

ALASKA STATE LEGISLATURE
JOINT MEETING
ADMINISTRATIVE REGULATION REVIEW
March 27, 2001
3:00 p.m.

HOUSE MEMBERS PRESENT

Representative Lesil McGuire, Chair
Representative Jeannette James
Representative Joe Hayes

HOUSE MEMBERS ABSENT

All members present

SENATE MEMBERS PRESENT

Senator Georgianna Lincoln

SENATE MEMBERS ABSENT

Senator Robin Taylor, Vice Chair
Senator Lyda Green

COMMITTEE CALENDAR

Review of recent proposed and approved regulations/Proposed
Pioneers' Homes rate increases

PREVIOUS ACTION

No previous action to record

WITNESS REGISTER

JIM KOHN, Director
Division of Alaska Longevity Programs
Department of Administration
PO Box 110211
Juneau, Alaska 99811-0211

POSITION STATEMENT: Discussed the proposed regulations and
answered questions.

ALISON ELGEE, Deputy Commissioner
Department of Administration

PO Box 110200
Juneau, Alaska 99811-0200
POSITION STATEMENT: Answered questions.

CHARLES JOHNSON, AARP representative and veteran
Sitka, Alaska
POSITION STATEMENT: Testified on the proposed regulations and
asked questions.

DAVID PREE, Resident
of the Anchorage Pioneers' Home
POSITION STATEMENT: Expressed interest in the legislature's
intent with the creation of the Pioneers' Homes.

ACTION NARRATIVE

TAPE 01-9, SIDE A
Number 001

CHAIR LESIL McGUIRE called the meeting of the Joint Committee on
Administrative Regulation Review to order at 3:00 p.m.
Representatives McGuire, James, Hayes, and Senator Lincoln were
present at the call to order.

Proposed Pioneers' Homes rate increases

CHAIR McGUIRE announced that the committee would hear testimony
on the proposed rate increases for the Pioneers' Homes. She
explained that the committee is hearing this issue today due to
concern that a particular policy in the regulations may be in
contradiction to statute. That policy appears to be one of full
compensation on the part of pioneers. Chair McGuire noted that
the committee packet should include a letter to Governor Knowles
from the Pioneers' Home Advisory Board. The [second page,
fourth paragraph] of the letter appears to recommend full cost
of care recovery by 2003; there would be a slow increase over
the years. However, the problem seems to be that the
regulations were promulgated under AS 47.55.030, which governs
admission on payment. That statute, AS 47.55.030, says that the
rate charge doesn't need to fully compensate the state.

CHAIR McGUIRE directed attention to a series of minutes from
1995 when the legislature considered privatizing Pioneers'
Homes. Much of the testimony through the [1995] committee
process focused on the concern that privatization of the
Pioneers' Homes would result in assessment of the full cost of
care to the pioneers, which could create a hardship on the

pioneers. Chair McGuire noted that the proposed regulations would take effect July 1, 2001. She also noted her intent to take testimony and to closely follow this in order to determine whether these regulations comport with this legislature's intent.

CHAIR MCGUIRE, in response to Representative James, said that the committee doesn't have any information from the March 23[, 2001,] meeting [on the sixth rate increase].

Number 0378

JIM KOHN, Director, Division of Alaska Longevity Programs, Department of Administration, read the following testimony:

For many years Pioneers' Home rates charged to residents were exceedingly low and didn't reflect the actual cost to provide services. Consequently, every year, the state subsidized the Homes to a greater and greater degree.

Early in the Pioneers' Home history, residents were required to give all their monthly income to the Home, keeping \$25 for personal spending. Of the total Pioneers' Home population at that time, only a few residents had ... income ... [such as] social security ... [or] railroad pension checks [to help pay for their cost of care]. In 1954, the first formal [monthly] rates were set at \$150 per month. At this time the Homes primarily served indigent elderly Alaskans. Indigent elderly Alaskans were given priority for admission.

