

Offered: 1/8/90

In the House -- HESS, and Finance

In the Senate -- HESS, State Affairs, and Finance

EXECUTIVE ORDER NO. 76

1
2 Under the authority of art. III, sec. 23, of the Alaska Constitution,
3 and in accordance with AS 24.08.210, I order the following:

4 * Section 1. FINDINGS. As governor, I find that it would be in the
5 best interest of efficient administration to reassign to division status
6 the office of alcoholism and drug abuse, in the Department of Health and
7 Social Services. This reassignment is necessary in order to give
8 appropriate recognition to, and to provide for better coordination of
9 efforts for, two of the state's most serious public health problems --
10 alcoholism and drug abuse.

11 * Sec. 2. AS 47.37.020 is amended to read:

12 Sec. 47.37.020. DIVISION [OFFICE] OF ALCOHOLISM AND DRUG ABUSE.
13 A division [AN OFFICE] of alcoholism and drug abuse is established in
14 the department. The division [OFFICE] shall be headed by a director
15 [COORDINATOR] appointed by the commissioner. The director must [CO-
16 ORDINATOR SHALL] be a qualified professional who has training and
17 experience in the organization and administration of treatment ser-
18 vices for persons with medical-social problems. The director [COORDI-
19 NATOR] is in the partially exempt [CLASSIFIED] service under
20 AS 39.25.120(c)(2).

21 * Sec. 3. AS 47.37.030 is amended to read:

22 Sec. 47.37.030. POWERS OF DIVISION [OFFICE]. The division
23 [OFFICE] may

24 (1) plan, establish, and maintain programs for the preven-
25 tion and treatment of alcoholism, drug abuse, and misuse of hazardous
26 volatile materials and substances by inhalant abusers;

27 (2) make contracts and award grants necessary or incidental
28 to the performance of its duties and the execution of its powers,
29 including contracts with and grants to public and private agencies,

1 organizations, and individuals, to pay them for services rendered or
2 furnished to alcoholics, intoxicated persons, drug abusers or inhalant
3 abusers; to the maximum extent possible, contracts and grants must be
4 for a period of two years; contracts under this paragraph are governed
5 by AS 36.30 (State Procurement Code);

6 (3) solicit and accept for use a gift of money or property
7 or a grant of money, services, or property from the federal govern-
8 ment, the state, or a political subdivision of it or a private source,
9 and do all things necessary to cooperate with the federal government
10 or any of its agencies in making an application for a grant;

11 (4) administer or supervise the administration of the
12 provisions relating to alcoholics, intoxicated persons, drug abusers,
13 and inhalant abusers of state plans submitted for federal funding
14 under federal health, welfare, or treatment legislation;

15 (5) coordinate its activities and cooperate with alcohol-
16 ism, drug abuse, and inhalant abuse programs in this and other states,
17 and make contracts and other joint or cooperative arrangements with
18 state, local, or private agencies for the treatment of alcoholics,
19 intoxicated persons, drug abusers, and inhalant abusers, and for the
20 common advancement of alcoholism, drug abuse, and inhalant abuse
21 programs in this and other states;

22 (6) keep records and engage in research and the gathering
23 of relevant statistics;

24 (7) do other acts necessary to implement the authority
25 expressly granted to it;

26 (8) acquire, hold, or dispose of real property or any
27 interest in it, and construct, lease, or otherwise provide treatment
28 facilities for alcoholics, intoxicated persons, drug abusers, and
29 inhalant abusers; however, the division [OFFICE] shall encourage local
EO 76

1 initiative, involvement, and financial participation under grants-in-
2 aid whenever possible in preference to the construction or operation
3 of facilities directly by the division [OFFICE]; contracting and
4 construction under this paragraph are governed by AS 36.30 (State
5 Procurement Code).

