passed two years ago, would be negated by [HB 407], he said. Alaska is, in many

ways, one large community: facility construction in Anchorage affects Kenai, for example. This is why the existing CON process allows for public oversight and scrutiny of the construction of publicly supported services. With regard to Amendment 1, he offered his understanding that it includes any bed. He posed an example and suggested it could have an unintended consequence.

Number 2022

CHAIR DYSON asked Mr. Murray to explain how the Anchorage market affects the Kenai market.

MR. MURRAY replied, "In terms of expansion of beds or no certificate of need, I think that ... the history of Heritage Place Nursing Facility has been somewhat reliant on serving the needs of persons from other parts of the state, particularly Anchorage. Currently, that's not our circumstance." By example, he indicated there are families in Kenai with a family member in acute care in Anchorage. He offered his opinion that the nursing facility is impacted, adding that acute care is certainly impacted. "I was thinking generically there, Mr. Chairman," he added.

Number 1991

CATHY DIMON testified via teleconference, noting that she is a Tanana Valley Clinic employee but testifying on her own behalf. She stated that she is in favor of HB 407 and indicated support for a new surgery center to be built in the Fairbanks area. She reported that her husband recently underwent cardiac surgery in Anchorage; upon returning to Fairbanks, he needed outpatient care for intravenous antibiotic therapy, which was only available at the outpatient center at FMH. She said, "Let me tell you, this was an experience in patience. Not only did the outpatient center staff have little clue as to what was happening or what was supposed to happen for his care, they were repeatedly running late, [and] the majority of the staff seemed not to care that he waited sometimes over an hour-and-a-half to be seen." She said he was told not to make appointments, but to just "show up and they would work him in."

MS. DIMON asked: If the only outpatient center in Fairbanks is that busy, why is FMH worried about another facility coming into Fairbanks? She said that although the testimony against this bill seems to have only come from FMH staff, it seems the hospital is trying to get a corner on the market. She asked

what has happened to consumer choice, and suggested supply and demand should apply to medical care as well. She suggested the benefits of a new facility would include extra jobs, more taxes paid, and choices for patients. She requested passage of HB 407.

Number 1896

MIKE POWERS, Administrator, Fairbanks Memorial Hospital, apologized to Ms. Dimon for anything that might have gone wrong and offered to discuss the situation with her. He noted that the hospital loses \$100,000 on cardiac rehabilitation, and at the moment [FMH] is the only facility willing to provide that service to the community. He said the CON issue is nationwide, and that headlines in Ohio, Pennsylvania, and other states indicate these states are experiencing similar problems. Many of these relate to struggles between hospitals and physicians, and problems when both ethical and financial concerns are involved.

MR. POWERS stated that USA Today reported that hospitals nationwide are engaging in a "medical arms" race, scrambling to build specialized cancer and cardiac programs and other "niche service lines." This is especially true in a few states where the CON has been eliminated, he said; one expert notes that supply often dictates in the health care industry; therefore, oversupply of facilities equates to more procedures' being performed, whether necessary or not. He said that in New York, Rome Memorial Ambulatory Surgery Center filed suit against Rome Memorial Hospital in January, alleging that a 120-bed facility drove the outpatient clinic out of business by negotiating an exclusive agreement with Blue Cross Blue Shield, the area's largest insurer. He noted that court papers indicate that the hospital counters that the for-profit center was cherry picking the most lucrative cases and refusing to take high-risk and uninsured patients, with only secondary regard to the public health and patients' needs in the larger community.

MR. POWERS continued, indicating that a Syracuse, New York newspaper headline read, "Hospitals Lose Patients as For-Profit Surgery Centers Siphon Off Profits; One Hospital Files for Bankruptcy." Last summer, he noted, a center specializing in orthopedic surgery opened ten miles from Syracuse Community Hospital; the hospital expected to lose 3,400 same-day surgeries a year, more than half its annual volume. He referenced a hospital that filed for Chapter 11 bankruptcy protection earlier this year; he noted that the article indicated the community

must face the fact that the hospital's ability to maintain [service] is being eroded.

CHAIR DYSON suggested that Mr. Powers make copies of that information for committee members.