In 1961, the legislature added a provision that those applicants who were not indigent could enter the Pioneers' Home as long as they agreed to pay for care. AS 47.55.030(a) says "A person eligible for admission [under AS 47.55.020] may on application be admitted to the home upon the person's agreement to pay to the state each month an amount the Department of Administration considers sufficient to compensate the state for the cost of care and support of the person at the home." During the decades following this legislative change of admission criteria, the periodic rate increases fell well behind the cost of care.

In 1995, the legislature introduced a bill to close the Pioneers' Homes. That bill was based on two fiscal gap studies which recommended closing the Pioneers' Homes in order to help close the fiscal gap. Clearly, the Homes needed a plan to decrease the need for general fund dollars in order to survive the fiscal gap budget reductions.

The Pioneers' Home advisory board reviewed the rate history and legislative intent regarding payment for Pioneers' Home services. Consequently, the board recommended to the Governor in the fall of 1995 that residents be charged for their cost of care. The board's plan increased rates in annual increments over seven years. The advisory board's recommendation was implemented in fiscal year 97, which was July of 1996, and the process has increasingly reduced the Pioneers' Homes' dependence on state general funds each year.

Through the years the question continues to be, "Who is responsible to pay for the Pioneers' Homes and what is the funding source?" Presently, the funding source is approximately 64 percent state general funds and 36 percent program receipts. As you can see, program receipts pay only a portion of the full cost. Every dollar collected from a resident for care reduces the Pioneers' Home dependence on the state general fund by a corresponding dollar. Therefore, as the rates increase and residents pay more of the cost of care, fewer state general fund dollars are needed.

In fiscal year '94, 15 percent of the cost of operating the Homes was paid for by the residents. In fiscal year '01 the percentage is up to 36 percent. Program receipts are expected to make up \$13.2 million of the \$33.8 million FY01 Pioneers' Home budget. If the governor's budget is passed by the legislature for FY02, it is projected that the program receipts will be in excess of \$15 million of the \$38.9 million proposed budget.

As the residents pay an increased share of the cost of the Homes' operation, we continue to keep the overall cost of operating the Homes down. We have strategies that include:

Centralizing certain jobs and services such as waiting lists, payment assistance process, billing and revenue collection, purchasing of supplies, and other office functions;

Utilizing purchasing cooperatives and volume discounts for supplies and pharmaceuticals;

Becoming more energy efficient;

Extending health care service resources by using other funding such as Medicaid Part B;

And computerization of quality assurance reporting, resident records, and preventative building maintenance records.

Some of these cost containment and cost reduction strategies are reflected in a recent legislative audit, which stated that the cost of operating the Homes from 1995 to 1999 decreased by 4.3 percent. Since the board's seven-year plan began to go into effect, the legislature has responded with two Pioneers' Home statutory changes: AS 47.55.020(b), [which] was amended in 1996 stating, "The department may not evict a person from the Pioneers' Home if the income and assets of that person are insufficient to pay the monthly rate." In 1997, the legislature passed the Pioneers' Home Resident Dignity Act, which placed a number of regulations into statute.

The hearing for the sixth of the seven proposed rate increases took place ... March 23rd [2001]. The rate increase is scheduled to begin on July 1, 2001. As in previous hearings, participants made suggestions to the department to assist residents and their families as the rates increase. The department has implemented many of these suggestions over the years, such as providing economic security for the spouses of a Pioneers' Home resident who resides in the community. At the time the Pioneers' Home Advisory Board recommended the seven-year rate increase plan, the board also recommended that steps should be taken to develop long-term care insurance to assist Alaskans who have to pay for care in the Pioneers' Homes and other facilities. Not only is it difficult for residents in the Pioneers' Homes to pay for the

increasing cost for their care, but it is also difficult for those unable to enter a Pioneers' Home to pay private sector assisted living and skilled nursing home costs.

MR. KOHN offered to answer questions.

Number 0920

REPRESENTATIVE HAYES inquired as to the percentage the pioneers would pay versus the state's role in financing at the seven year mark.