6 * Sec. 4. AS 47.37.040 is amended to read:

7 Sec. 47.37.040. DUTIES OF DIVISION [OFFICE]. The division
8 [OFFICE] shall

9 (1) develop, encourage, and foster statewide, regional, and
10 local plans and programs for the prevention of alcoholism and drug
11 abuse and treatment of alcoholics, intoxicated persons, drug abusers,
12 and inhalant abusers in cooperation with public and private agencies,
13 organizations, and individuals, and provide technical assistance and
14 consultation services for these purposes;

15 (2) coordinate the efforts and enlist the assistance of all
16 public and private agencies, organizations, and individuals interested
17 in prevention of alcoholism, drug abuse, and inhalant abuse, and
18 treatment of alcoholics, intoxicated persons, drug abusers, and
19 inhalant abusers;

20 (3) cooperate with the Department of Corrections in estab-
21 lishing and conducting programs to provide treatment for alcoholics,
22 intoxicated persons, drug abusers, and inhalant abusers in or on
23 parole from penal institutions;

24 (4) cooperate with the Department of Education, school
25 boards, schools, police departments, courts, and other public and
26 private agencies, organizations, and individuals in establishing
27 programs for the prevention of alcoholism, drug abuse, and inhalant
28 abuse, and treatment of alcoholics, intoxicated persons, drug abusers,
29 and inhalant abusers, and preparing curriculum materials for use at

1 all levels of school education;

2 (5) prepare, publish, evaluate, and disseminate educational
3 material dealing with the nature and effects of alcohol and drugs, and
4 the misuse of hazardous volatile substances;

5 (6) develop and implement, as an integral part of treatment
6 programs, an educational program for use in the treatment of alcohol-
7 ics, intoxicated persons, drug abusers, and inhalant abusers that
8 includes the dissemination of information concerning the nature and
9 effects of alcohol, drugs, and hazardous volatile substances;

10 (7) organize and foster training programs for all persons
11 engaged in treatment of alcoholics, intoxicated persons, drug abusers,
12 and inhalant abusers, and establish standards for training para-
13 professional alcoholism, drug abuse, and inhalant abuse workers;

14 (8) sponsor and encourage research into the causes and
15 nature of alcoholism, drug abuse, and inhalant abuse, and the treat-
16 ment of alcoholics, intoxicated persons, drug abusers, and inhalant
17 abusers, and serve as a clearinghouse for information relating to
18 alcoholism, drug abuse, and inhalant abuse;

19 (9) specify uniform methods for keeping statistical infor-
20 mation by public and private agencies, organizations, and individuals,
21 and collect and make available relevant statistical information,
22 including number of persons treated, frequency of admission and read-
23 mission, and frequency and duration of treatment;

24 (10) advise the governor in the preparation of a comprehen-
25 sive plan for treatment of alcoholics, intoxicated persons, drug
26 abusers, and inhalant abusers;

27 (11) review all state health, welfare, and treatment plans
28 to be submitted for federal funding, and advise the commissioner on
29 provisions to be included relating to alcoholics, intoxicated persons,

1 drug abusers, and inhalant abusers;

2 (12) assist in the development of, and cooperate with,
3 alcohol, drug abuse, and inhalant abuse education and treatment pro-
4 grams for employees of state and local governments and businesses and
5 industries in the state;

6 (13) use the support and assistance of interested persons
7 in the community, particularly recovered alcoholics, drug abusers, and
8 inhalant abusers, to encourage alcoholics, drug abusers, and inhalant
9 abusers, to voluntarily undergo treatment;

10 (14) cooperate with the Department of Public Safety and the
11 Department of Transportation and Public Facilities in establishing and
12 conducting programs designed to deal with the problem of persons
13 operating motor vehicles while intoxicated or under the influence of
14 drugs;

15 (15) encourage hospitals and other appropriate health
16 facilities to admit without discrimination alcoholics, intoxicated
17 persons, drug abusers, and inhalant abusers and to provide them with
18 adequate and appropriate treatment;

19 (16) encourage all health and disability insurance programs
20 to include alcoholism and drug abuse as a covered illness;

21 (17) submit to the legislature an annual report covering
22 the activities of the division [OFFICE];

23 (18) develop and implement a training program on alcoholism
24 and drug abuse for employees of state and municipal governments, and
25 private institutions;

26 (19) develop curriculum materials on drug and alcohol abuse
27 and the misuse of hazardous volatile substances for use in grades
28 kindergarten through 12, as well as a course of instruction for teach-
29 ers to be charged with presenting the curriculum.