MR. POWERS said his point is that nationwide, this issue is playing out, and that Alaska has a unique and fragile health environment with a sparse population. He cautioned that a bill that essentially lifts any need for scrutiny or business planning could have dire effects on communities. In response to Chair Dyson, Mr. Powers said he thinks the areas of particular concern are Fairbanks, Juneau, the Kenai Peninsula, and the Matanuska-Susitna area, and that even Anchorage is at risk. Managed care companies are not found in Alaska, he said. He clarified that only communities with a population of 20,000 and above would be adversely affected.

Number 1715

JANICE WILKINSON testified via teleconference, offering support for HB 407 and SB 256. She noted that she is a laboratory manager for Tanana Valley Clinic, but was speaking on her own behalf. A resident of Fairbanks for six years, she said she has been in health care 30 years, including her high school years as a candy-striper; her career has taken her from very small communities to large, urban areas. She said she has witnessed what happens in communities with a healthy competition in the medical field, and has witnessed what happens when one medical facility has too much control or power: it gains control over the community, fees increase, no incentive is present to meet the personal needs of individual [patients], and patients find the need to go elsewhere. In this situation, she noted, both the facility and the community are hurt.

MS. WILKINSON said Fairbanks needs more competition with regard to its medical entities. Indicating FMH has had a massive amount of unrestricted growth in the last few years, she said it has developed into a monopoly, more or less. She also spoke in favor of having alternatives such as an alternative outpatient center in order to keep costs down and ensure that surgery revenues remain in Alaska.

Number 1590

BARBARA FLEMING, Member, Board of Directors, Providence Health System, read from a written statement as follows:

My name is Barbara Fleming; I serve on the Board of Directors of Providence Hospital here in the state of Alaska. I also sit as a trustee delegate to the Alaska State Hospital and Nursing Home Association, as well as the region nine American Hospital Association board member. So, I've many hats on this issue. During the past 100 years, the Sisters of Providence have been in Alaska, and they have served hundreds of thousands of Alaskans by providing health care, education and food for the underserved, regardless of their ability to pay.

Additionally, Providence has provided medical care where none existed before and served those that no one else would serve. Providence serves the expanding population of seniors, children, and families, and has been proactive in lowering emergency room costs by operating a family practice clinic that allows care by accepting patients on Medicaid and Medicare, sliding-fee scales, insurance, and those in need of charity care.

Providence opposes HB 407 because it will put many of the existing programs in jeopardy. [House Bill] 407 will also allow for new competing surgery centers to be built without any review [or] consideration of whether or not the community can financially support them. Statistics nationwide indicate there is a duplication of medical services, which has contributed to the increasing costs of health care.

MS. FLEMING continued:

Providence provides services that we know will not be reimbursed. Five years ago the charity care Providence provided was, roughly, \$11 million. Today it has risen to nearly \$36 million. Of that, ... approximately \$10 million ... is in community benefits for places like the Brother Francis [Shelter] and Covenant House - daily hot meals, roughly 200 of such to the Brother Francis Shelter and many other charitable organizations, roughly ... 50 just ... in the Anchorage area. Our greatest concern is in maintaining the programs that we already have in place and increasing those that we know are going to grow,

such as our Cancer Therapy Center. Who will offer these medical services if Providence does not?

Eliminating the CON process in these urban areas would allow for new surgery centers that only serve a small number of patients who can afford ... to pay. This could quickly erode the financial stability of our medical center and its ability to provide the many [un]reimbursed [services] ... for a complete medical center for all Alaskans.

MS. FLEMING turned to concern about the 55,000-population threshold, saying she took exception to this a bit because she believes it does affect many of the state's small communities. She explained:

I spent ten years in Seward. I recently moved to Anchorage, and the medical center [in Seward] is a Providence facility; they've supported that facility in the past five years, to roughly \$7 million in the red. It would not be able to do that if they didn't have a stable base, in Anchorage, to the medical center. Outreach as far as Seward, they deserve that. People of Anchorage deserve quality care for their parents in Providence's long-term care facilities. People across the region rely on home health care, and also the ... 3,100 ... [full-time employees] at the medical center deserve quality daycare for their kids. ... These services are in jeopardy, because they all have red ink on their books, and those things would not be able to happen, had the medical center not had the stability.