MR. KOHN explained that in the seventh year, the Pioneers' Home wouldn't expect to be charging the full cost of care. He further explained that when the seven-year plan was developed, 1995 was used as the cost of running the Pioneers' Homes. The board wanted to have an unchanging plan in order that people would know the rates in advance. Therefore, the cost of care referred to the cost of care in 1995.

MR. KOHN turned to how much would actually be collected due to the rate increases. In FY02, about \$15 million would be collected of the \$38 million budget. The next rate increase, the seventh rate increase, would probably cause [an increase in collections of] about a few hundred thousand. He estimated that about 40 percent would be the limit.

REPRESENTATIVE HAYES related his understanding then that references to cost of care don't necessarily mean the cost to run a facility.

MR. KOHN explained that the board discussed raising the cost of care and the cost of care of 1995. However, when determining the cost of care, the fact that not everyone can pay must be taken into consideration. Therefore, for about half the people in the home, the cost of care isn't even collected and thus about half of those in the homes pay on a sliding scale rate that is based on their income. He acknowledged that although the cost of care is approaching the level it was in 1995, the cost of care will never actually be collected.

Number 1232

REPRESENTATIVE JAMES inquired as to the percentage of people in the homes that can pay, and what percentage are already at their

limit. She also inquired as to whether the Choice waiver program is utilized for those [who qualify].

MR. KOHN answered that about half of the residents pay full charges, while the other half do not. Those that don't pay full charges make payments based on their income and assets. In regard to the waiver, it is a Medicaid fund. In order to receive this waiver, the Pioneers' Homes would be required to change a number of things, such as the one-year residency requirement. Therefore, the waiver program hasn't been used in the Pioneers' Homes. However, Medicare has been used. He explained that residents are required to have Medicare Part B, which costs about \$50 a month. If the resident doesn't have that \$50, then the [department] pays it. If a resident requires additional physical therapy after release from the hospital, then the home arranges for a private sector physical therapist who bills Medicare Part B.

REPRESENTATIVE JAMES indicated her support of the assisted living home environment. She noted that it seems that the Pioneers' Home is more expensive than an assisted living situation where there is also the ability to utilize the Choice waiver. Therefore, she inquired as to Mr. Kohn's thoughts on trying to expand Alaska's assisted living home operations as opposed to continuing the Pioneers' Homes.

MR. KOHN noted his support of expanding assisted living opportunities in Alaska because of the need as the elderly population increases. He recognized that the Choice waiver program requires that a person spend down their assets as is the case with Medicaid and the Pioneers' Home. However, he pointed out that by and large the private sector assisted living homes are sending some of their residents to the Pioneers' Homes. The reason for that, he believes, is that the Pioneers' Homes have maintained a fairly high medical model assisted living program. Therefore, nurses are available 24 hours a day. However, in the private sector such medical support and involvement in the care of the resident is not present. Therefore, the Pioneers' Homes tend to receive residents when they are older, and often have more problems. The average age of entrance is 83 and the average age in the home is in excess of age 87. Mr. Kohn said that he believes there is a place for everyone, in providing care for the elderly, and thus he supports the private sector.

CHAIR McGUIRE turned to the issue of nursing shortages. In her opinion, the [rate] increases are fairly significant. She asked

if the increases will solve the nursing shortage and fill the 100 beds that are currently available.

MR. KOHN answered that the increase will allow the homes to collect the money that is part of the proposed budget. The 2002 budget proposed by the governor has about a \$5 million increase, about half of which is Pioneers' Home receipts. Therefore, as the money is collected and spent as Pioneers' Home receipts, most of that money will be spent on more staff in order to staff the [vacant] beds. Mr. Kohn informed the committee that currently 83 percent of their budget is spent on staffing, and he didn't expect that to change.

CHAIR MCGUIRE inquired as to the number of staff and beds that would be funded with the money collected from the increment increase from last year to this year.