1 * Sec. 5. AS 47.37.050 is amended to read:

2 Sec. 47.37.050. INTERDEPARTMENTAL COORDINATING COMMITTEE. (a)
3 An interdepartmental coordinating committee is created, composed of
4 the director [COORDINATOR], the commissioners of health and social
5 services, education, transportation and public facilities, labor, and
6 public safety, and the director of the Alcoholic Beverage Control
7 Board. The committee shall meet at least twice annually at the call
8 of the commissioner of health and social services who is its chairman.
9 The committee shall provide for the coordination and exchange of
10 information on all programs relating to alcoholism or drug abuse and
11 act as a permanent liaison among state departments engaged in activ-
12 ities affecting alcoholics, intoxicated persons, and drug abusers.
13 The committee shall assist the commissioner of health and social
14 services and the director [COORDINATOR] in formulating a comprehensive
15 plan for prevention of alcoholism and drug abuse and for treatment of
16 alcoholics, intoxicated persons, and drug abusers.

17 (b) In exercising its coordinating functions, the committee
18 shall assure that the appropriate state agencies

19 (1) provide all necessary medical, social, treatment, and
20 educational services for alcoholics, intoxicated persons, and drug
21 abusers and for the prevention of alcoholism and drug abuse, without
22 unnecessary duplication of services;

23 (2) cooperate in the use of facilities and in the treatment
24 of alcoholics, intoxicated persons, and drug abusers;

25 (3) adopt approaches for the prevention of alcoholism and
26 drug abuse and the treatment of alcoholics, intoxicated persons, and
27 drug abusers consistent with the policy of AS 47.37.010 -- 47.37.270.

28 * Sec. 6. AS 47.37.120 is amended to read:

29 Sec. 47.37.120. PROGRAM DIRECTOR [COORDINATOR]. The director

1 [COORDINATOR] shall carry out the development and implementation of a
2 comprehensive program dealing with the prevention and treatment of,
3 and research on, problems of alcoholism and drug abuse as they affect
4 the state.

5 * Sec. 7. AS 47.37.130 is amended to read:

6 Sec. 47.37.130. COMPREHENSIVE PROGRAM FOR TREATMENT; REGIONAL
7 FACILITIES. (a) The division [OFFICE] shall establish a comprehen-
8 sive and coordinated program for the treatment of alcoholics, intox-
9 icated persons, drug abusers, and inhalant abusers. Subject to the
10 approval of the commissioner, the director [COORDINATOR] may divide
11 the state into appropriate regions to conduct the program and estab-
12 lish standards for the development of the program on the regional
13 level. In establishing the regions, consideration shall be given to
14 the city and borough lines and population concentrations and, when
15 feasible, programs must be established with maximum local community
16 involvement.

17 (b) The program of the division [OFFICE] shall include

- 18 (1) emergency treatment provided by a facility affiliated
19 with or part of the medical service of a general hospital;
20 (2) inpatient treatment;
21 (3) intermediate treatment; and
22 (4) outpatient and follow-up treatment.

23 (c) The division [OFFICE] shall insure that adequate and appro-
24 priate treatment is provided to alcoholics and intoxicated persons
25 admitted under AS 47.37.160 -- 47.37.190 within the limits of avail-
26 able state and federal funds.

27 (d) The division [OFFICE] shall maintain, supervise and control
28 all facilities operated by it subject to the regulations of the de-
29 partment. The administrator of each facility shall make an annual

1 report of its activities to the director [COORDINATOR] in the form and
2 manner the director [COORDINATOR] specifies.

3 (e) If possible, the division [OFFICE] shall coordinate the
4 activities of the program with all appropriate public and private
5 resources.

6 (f) The director [COORDINATOR] shall prepare, publish, and
7 distribute annually a list of all approved public and private treat-
8 ment facilities.

9 (g) The division [OFFICE] may contract for the use of any facil-
10 ity as an approved public treatment facility if the director [COORDI-
11 NATOR], subject to the regulations of the department, considers this
12 an effective and economical course to follow. Contracting under this
13 subsection is governed by AS 36.30 (State Procurement Code).

