

1 IN THE HOUSE

BY MR. PALMER

2 HOUSE BILL NO. 202

3 IN THE LEGISLATURE OF THE TERRITORY OF ALASKA

4 TWENTY-SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act providing for a Board of Health, the  
7 appointment of its Members, and their  
8 tenure and compensation; providing for a  
9 Commissioner of Health and for his appoint-  
10 ment, tenure and compensation; providing for  
11 the powers and duties of said Board and  
12 Commissioner; repealing Sections 40-1-4 and,  
13 40-1-5, ACLA, 1949; and repealing Section  
14 40-1-3, ACLA, 1949, as amended by Chapter 4,  
15 SLA, 1951, and Section 40-1-6, ACLA, 1949,  
16 as amended by Section 16, Chapter 118, SLA,  
17 1949, and Chapter 56, SLA, 1951; authorizing  
18 an appropriation; and setting an effective  
19 date."

20 BE IT ENACTED BY THE LEGISLATURE OF THE TERRITORY OF ALASKA:

21 Section 1. PURPOSE. Whereas public health laws and regula-  
22 tions are so complex and technical that their administration  
23 requires a knowledge not usually available to either the layman  
24 or to those not specially trained or experienced in public health;  
25 whereas it is essential to sound public administration that  
26 responsibility be clearly placed; and whereas that official having  
27 the responsibility should likewise have the clear authority to  
28 discharge such responsibility, it is the intent and purpose of the  
29 Legislature, in the passage of this Act, to limit the Alaska Board

1 of Health to advisory and appellate functions and to place full  
2 responsibility and authority for the administration of public  
3 health and related laws and regulations on the Commissioner of the  
4 Alaska Department of Health, and to that end and purpose the  
5 Commissioner of the Alaska Department of Health shall succeed to  
6 all powers, duties and responsibilities heretofore vested in the  
7 Board of Health by acts of the Legislature, except as otherwise  
8 provided in this Act.

9 Section 2. ALASKA BOARD OF HEALTH. There is hereby estab-  
10 lished the Alaska Board of Health, hereinafter referred to as the  
11 Board, which shall consist of one Member from each judicial  
12 division of the Territory of Alaska and one Member chosen at  
13 large. Members shall be appointed by the Governor, by and with  
14 the consent of the Legislature, in joint session assembled, for  
15 terms of four years, commencing April 1, 1955 and on April 1 there-  
16 after at intervals of four years; Provided, that the initial  
17 appointments of two Members representing judicial divisions shall  
18 expire on March 31, 1957; Provided further, that Members shall  
19 serve until their successors are appointed and confirmed. The  
20 Governor shall make appointments to unexpired terms, subject to  
21 confirmation by the Legislature, in joint session of both houses,  
22 at that session, regular or special, next following the date of  
23 such appointments. Appointees of the Governor to the Board who  
24 fail of the confirmation of the Legislature shall not be eligible  
25 for interim appointment to the Board.

26 The Governor may, after notice and hearing, remove any  
27 Member of the Board for gross inefficiency, neglect of duty,  
28 malfeasance in office or commission of a crime.

29 Appointments shall be made from persons who have demonstrated

1 an active interest in public health and related matters and who  
2 are eligible to vote under the laws of Alaska.

3 The Governor shall submit his initial appointments to the  
4 Board to the Legislature for confirmation as soon as practicable  
5 after the effective date of this Act, and thereafter appointments  
6 shall be submitted to the Legislature within ten days after the  
7 convening thereof.

8 Section 3. POWERS OF THE BOARD. The Board shall have the  
9 power to organize and to select a Chairman and other officers  
10 from among its membership; to adopt rules for the conduct of its  
11 business; to hold hearings, either public or in executive session,  
12 concerning matters relevant to its purpose; to issue subpoenas and  
13 to require the attendance of witnesses and the production of  
14 pertinent documents; to administer oaths in connection with the  
15 business of the Board; and to hear appeals as provided in Section  
16 12 of this Act.

17 Section 4. DUTIES OF THE BOARD. It shall be the duty of  
18 the Board to advise and consult with the Commissioner of the  
19 Alaska Department of Health with respect to all matters which are  
20 of official concern to said Department, or to the Commissioner  
21 thereof, which shall include, but shall not be limited to, the  
22 development and implementation of programs relating to:

- 23 (a) The preparation and dissemination of information  
24 relating to medical and health matters.
- 25 (b) The treatment and control of disease.
- 26 (c) Maternal and child health.
- 27 (d) Crippled children services.
- 28 (e) Mental health and the care and the treatment of the  
29 mentally ill.