MR. KOHN explained that in the governor's 2002 budget, the [Pioneers' Home] is requesting approximately \$5 million in order to fill about 90 vacant beds that are located in Palmer, Anchorage, and Sitka. He recalled that those 90 beds would require 127 new staff in order to provide care for those on the waiting list. Those on the waiting list are people who need 24 hour care.

CHAIR MCGUIRE asked if it would be safe to say that by 2007, [Alaska] would have solved its nursing shortage and filled all the [vacant] beds.

MR. KOHN replied that he couldn't answer that.

Number 1807

REPRESENTATIVE JAMES inquired as to where those on the waiting list [receive care] while on the waiting list.

MR. KOHN acknowledged that some on the waiting list are quite desperate and frequently inquire as to their position on the waiting list. There are also many on the waiting list that are being taken care of at home by family members.

REPRESENTATIVE JAMES inquired as to the percentage of people in the Pioneers' Homes and on the waiting list that are Alzheimer's patients.

MR. KOHN answered that, depending upon the home, between 80-90 percent of those in the Pioneers' Homes are Alzheimer's patients. The waiting list reflects about the same percentage.

CHAIR McGUIRE asked if it would be fair to say that when the increases are completed next year, there will be some who will be paying the full cost of care.

MR. KOHN replied no, and clarified that even with the increases no one in the Pioneers' Homes will be charged the full cost of care. In further response to Chair McGuire, Mr. Kohn explained that the cost hasn't been refigured. The original cost was based on 1995 when the seven-year rate increase began. However, he estimated that the Pioneers' Home residents would be "a ways out from paying the full cost of care." He agreed with Chair McGuire that patients might be paying as high as 80 percent of the cost of care.

Number 1944

SENATOR LINCOLN returned to the issue of the vacant beds and the proposed legislation to fill [some of] those beds with veterans. She inquired as to how that veterans' legislation would impact the services and staffing.

MR. KOHN informed the committee that currently there are approximately 90 veterans in the Pioneers' Homes. Mr. Kohn interpreted the proposed veterans' preference to mean putting aside 25 beds, about 21 percent of the total of beds, [for veterans]. Therefore, there is a difference of about 35 beds between the preference and how many veterans are already in the home. Currently, there are 56 veterans on the active waiting list, and therefore approximately 35 of the 56 would be taken off the waiting list. However, he reminded the committee that about 90 beds would be opened and the veterans wouldn't have preference on the balance of those beds. Therefore, the preference would be in place until 125 veterans [are placed in the homes].

SENATOR LINCOLN recalled, in relation to the proposed veterans' preference legislation, that the beds are available and [filling the beds with veterans] wouldn't have any impact. She didn't understand how there is a waiting list while there are vacant beds for which there will possibly be a veterans' preference. If there is a veterans' preference, she inquired as to how that would impact the program receipts.

MR. KOHN explained that the veterans are [already] on the waiting list. The charge to veterans or nonveterans will be the same. However, work is being done with the federal Department of Veterans Affairs (VA) in order to try to waiver funds to veterans in order to help pay for their care in Pioneers' Homes. U.S. Secretary Principi, Department of Veterans Affairs, has said that the waiver is doable. The money from the waiver would go directly to the veterans to help pay for their care. However, most people don't have the income to pay the full charge and thus receiving financing from the outside - from the VA - will increase their income and ability to pay the charges. Therefore, the Pioneers' Homes will collect more. Mr. Kohn saw it as increasing the Pioneers' Homes ability to collect program receipts from veterans.

Number 2269

REPRESENTATIVE JAMES related her understanding that the current request, the additional money to open up the beds, would be funded with general fund (GF) dollars.

MR. KOHN clarified that [the request] is funded with half GF and half program receipts.

REPRESENTATIVE JAMES indicated her understanding of that, and pointed out that it didn't include any funding for veterans.

MR. KOHN said, "It's included in the program receipts so that if the ... Veterans Administration is able to come up with a waiver that allows the veteran to receive a per diem ..., then that would go to the veteran who would then use it as income to pay the program receipts."