14 * Sec. 8. AS 47.37.140 is amended to read:

15 Sec. 47.37.140. PUBLIC AND PRIVATE TREATMENT FACILITIES. (a)
16 The division [OFFICE] shall establish standards for facilities (these
17 standards may vary in their requirements and stringency according to
18 the population, price level, remoteness, access to transportation, and
19 availability of ancillary services of the area to be served) and shall
20 fix the fees to be charged for the required inspections of those
21 facilities. A facility shall meet the applicable standards before it
22 is approved as a public or private treatment facility. The standards
23 shall be enacted in a manner that will provide protection of the
24 health, safety and well-being of clients of the affected programs and
25 protection for the affected programs from exposure to malpractice and
26 liability actions.

27 (b) The division [OFFICE] shall inspect, on a regular basis,
28 approved public and private treatment facilities at reasonable times
29 and in a reasonable manner.

1 (c) The division [OFFICE] shall maintain a list of approved
2 public and private treatment facilities.

3 (d) An approved public and private treatment facility shall file
4 with the division [OFFICE] on request, data, statistics, schedules,
5 and information which the division [OFFICE] reasonably requires. An
6 approved public or private treatment facility that without good cause
7 fails to furnish any data, statistics, schedules, or information as
8 requested, or files fraudulent returns of them, shall be removed from
9 the list of approved treatment facilities.

10 (e) The director [COORDINATOR], after holding a hearing under
11 the provisions of the Administrative Procedure Act (AS 44.62), may
12 suspend, revoke, limit, restrict, or refuse to grant an approval for a
13 treatment facility, for failure to meet its standards.

14 (f) Upon petition of the division [OFFICE] and after a hearing
15 held upon reasonable notice to the facility, the district court may
16 issue a warrant to an officer or employee of the division [OFFICE]
17 authorizing the officer or employee to enter and inspect at reasonable
18 times, and examine the books and accounts of an approved public or
19 private treatment facility refusing to consent to inspection or ex-
20 amination by the division [OFFICE] or which the division [OFFICE] has
21 reasonable cause to believe is operating in violation of this chapter.

22 * Sec. 9. AS 47.37.150 is amended to read:

23 Sec. 47.37.150. ACCEPTANCE FOR TREATMENT. The director [COORDI-
24 NATOR] shall adopt regulations for the admission of persons into the
25 treatment program, considering available treatment resources and
26 facilities, for the purpose of early and effective treatment of alco-
27 holics, intoxicated persons, drug abusers, and inhalant abusers. In
28 adopting the regulations the director [COORDINATOR] shall be guided by
29 the following standards:

1 (1) if possible a patient must be treated on a voluntary
2 rather than an involuntary basis;

3 (2) a patient must be initially assigned or transferred to
4 outpatient or intermediate treatment, unless the patient is found to
5 require inpatient treatment;

6 (3) a person may not be denied treatment solely because the
7 person has withdrawn from treatment against medical advice on a prior
8 occasion or because the person has relapsed after earlier treatment;

9 (4) an individualized treatment plan must be prepared and
10 maintained on a current basis for each patient;

11 (5) provision must be made for a continuum of coordinated
12 treatment services, so that a person who leaves a facility or a form
13 of treatment will use other appropriate treatment and facilities.

14 * Sec. 10. AS 47.37.160(b) is amended to read:

15 (b) Subject to regulations adopted by the director [COORDINA-
16 TOR], the administrator in charge of an approved public treatment
17 facility may determine who shall be admitted for treatment. If a
18 person is refused admission to an approved public treatment facility,
19 the administrator shall, if possible, refer the person to another
20 approved public treatment facility.

21 * Sec. 11. AS 47.37.200(c) is amended to read:

22 (c) A person committed under AS 47.37.190 -- 47.37.200 shall
23 remain in the custody of a private or public facility for treatment
24 for a period of up to 30 days. At the end of the 30-day period, the
25 person shall be discharged automatically unless the division [OFFICE],
26 before the expiration of the period, obtains a court order for recom-
27 mitment upon the grounds set out in AS 47.37.190(a) for a further
28 period of up to 90 days. If a person has been committed because the
29 person is an alcoholic likely to inflict physical harm on another, the

1 division [OFFICE] shall apply for recommitment if after examination it
2 is determined that the likelihood still exists.