1 (f) Environmental sanitation, sewage and waste disposal,  
2 and the sanitation of places in which food or drink for public  
3 consumption is prepared, dispensed, sold, offered for sale, or  
4 consumed.

5 (g) Supplying of potable water.

6 (h) The pollution of streams and other bodies of water.

7 (i) The abatement of public health nuisances.

8 (j) The furnishing of itinerant health services to  
9 Alaska villages.

10 (k) Cooperation with all persons, agencies and associa-  
11 tions, public and private, in extending and strengthening services  
12 for the protection of the public health.

13 (l) Aid to community hospitals, health centers and  
14 other medical and health facilities.

15 (m) Federal programs for the survey, construction and  
16 extension of hospitals, sanatoria, nurses' homes, health centers,  
17 training institutions, and related medical and health facilities.

18 (n) The operation and management by the Department of  
19 Health of hospitals, sanatoria, nurses' homes, training programs  
20 and other medical and health facilities.

21 The Board shall make such recommendations relevant to its  
22 purpose, and as it deems necessary and proper, to the Legislature  
23 and to the Governor, to other Territorial boards, commissions,  
24 agencies and officials, and to municipalities, health districts  
25 and health units.

26 Section 5. MEETINGS OF THE BOARD. The Board shall meet at  
27 least once each year at the call of the Chairman for the trans-  
28 action of such business as may properly come before it; Provided,  
29 that the Chairman shall call the Board into session when requested

1 In writing by at least two of the Members.

2 Three Members shall constitute a quorum for the conduct of all  
3 business, and not less than three Members shall be in personal  
4 attendance at all hearings.

5 Full and complete minutes shall be kept of all meetings and  
6 such minutes shall be made a part of the permanent records of the  
7 Board.

8 The Board may call upon the Commissioner of the Alaska Depart-  
9 ment of Health to provide such secretarial and clerical assistance  
10 as the Board requires in the discharge of its duties under this  
11 Act.

12 Section 6. EXPENSES OF MEMBERS. Members of the Board shall  
13 be reimbursed for actual travel expenses incidental to the dis-  
14 charge of their duties under this Act and shall, while in the  
15 actual performance of such duties, be entitled to the per diem  
16 allowed by law.

17 Section 7. COMMISSIONER OF HEALTH. A Commissioner of Health,  
18 hereinafter referred to as the Commissioner, shall be appointed by  
19 the Governor, by and with the consent of the Legislature, in joint  
20 session assembled, for a term of four years, or until his successor  
21 is appointed and confirmed, said term to commence on April 1, 1955  
22 and on each succeeding April 1 at intervals of four years. The  
23 Commissioner shall be the executive director of the Alaska Depart-  
24 ment of Health, as created by Section 40-1-2, Alaska Compiled Laws  
25 Annotated, 1949, and shall be charged with the administration of  
26 all laws and regulations relating to public health.

27 An appointee to the position of Commissioner who fails of  
28 confirmation shall not be eligible for an interim appointment as  
29 Commissioner.

1           The Commissioner shall be a reputable physician who is  
2 eligible for license under the Medical Practice Laws of Alaska,  
3 who has completed the academic requirements for a master's degree  
4 in public health at a school or college of public health approved  
5 by the American Public Health Association, and who has had at  
6 least three years of full-time experience in a responsible public  
7 health position. Three years of additional experience in a  
8 responsible position in the public health field may be substi-  
9 tuted for the academic training in public health. For the pur-  
10 pose of this Act, a "responsible public health position" shall be  
11 interpreted to mean employment as a state health officer, deputy  
12 state health officer, director of the health department of a city  
13 of at least 100,000 population, director of a health district  
14 comprising two or more counties, or a position which approximates  
15 in its technical and administrative requirements any of the  
16 foregoing.

17           The Governor may, after notice and hearing, remove the  
18 Commissioner for gross inefficiency, neglect of duty, malfeasance  
19 in office, or commission of a crime.

20           The Commissioner shall be compensated at the rate of  
21 \$13,500.00 annually.

22           The Commissioner may delegate his duties and responsibilities  
23 to any person designated, appointed or employed pursuant to  
24 Territorial law.

25           Section 8. DUTIES AND POWERS OF THE COMMISSIONER. The  
26 Commissioner shall have the power and the duty:

27           (a) To organize, direct and otherwise administer the  
28 Alaska Department of Health; Provided, that employees of the  
29 Department, not otherwise exempt under the appropriate laws or

1 regulations, shall be administered in accordance with the rules  
2 and regulations of the Alaska Merit System.