REPRESENTATIVE JAMES noted that she shared the same concerns as Senator Lincoln in regard to the waiting list. She felt that doing [the veterans' preference] would reduce the opportunity for some of the women to [enter the Pioneers' Homes]. Representative James expressed her nervousness with utilizing preferences versus seeing people one at a time [as individuals].

Number 2366

REPRESENTATIVE JAMES then turned to the rates and expressed the need to develop a different plan in view of the increasing elderly population and the average rate of assisted living. Therefore, she inquired as to any suggestions from Mr. Kohn.

MR. KOHN recalled that the board reported [the increasing elderly population and rates for assisted living] as a looming problem. The board felt that long-term care insurance should be investigated by the state, but it hasn't been done yet. He said that [investigating long-term care insurance] would be his only suggestion.

REPRESENTATIVE JAMES remarked that capital expenditures are used to maintain these Pioneers' Homes. She said that she wasn't convinced that the Pioneers' Homes were designed to take care of people efficiently and thus the construction of the building itself could be a cost deterrent.

MR. KOHN agreed with that assessment.

Number 2516

CHAIR MCGUIRE turned to the problems with the waiver programs, that is the one-year residency requirement. She pointed out that there is a needy pool that has some overlap because it has some members that are veterans. Therefore, she inquired as to whether there has been any thought given to amending the waiver requirements for the neediest category overall.

MR. KOHN deferred to the Department of Administration or the Department of Health & Social Services.

Number 2591

ALISON ELGEE, Deputy Commissioner, Department of Administration, informed the committee that she traveled with the Pioneers' Home Advisory Board when this policy was debated back in 1995. The decision to move [residents] to the full cost of care was very difficult, and therefore was frozen at the 1995 rate. She recalled that the bottom line for the board was to treat Alaska's seniors equally. In 1995 there were in excess of 30,000 seniors and the projections are that the senior population will more than double by 2010. With six homes, "we" would never be in a position to provide low-cost long-term care to seniors across the state. It was felt unfair that some have to seek long-term care services elsewhere, simply because there wasn't room.

MS. ELGEE acknowledged that the Pioneers' Homes are more expensive than the small assisted living facilities. However, the Pioneers' Homes are less expensive than the long-term care nursing homes. She echoed Mr. Kohn's point that the Pioneers'

Homes provide an assisted living environment with a heavy medical model. Therefore, she felt that the costs are comparable for the services being provided. In regard to equity for seniors, the move to full cost of care was good public policy. She noted that the financial rules before financial assistance begins were modeled similar to those in Medicaid in order to provide equity.

Number 2696

CHAIR MCGUIRE asked if there was a response to the letter sent by the Pioneers' Home Advisory Board to Governor Knowles.

MS. ELGEE explained that the governor doesn't respond in writing, but rather has a meeting with representatives from the board after the recommendations are proposed.

CHAIR MCGUIRE restated her earlier question regarding whether any consideration had been or will be given to the notion of waiving the overall Medicaid requirement.

MS. ELGEE clarified that the negotiations taking place with the VA are seeking an alternative to the VA's normal course of long-term care delivery in a stand-alone veterans' home. She mentioned the rules that the [VA] has. The discussion with the VA is revolving around doing a demonstration project that provides veterans money in a format similar to that of Medicaid waivers. This would be a demonstration project that would allow the [VA] to pay [veterans] that would be residents of a stand-alone veterans' home, if Alaska had such.

CHAIR MCGUIRE expressed her belief that one of the solutions may be to obtain some of the Medicaid waiver dollars. However, she didn't want to eliminate the residency requirement.

MS. ELGEE pointed out that in order to obtain Medicaid waiver dollars, the Pioneers' Home residency and age requirements would have to be eliminated. Furthermore, Ms. Elgee pointed out that Medicaid isn't available to people until they have spent down to a point that exceeds Alaska's state regulations regarding when state payment assistance begins. Therefore, receiving Medicaid provides no advantage to the residents themselves. However, if "we" chose to accept Medicaid and abandon the age and residency requirements, then the Pioneers' Home could use Medicaid dollars to perhaps supplement and replace some general fund dollars. Again, [Medicaid] will never be a greater advantage to residents themselves due to the Medicaid spend-down requirements.