Number 1441

MS. FLEMING continued:

By changing the CON and allowing independent centers to open in the larger cities, it will affect our ability to provide the much-needed services that people across the state are accustomed to. Again, we serve everyone, ... regardless of ability to pay. ... These independents ... don't have a responsibility to the community, as Providence does. ... If Providence doesn't do this, who else will? The state will be left holding the bag for even greater increases to the Medicaid budget.

One last point: I know you've heard a lot of conflicting information regarding the cost increases versus savings. For FY 2003, the state's total Medicaid budget was \$830 million. Of this, \$32 million was a general fund increase. Therefore, the state's Medicaid budget [will] increase by 23 percent. This is a dramatic jump, and with my association at the state and national levels, the forecast is gloomy. You can't afford to speculate on these costs.

MS. FLEMING reiterated her opposition to HB 407, noting that Providence also opposes the bill.

Number 1388

CHAIR DYSON related his understanding from an earlier conversation with Ms. Fleming that the excess revenues are used to subsidize many charitable [services] such as the [center] in Seward, the Brother Francis Shelter, [covering] nonpaying emergency room patients, and other services. Therefore, he noted that he understood part of the argument to be that if a competing business comes along and takes those [excess-revenue-generating services], Providence would not be able to subsidize the many other services. Those costs would eventually be borne by the state and would drive up the state's Medicaid costs, to the detriment of all Alaskans. He asked whether this was an accurate summation.

MS. FLEMING agreed the foregoing was accurate.

Number 1256

CAROLYN WATTS, Ph.D., testified via teleconference, noting she is a professor of health economics and policy at the University of Washington in Seattle. Dr. Watts said she was representing FMH and her own research on the CON.

CHAIR DYSON noted an extensive resume from Dr. Watts.

DR. WATTS told members her testimony was in opposition to HB 407. She has worked in the health care area for 27 years doing teaching and research in health economics and health policy; much of this experience focused on the organization of the health care industry and its financing and the CON, in particular. She agreed with the summary offered by Chair Dyson, saying the financing of health care, both now and for the

foreseeable future, is a fragile, interdependent web of cross-subsidies and indirect financing. If everyone were willing to pay taxes to support public programs to provide services to people who are unable to pay for them, cross-subsidies would be unnecessary; competition would be fine. However, this is not how the health-care world works, and it isn't likely to work that way in the near future. Therefore, she said, one cannot look at this market the way one might look at the competition in the market for pizza, for example, because health care is too important and is part of the essential community infrastructure, particularly in a state like Alaska.

Number 1166

DR. WATTS offered her opinion that the CON is an important "piece of the puzzle" for the whole state, not just the smaller communities. She referenced other speakers' comments about freedom and choice, control and power, and supply and demand. Again, she noted, "This isn't pizza." She observed that patients in Alaska, even those in Anchorage, know they will not have many choices because the population density does not support such choice. Other industries, including some in the Lower 48, do not offer choice because stability is so important, she said.

DR. WATTS, citing the recent Enron [Corporation] debacle, pointed out that [society] understands that some pieces of infrastructure are so important that it is necessary to ensure access to services at all times. She drew attention to the issue of ambulatory surgery in Fairbanks and said three CONS were competing for the state's attention in 1999; all three were reviewed by the state, which concluded there was no need for them until 2017. Therefore, she suggested the issue of inadequate capacity in Fairbanks has been addressed.

Number 1098

DR. WATTS said the real issue is whether [the state] wants to have hospital services in Alaskan communities at all. If the "intrusion of the entrepreneurs" is allowed, "there are plenty of them out there" who will come in - not as community members, but as entrepreneurs - and take the profitable services from hospitals like Providence and FMH. That will leave the hospitals with the legal and moral obligation to treat anyone who comes to them. Those hospitals will have several choices, she predicted. For example, they could shut down the services

that don't pay for themselves, thereby precluding access to everyone; hence people would need to go Outside for services.

DR. WATTS said the CON is not about excluding a particular facility or service; rather, it is about creating a process whereby communities - which have in many cases funded their hospitals - can decide where and what kind of competition they want. So the CON doesn't prohibit competition, but provides a mechanism to monitor it and ensure it is consistent with community goals; it allows good stewardship of community resources.