3 (b) To cooperate with the United States and its  
4 agencies in all matters relating to public health and the extend-  
5 ing and strengthening of health services, and to apply for, and  
6 receive, such grants-in-aid, whether in the form of money, goods,  
7 or services, as the United States has made available, or may make  
8 available, for the administration of any public health law, or  
9 law relating to the provision of medical and health services.

10 (c) To cooperate with all other Territorial agencies in  
11 matters of mutual interest and concern.

12 (d) To adopt, promulgate, repeal and amend rules and  
13 regulations, not inconsistent with existing law, relating to and  
14 providing for:

15 (1) The definition and control of communicable  
16 diseases.

17 (2) The prevention and control of public health  
18 nuisances.

19 (3) The regulation of sanitation and sanitary  
20 practices in the interest of public health.

21 (4) Cooperation with local boards of health and  
22 health officers.

23 (5) The protection and promotion of the public  
24 health and the prevention of disability and mortality.

25 (6) The isolation of any person affected with,  
26 and the prevention of the spread of, any contagious or  
27 infectious disease.

28 (7) The transportation of dead bodies.

29 (8) The establishment and maintenance of quarantine.

1 (9) An annual medical examination of barbers,  
2 cosmetologists, and persons employed in the preparation and  
3 handling of food and drink in restaurants, cafes, lunch  
4 counters, soft drink establishments, bars, beer and wine  
5 dispensaries, butcher shops, bakeries and other similar  
6 establishments.

7 (10) Standards of cleanliness and sanitation in  
8 connection with the construction, operation and maintenance  
9 of any camp, cannery, food handling establishment, food manu-  
10 facturing or processing plant, manufactory of frozen desserts,  
11 mattress manufacturing establishment, industrial plant,  
12 school, barber shop, cosmetological establishment, soft drink  
13 establishment, bar, saloon, beer and wine dispensary, and  
14 other similar establishments in which insanitation may create  
15 a condition causative of disease.

16 (11) Labelling and grading of milk according to  
17 the Standard Milk Ordinance and Code, now in effect or as  
18 hereafter amended or re-issued, and which has been approved  
19 by the United States Public Health Service, and for standards  
20 of cleanliness and sanitation in the operation of dairies  
21 selling or offering for sale, milk or milk products.

22 (12) The protection of public water supplies  
23 through the examination and testing of water, the establish-  
24 ment of minimum standards of quality, requiring construction  
25 of public water supply systems or improvement to existing  
26 systems necessary to protect health, requiring the sub-  
27 mission of water supply plans for review and approval, proper  
28 operation of water supply systems, and the regulation of  
29 physical connections between public water supply systems and

1 water supply systems which may carry water of questionable  
2 sanitary quality.

3 (13) Standards for the collection and disposal of  
4 sewage and industrial waste, prohibiting the pollution of  
5 surface and ground waters, construction and use of sewers  
6 and sewage disposal facilities, sewage treatment, sewage  
7 treatment works operation, requiring the submission of sewage  
8 disposal plans for review and approval, and providing for  
9 such additional controls over the handling of sewage and waste  
10 as may be necessary to protect the public health.

11 (14) The implementation and enforcement of laws of  
12 the United States and Alaska relating to public health.

13 (15) The implementation and enforcement of the  
14 Alaska Food, Drug and Cosmetic Act, which is Chapter 129,  
15 Session Laws of Alaska, 1949.

16 (e) To administer the tuberculosis control program as  
17 provided by Section 40-2-11, Alaska Compiled Laws Annotated, 1949,  
18 Provided, that Subsection (1) of said Section 40-2-11, Alaska  
19 Compiled Laws Annotated, 1949, is hereby amended to read as  
20 follows:

21 (1) Establish standards IN ACCORDANCE WITH  
22 AUTHORIZED BOARD OF HEALTH PROCEDURE 7 for the care of all  
23 tuberculous persons receiving treatment under this Act.

24 (f) To carry out and enforce the provisions of Article  
25 2 of Chapter 5, Title 40, Alaska Compiled Laws Annotated, 1949,  
26 as amended by this Act.

27 (g) To administer and enforce the provisions of Chapter  
28 6, Title 40, Alaska Compiled Laws Annotated, 1949.

29 (h) To serve as the Registrar of Vital Statistics, as

1 provided by Chapter 119, Session Laws of Alaska, 1949.