3 * Sec. 12. AS 47.37.200(d) is amended to read:

4 (d) A person recommitted under (c) of this section who has not
5 been discharged by the private or public facility before the end of
6 the 90-day period shall be discharged at the expiration of that period
7 unless the division [OFFICE], before expiration of the period, obtains
8 a court order on the grounds set out in AS 47.37.190(a) for recommit-
9 ment for a further period not to exceed 90 days. If a person has been
10 committed because the person is an alcoholic likely to inflict phys-
11 ical harm on another, the division [OFFICE] shall apply for recommit-
12 ment if after examination it is determined that the likelihood still
13 exists. No more than two recommitment orders may be permitted under
14 (c) and (d) of this section.

15 * Sec. 13. AS 47.37.200(g) is amended to read:

16 (g) A person committed to the custody of the division [OFFICE]
17 for treatment shall be discharged at any time before the end of the
18 period for which the person has been committed if either of the fol-
19 lowing conditions is met:

20 (1) when an alcoholic committed on the grounds of likeli-
21 hood of infliction of physical harm on another is no longer considered
22 an alcoholic or the likelihood of the person inflicting physical harm
23 no longer exists; or

24 (2) when, in the case of an alcoholic committed on the
25 grounds of the likelihood of infliction of physical harm on another,
26 either

27 (A) further treatment will not be likely to bring
28 about significant improvement in the person's condition, or

29 (B) treatment is no longer adequate or appropriate.

1 * Sec. 14. AS 47.37.210(b) is amended to read:

2 (b) Notwithstanding (a) of this section, the director [COORDINA-
3 TOR] may make available information from patients' records for pur-
4 poses of research into the causes and treatment of alcoholism. No
5 information may disclose a patient's name.

6 * Sec. 15. AS 47.37.230(b) is amended to read:

7 (b) The director [COORDINATOR] shall adopt regulations for the
8 establishment, training, and conduct of emergency service patrols.

9 * Sec. 16. AS 47.37.240 is amended to read:

10 Sec. 47.37.240. PAYMENT FOR TREATMENT. (a) A patient in an
11 approved treatment facility, or the person obligated to provide for
12 the cost of treatment of a person committed under AS 47.37.010 --
13 47.37.270, is liable to the public or private facility for the cost of
14 maintenance and treatment of the patient in accordance with rates
15 established by the director [COORDINATOR].

16 (b) The director [COORDINATOR] shall adopt regulations governing
17 financial ability that take into consideration the income, savings,
18 and other personal and real property of the person liable for the cost
19 and maintenance of the patient.

20 * Sec. 17. AS 47.37.260 is amended to read:

21 Sec. 47.37.260. APPLICATION OF ADMINISTRATIVE PROCEDURE ACT.
22 Except as otherwise provided in this chapter, the Administrative
23 Procedure Act (AS 44.62) applies to and governs all administrative
24 action taken by the director [COORDINATOR] under this chapter.

25 * Sec. 18. AS 47.37.270(3) is amended to read:

26 (3) "approved public treatment facility" or "public facili-
27 ty" means a treatment agency operating under the direction and control
28 of the division [OFFICE] or providing treatment under AS 47.37.010 --
29 47.37.270 through a contract with the division [OFFICE] under
EO 76

- 1 AS 47.37.130(g) or through a grant awarded under AS 47.30.475, and
2 meeting the standards prescribed in AS 47.37.140(a) and approved under
3 AS 47.37.140(c);
- 4 * Sec. 19. AS 47.37.270 is amended by adding new paragraphs to read:
5 (17) "director" means the director of the division of
6 alcoholism and drug abuse;
7 (18) "division" means the division of alcoholism and drug
8 abuse in the Department of Health and Social Services.
- 9 * Sec. 20. AS 47.37.270(6) and AS 47.37.270(12) are repealed.
10 * Sec. 21. This Order takes effect on March 10, 1990.

11
12 DATED: _____
13

14 _____
15 Steve Cowper
16 Governor
17
18
19
20
21
22
23
24
25
26
27
28
29