DR. WATTS offered her opinion that the impact on Medicaid of HB 407 could be very large. She referenced Ms. Cronin's comments about psychiatric beds, 85 percent of which are covered by Medicaid. If one part of the market is restricted, particularly in a community like Fairbanks where there is no psychiatric hospital, where do those who cannot get into nursing homes and psychiatric beds go? Dr. Watts offered that these patients go to the community hospital. If the community hospital is failing financially because the profitable services are being provided elsewhere, there won't be the capacity to handle these patients; consequently, everyone in the community will suffer, and the Medicaid budget will suffer. She offered that the impact on Medicaid expenditures is much more complex than has been presented by Information Insights.

DR. WATTS concluded by saying the CON isn't about prohibiting the building of a specific facility or prohibiting competition; it is about maintaining a process. She reiterated that competition in health care is very different from competition in other industries. It is not about government control; rather, it is about community stewardship.

Number 0945

REPRESENTATIVE KOHRING observed that Dr. Watts has a very extensive background and has written some papers about national health insurance. He asked her to give a brief summary of her thoughts and position on that topic.

DR. WATTS stated that she is primarily a researcher and educator, adding, "I guess I don't have a professional opinion of whether we should or shouldn't have national health insurance. My job is to talk about what would happen if we did, [and] what happens now that we don't."

REPRESENTATIVE KOHRING expressed concern that without [HB 407] Alaska would be moving towards socialized medicine, which, to his belief, has proven to be not in a country's best interest.

DR. WATTS respectfully disagreed. In response to Chair Dyson, she specified that she was asked to testify by FMH and was paid for doing so.

Number 0843

RICK SOLIE, Trustee, Greater Fairbanks Community Hospital Foundation Board, testified in opposition to HB 407, noting that he serves on the Fairbanks North Star Borough Assembly but wasn't representing the assembly's views. He said the CON process, while not perfect, won't be improved by modifying it in this fashion. Rather, he predicted it would create further problems, allowing cherry picking of selected services and hurting FMH's ability to pay for some services that a for-profit venture wouldn't provide in the same manner. He recalled a hearing several years ago on this same issue wherein the CON and competition were discussed at length.

MR. SOLIE noted that he has a degree in economics and that his father had a Ph.D. in the field. He said health care, including that in Alaska, isn't simple economics. He suggested the discussion should focus on moving in that direction, but expressed concern about the short amount of time in the session and at this hearing. He recalled that an interim task force was discussed two years ago to look at the problems with the CON. He acknowledged that the hospital foundation has some problems with [the current CON process]; it is an uneven playing field. Physicians are able to get services from their clinic for which [the hospital] must obtain a CON from the state, he noted.

Number 0720

MR. SOLIE referenced an earlier amendment, saying he hadn't understood it, and believed the committee chose wisely to not adopt it. He conveyed concern that there is a piecemeal approach to fix the CON due to the laudable view that [Alaska] should move toward a competitive process. He suggested if members truly wish to fix a process they view as flawed, they should be willing to spend the time during an interim to study it. Mr. Solie said people in Fairbanks have spent the better part of 30 years creating a health care system that can provide an array of quality services in an economical way with access to all. He mentioned the home care program of [FMH], and pointed

out that a few years ago other providers offered home care, but no longer do so.

MR. SOLIE emphasized that an emergency room is open to all who cannot pay, and "will be there tomorrow for those that can't pay, regardless of race or color or their problems." Mental health care, neonatal care, cardiac rehabilitation, and other services are offered. In the absence of a competitive arena, he suggested that members look at cost, quality, and access.

MR. SOLIE noted that [FMH] has audited data from the state showing that its inpatient prices are competitive statewide and its outpatient prices are competitive with freestanding centers in Anchorage. He suggested [Alaskans] are also getting quality and access. If this needs to be fixed, a task force should [be created], he suggested. He added that the 55,000-population threshold doesn't have basis in fact. He said he believes [FMH's] administrator would have concerns about a lack of a service category when it comes to issues such as cardiac care. He emphasized that this issue is serious, adding, "We wouldn't have come here as volunteers to talk to you if it weren't."

Number 0566

CHAIR DYSON thanked Mr. Solie and said he could appreciate the frustration of those involved. He noted the pile of letters received on this matter and indicated he would read them all. He offered his belief that members are seeking to do a responsible job trying to understand this complex issue, acknowledging it is unlike any other economic situation. [HB 407 was held over.]

ADJOURNMENT

There being no further business before the committee, the House Health, Education and Social Services Standing Committee meeting was adjourned at 4:32 p.m.