Number 2897

SENATOR LINCOLN returned to the letter from the Pioneers' Home Advisory Board. Of the five recommendations noted in that letter, what has been done with any of them?

MS. ELGEE turned to the first recommendation, which requested additional funding for staffing. The governor proposed, in the fiscal year 1996 budget, additional funding for Pioneers' Home staff. She recalled that only a portion of the full request was received from the legislature. In other years, the legislature has included some portion of requests for capital funds, which is also addressed in the first recommendation. Ms. Elgee said that the full request for the Pioneers' Home program has never made it through the governor's budget deliberation or the legislative process.

SENATOR LINCOLN requested that Ms. Elgee respond in writing as to where these 1995 recommendations stand.

TAPE 01-9, SIDE B

Number 3002

MS. ELGEE, in response to Representative James, answered that the current admission criteria for the Pioneers' Home would not be changed, even with a veterans' preference. Therefore, veterans seeking to enter the Pioneers' Home would have to be 65 and older with one year of residency.

MS. ELGEE agreed with Representative James's understanding that establishing a veterans' preference in order to obtain federal payment is still in the discussion stage. Furthermore, the budget attached to the Veterans' and Pioneers' Home proposal doesn't assume any federal funds. However, that avenue will still be pursued in order to determine if some benefits can be provided to veterans.

REPRESENTATIVE JAMES asked if the per diem was given to veterans in the Pioneers' Homes, would that same per diem be available to veterans in assisted living homes.

MS. ELGEE replied that she didn't know. The discussions with the VA have been specifically in regard to the Pioneers' Home approach. However, she understood the VA to be reviewing a variety of alternatives for providing long-term care. The VA

recognizes that the independent veterans' home approach that has been utilized throughout the country for years is an extraordinarily expensive manner in which to meet long-term care needs. Therefore, she imagined seeing changes.

REPRESENTATIVE JAMES related her belief that if the VA would be willing to provide funds to a Pioneers' and Veterans' Home, then she felt that it should apply to any veteran regardless of where the services were provided because there is no alternative care in Alaska specifically for veterans.

Number 2824

CHAIR MCGUIRE asked: "Is it the Department of Administration's position that the legislature has authorized regs to be written that would implement a fee structure that would fully pay for the cost of care in the Pioneers' Home?"

MS. ELGEE answered that the department believes that the regulations provide the department the ability to charge up to the full cost of care. However, "we never expected the Pioneers' Homes to be supported solely by resident rates," she clarified. She felt the legislature understood that in terms of the legislation adopted, which placed guarantees placed in statute. For instance, there is the guarantee that no resident will be evicted from the Pioneers' Home even if he/she doesn't have the ability to pay. Furthermore, financial information isn't collected.

Number 2730

CHARLES JOHNSON, AARP representative and veteran, testified via teleconference. He posed a hypothetical situation in which a man in his 80s is married to a woman 15 years his junior and they have some assets. If the man enters the Pioneers' Home as a veteran, will the requirements be the same so that the couple's assets are spent down to the level at which Medicaid could be obtained. Furthermore, if the couple has long-term care insurance and the man outlives the term of the insurance, what impact would that have on his civilian wife.

MR. KOHN recalled that during the yearly hearings for the rate increases, witnesses testified to the changes that might be helpful. One of the changes suggested was to help the spouse that remained in the community while the other entered the home, which is what he understood Mr. Johnson's hypothetical situation to be. Presently, the regulations allow the spouse in the

community to keep a house of any value, a car of any value, \$100,000 in additional assets, \$2,000 of joint income per month, a \$4,500 burial fee for each, and \$5,000 plus \$100 a month in cash for the spouse in the home. He noted that there may be a few other things that are allowed before any collection begins.