2 (i) To administer Territorial and Federal programs re-  
3 lating to aid to hospitals and other medical and health centers,  
4 and to the survey, extension, renovation and construction of  
5 hospitals, medical and health centers, training institutions,  
6 nurses' homes, sanatoria and other related medical and health  
7 facilities.

8 (j) To cooperate with and assist voluntary health  
9 societies, medical, nursing and hospital associations, and other  
10 persons and organizations having the common objective of curing  
11 and preventing illness.

12 (k) To establish such local offices and such advisory  
13 groups as he deems necessary or expedient to the discharge of his  
14 duties.

15 (l) To report to the Legislature on the operations of  
16 the Alaska Department of Health, on health problems in Alaska  
17 and on other matters relating to and affecting health in Alaska,  
18 and to develop legislative programs relating to health in Alaska  
19 for submission to the Legislature.

20 (m) To do whatever else is necessary to carry out the  
21 provisions of this Act.

22 Section 9. HEALTH DISTRICTS. Section 2 of Chapter 118,  
23 Session Laws of Alaska, 1949, is hereby amended to read as  
24 follows:

25 Section 2. HEALTH DISTRICTS. Two or more contiguous  
26 health units constituted under the terms of the preceding  
27 section and/or local boards of health for contiguous in-  
28 corporated towns not constituted a health unit under the  
29 terms of the preceding section, may be constituted a Health

1 District by the Commissioner of Health, with the consent of  
2 the boards of health of such health units, or of such  
3 contiguous incorporated towns /ALASKA BOARD OF HEALTH UPON  
4 THE RECOMMENDATION OF THE COMMISSIONER OF HEALTH . Members  
5 of the Board of Health for such health districts shall be  
6 appointed by the Alaska Board of Health from residents of  
7 each health unit and/or incorporated town represented in the  
8 health district in such numbers and for such periods of time  
9 as may be determined by the Alaska Board of Health.

10 The provisions of Section 2 of Chapter 118, Session Laws of Alaska,  
11 1949, as amended by this section, are hereby made a part of this  
12 Act; Provided, that this amendment shall not be interpreted to  
13 affect the status of any health district which was created prior  
14 to the effective date of this Act, nor to affect the appointment,  
15 tenure or official acts of any member of such health district  
16 board, or of any officer or employee thereof.

17 Section 10. SUCCESSION TO POWERS AND DUTIES OF THE BOARD.

18 The Commissioner shall succeed to, and be vested with, all the  
19 powers, duties and responsibilities heretofore conferred upon, or  
20 charged to, the Board of Health, except as otherwise provided in  
21 this Act; Provided, that nothing in this Act shall be interpreted  
22 as amending or otherwise affecting the provisions of the Alaska  
23 Water Pollution Control Act, which is Chapter 117, Session Laws of  
24 Alaska, 1949.

25 Section 11. RELATIONS BETWEEN BOARD AND COMMISSIONER. The  
26 Board shall have access to, and the Commissioner shall furnish  
27 the Board upon request, all records, books of account, letters,  
28 reports and other documents relating to the operation of the  
29 Department of Health, the duties of the Commissioner, and to

1 public health problems in Alaska; Provided, that due care shall  
2 be taken to preserve the restricted character of medical informa-  
3 tion. It shall be the duty of the Commissioner to keep the Board  
4 informed of matters coming to his attention which are essential  
5 to the discharge of the Board's functions and to cooperate closely  
6 with the Board in the realization of their common objective of  
7 protecting the public health.

8 Section 12. REQUESTS FOR REVIEW AND APPEAL. The proprietor,  
9 manager, director, or agent of any establishment or business, or  
10 the owner, manager or custodian of any property, or the principal  
11 executive or the legislative body of any public corporation or  
12 agency, or any person, who believes himself, or the business,  
13 property, corporation, or agency he owns, directs, manages or  
14 otherwise controls and operates, to be adversely affected by rules  
15 or regulations promulgated by the Commissioner pursuant to  
16 Section 8 (d) of this Act, may request the Commissioner in writing  
17 to reconsider such rules or regulations. The request for recon-  
18 sideration need not be in a particular form, but it shall identify  
19 clearly the rules or regulations to which objections are raised  
20 and the reasons therefor. The Commissioner shall review the  
21 objections and make such inquiries relating thereto as he deems  
22 necessary and shall reply to the request for reconsideration with-  
23 in thirty days from its receipt.