Number 2572

MR. JOHNSON turned to the per diem payment and related his belief that paying it directly to the Pioneers' Home would be better than first paying it to the veteran.

MR. KOHN informed everyone that discussion thus far has revolved around the money going directly to the veteran because the VA would have to know where the veteran is located and what kind of care he/she is receiving. The money would go to the veteran because of the veteran being outside of the stand-alone veterans' home. However, as discussions continue that may change.

MR. JOHNSON recalled the situation in Mt. Edgecumbe when the Bureau of Indian Affairs (BIA) would send its physicians and nurses to finish their terms at the hospital. He wondered if that would be a possibility for them to assist at the Pioneers' and Veterans' Homes.

MR. KOHN remarked that the Pioneers' and Veterans' Homes concept opens up a lot of possibilities. The aforementioned suggestion may be a possibility.

MR. JOHNSON informed the committee that his wife is a volunteer at the Sitka Pioneers' Home and she is concerned about the understaffing there.

MR. KOHN pointed out that over 83 percent of the Pioneers' Home's budget goes toward staff. The staff to resident ratio is similar in all the homes. Currently, in the 24 hour care areas residents receive an average of 4.9 hours of care per resident per day. However, there is a nursing shortage. Specifically, in Sitka, there have been problems in regard to filling positions and thus nurses have had to work extra in order to maintain sufficient staffing. This is the case in a number of the homes. He believes this problem will be resolved with the increase.

Number 2262

CHAIR McGUIRE inquired as to whether any more nurses were gained last year [due to last year's rate increase].

MR. KOHN replied no. In some years, the Pioneers' Home's budget has requested that some of the program receipts be kept as an increment to the budget. He recalled that in 1997 or 1998 a fairly large amount was kept and a number of staff were hired. However, most years, as the program receipts increased, the general fund dollars increased and thus the budget was the same [total amount] but with a different mix.

CHAIR McGUIRE surmised then that in six years [of rate increases] there was only one year in which significant [staff increases took place].

MR. KOHN responded that there was more than one year. He offered to provide that information.

Number 2186

CHAIR McGUIRE related her understanding that the [department] predicts that the upcoming rate increase coupled with the general fund request would result in the hiring of 127 new staff.

MR. KOHN interjected that those hired would be nurses and nurse aides.

CHAIR McGUIRE related the opinion of some legislators that the [nursing] shortage isn't something that money can make up, because there is a nationwide shortage of nurses.

MR. KOHN presented his view. "As long as nursing is paid at a very low rate of pay, you don't draw new people into nursing," he charged. However, he pointed out that the Alaska Nursing Home Association (ANSHA) has spearheaded a program in order to train LPNs and RNs in Alaska. If nurses know that a good paying job is waiting for them, they will take the time to move up.

Number 2043

DAVID PREE, Resident of the Anchorage Pioneers' Home, testified via teleconference. He informed the committee that he was the last First Assistant Attorney General before statehood and he was also the Statehood Election Commissioner. Therefore, he is very familiar with statutory construction and the relationship between the executive and judicial branches and the executive

and legislative branches of government. Mr. Pree asked if Commissioner Kohn had requested an opinion from the Attorney General regarding the Department of Administration's interpretation of the various statutes involved.

MS. ELGEE answered that all regulation development promulgated by any program or department is done so with the legal advice and review of the Department of Law. The department worked directly with an attorney from the Department of Law on the drafting of these regulations. Then another attorney within the Department of Law reviews the regulations before the department is allowed to promulgate the regulations and conduct public hearings. Upon completion of the public hearing process, there is a final review of the regulations by the Department of Law before the regulations become effective.

MR. PREE remarked that Ms. Elgee's answer refers to the legal ease of the regulations with which he is not interested. Mr. Pree clarified that he is interested in the intent of the legislature. He said:

What was the intent that the legislative body had in enacting the Pioneer Homes and the cost entailed thereof. We have a co-mangling (ph) of the capital expenses here, maintenance of the existing facility, and then you have operating expenses. If ... the administrative agency, who is to administer these laws, interpret these statute one way and it's inconsistent with the legislative intent, then you've created a lot of mess for the state and for the individual agency. If the commissioner hasn't requested an Attorney General's opinion on the question of legislative intent and your proposed increases here and use of the money, I respectfully submit that the administrator or the executive branch of government is not willing to ... have the Attorney General look at this aspect, then I respectfully submit that the legislative attorney should look at it. There are a number of questions that I have involved in this whole mess.

CHAIR MCGUIRE clarified that the role of Joint Committee on Administrative Regulation Review is to review proposed regulations in order to determine whether those regulations comport or do not comport with legislative intent. She said, "That's precisely the reason why we are holding this hearing." Chair McGuire noted that Senator Lincoln had requested [that the

department have] the ability to respond in writing. Chair McGuire said, "We respectfully request that the Lieutenant Governor doesn't sign these yet." She pointed out that these regulations don't go into effect until July 1st and the public comment period is now.

MR. PREE requested the following from someone in the Department of Administration:

What \$800,000 of receipts were diverted from the money that was supposedly appropriated for the original \$1.13 million that the legislature last time referred to.

MS. ELGEE clarified that Mr. Pree was referring to the money that was appropriated last year for the heating, ventilation, and air conditioning system at the Anchorage Pioneers' Home. She explained that last year [the Department of Administration] had almost a \$1.5 million [request] before the legislature. The legislature provided [the department with] \$250,000 in Alaska Housing and Finance Corporation (AHFC) funds and the ability to spend program receipt revenues if they collected Pioneers' Home resident fees in excess of what were included in the operating budget. She informed the committee that last year about \$285,000 were realized to put toward that project. However, she didn't anticipate any excess revenue collections in the current year. Therefore, the authorization is basically an empty shell that has no revenue behind it. In recognition of that, [the department] has a million dollar supplemental request before the legislature in order to be able to complete that project.

MR. PREE reiterated his question: "Why was \$800,000 of receipts from, apparently, residents diverted to some other source?"

MS. ELGEE restated that no money was diverted. She reiterated that [the department] had a spending authorization that was based on the speculation that there might be more revenue coming in than was budgeted for other purposes, which did not occur. Therefore, resident revenues were not diverted to any other purpose and thus are all reflected in the Pioneers' Home's operating budget. Ms. Elgee noted that there have been years in which more money was collected than there was an authorization to spend. Therefore, the legislature provided the opportunity for an authorization, but there was not excess money.

MR. PREE asked Ms. Elgee if she was the department representative who appeared before the Senate Committee on Oversight in February.

MS. ELGEE specified that she is the Deputy Commissioner of the Department of Administration. She was unsure as to which committee [meeting] Mr. Pree was referring.

Number 1450

MR. PREE reiterated his earlier question regarding why \$800,000 was diverted from receipts to maintenance. Mr. Pree said:

The federal government has made it real clear that they will not, under any circumstances, contribute anything to a capital budget fund or the capital for the Pioneer Home. They will not pay a dime for maintenance. That means operating expenses only. Why, then, does either the legislative branch or, for that matter, the executive [branch] divert funds that were originally derived from the residents [of the Pioneers' Home].

MS. ELGEE again stated that no resident revenues were diverted. In regard to there being no federal funding for maintenance, Ms. Elgee pointed out that [the Pioneers' Home] actually received \$600,000 last year through the federal government for maintenance at the Sitka Pioneers' Home.

CHAIR MCGUIRE asked if Ms. Elgee would be willing to respond in writing to Mr. Pree and to the committee.

MS. ELGEE answered in the affirmative.

CHAIR MCGUIRE, in response to Mr. Pree, agreed to obtain a copy of the hearing Mr. Pree was interested in.

ADJOURNMENT

There being no further business before the committee, the Joint Committee on Administrative Regulation Review meeting was adjourned at 4:19 p.m.