24 Thereafter, and not more than thirty days from the date the  
25 Commissioner's reply was mailed, or from the date that the  
26 Commissioner's reply was served personally on the petitioner, his  
27 attorney or agent, the petitioner may file a notice of appeal with  
28 the Commissioner; Provided, that the appeal shall be limited to  
29 those matters raised in the request for reconsideration. Upon

1 receipt of the notice of appeal, the Commissioner shall transmit.  
2 immediately to the Chairman of the Board the originals or copies  
3 of all documents relevant to the appeal, together with such infor-  
4 mation and comment as he believes will be helpful to reaching a  
5 decision on the appeal. The appellant shall likewise transmit to  
6 the Chairman of the Board such statements, documents, and infor-  
7 mation relevant to the appeal as he wishes to have the Board con-  
8 sider. If, after consideration of the notice of appeal, and the  
9 documents, comments and other material relating thereto, the Board  
10 determines that the appellant has alleged a substantial grievance,  
11 and has made a prima facie case in support of such allegation, it  
12 shall set a time and place for a hearing thereon; otherwise the  
13 Board shall reject such appeal.

14 The Board shall adopt rules for the conduct of hearings,  
15 which shall include a provision for the appellant to be accompanied  
16 by counsel of his own choosing, and said attorney may advise the  
17 appellant and make brief objections to the relevancy of questions  
18 and to procedure.

19 The Board may, by a majority vote of a quorum, order the  
20 dismissal of the appeal, direct the Commissioner to annul the rule  
21 or regulation from which the appeal was taken, or order the amend-  
22 ment of the rule or regulation to conform with the terms of said  
23 order.

24 This Act shall not be interpreted to limit the right of  
25 judicial review provided by any other law.

26 Section 13. REPEALER. The following laws, or parts of laws,  
27 are hereby repealed: Sections 40-1-4 and 40-1-5, Alaska Compiled  
28 Laws Annotated, 1949; Section 40-1-3, Alaska Compiled Laws  
29 Annotated, 1949, as amended by Chapter 4, Session Laws of Alaska,

1 1951; and Section 40-1-6, Alaska Compiled Laws Annotated, 1949,  
2 as amended by Section 16 of Chapter 118, Session Laws of Alaska,  
3 1949, and Chapter 56, Session Laws of Alaska, 1951.

4 All other laws, or parts of laws, in conflict with the pro-  
5 visions of this Act are hereby repealed to the extent of such  
6 conflict.

7 Section 15. SAVINGS CLAUSE. Rules, regulations and stand-  
8 ards pertaining to public health and related matters which have  
9 been adopted and promulgated by the Board of Health pursuant to  
10 law shall remain in effect, except as amended or repealed herein,  
11 until they have been amended, repealed or otherwise changed  
12 pursuant to this Act.

13 Section 16. PENALTIES. Any person violating any of the  
14 provisions of this Act, or any rule, regulation or standard  
15 promulgated hereunder, shall be guilty of a misdemeanor punish-  
16 able by a fine not to exceed \$500.00, or imprisonment not to ex-  
17 ceed one year, or by both such fine and imprisonment; Provided,  
18 that each day that such person continues in any such violation  
19 shall be deemed a separate offense.

20 Section 17. AUTHORIZATION OF APPROPRIATION; AUDIT; CERTIFY-  
21 ING OFFICER.

22 Funds for carrying out the provisions of this Act shall be  
23 set forth in the general appropriation bill.

24 Expenditures of the Board shall be subject to audit on the  
25 same basis as the expenditures of the several executive depart-  
26 ments.

27 The Board shall designate one of its Members to be the  
28 certifying officer and his signature shall be sufficient evidence  
29 of the validity of all claims for travel, per diem and other

1 authorized expenses. The certifying officer shall obtain such  
2 surety bond as is required by law.

3 Section 18. EFFECTIVE DATE. This Act shall be in full  
4 force and effect from the date of its passage and approval, or  
5 upon becoming law without such approval; Provided, that the Board  
6 of Health, as constituted by Section 40-1-3, Alaska Compiled Laws  
7 Annotated, 1949, as amended by Chapter 4, Session Laws of Alaska,  
8 1951, and the Commissioner of Health, as appointed pursuant to  
9 Section 40-1-5, Alaska Compiled Laws Annotated, 1949, shall  
10 serve as the Board of Health and Commissioner of Health, respec-  
11 tively, pursuant to the provisions of this Act, until their  
12 successors are appointed and confirmed.  
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