

SB

549

- Sec. 1 -- Brings Board under "Centralized Licensing" Chapter of Title 8.
- Sec. 2 -- Allows OL to provide investigative services to Board.
- Sec. 3 -- Provides "exception" to current statute which renews licenses biennially and allows our "health boards" to renew licenses every four years.
- Sec. 4 -- Provides that R.N. have no direct financial interest in an nursing home.
- Sec. 5 -- Allows for board members to serve terms of four years instead of three. Limits membership on board to two consecutive four year terms.
- Sec. 6 -- Gives board "approval" power in the issuance of licenses and license renewal.
- Sec. 7 -- Provides for the imposition of disciplinary sanctions.
- Sec. 8 -- "Continued competency requirement" before license can be renewed.
- Sec. 9 -- Provides for removal of board members by governor for cause.
- Sec. 10 - Deletes provision "unless excepted by this chapter." The reason for this is that the board feels that if they were to make exceptions this would put them in a vulnerable position -- i.e., if they made an exception in one case they might be setting a precedent to make an exception in other ^{matters} and they would just as soon avoid this.
- Sec. 11 - Allows for license renewal to occur every four years
- Provides for continued competency to be established before license can be renewed
- Sec. 12 - Provides for individual to apply for examination if his license has expired for a period of 24 months (it currently is 12 months).
- Sec. 13 - Fee revision.
- Sec. 14 - Grounds for imposition of disciplinary sanctions
- Sec. 15 - Disciplinary sanctions enumerated.
- Sec. 16 - Penalty clause.
- Sec. 17 - Brings board under "administrative adjudication" section of Title 44.
- Sec. 18 - Repealers.
- Sec. 19 - Effective date.

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF ADMINISTRATION

OFFICE OF THE COMMISSIONER

POUCH C

JUNEAU, ALASKA 99811

465-2200

May 21, 1980

Honorable Thelma Buchholdt
Chairman
Health, Education & Social Services
Committee
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Representative Buchholdt:

To clarify our Department's recommendations on this bill, SB 549 am, we are in support of the bill but recommend an amendment that would read as follows:

"Add to Sec. 08.70.080 the following: This section does not apply to Pioneers' Home Managers who are incumbents on the effective date of this Act."

We believe that those incumbents with proven experience should be retained.

Sincerely,



Sue S. Greene
Deputy Commissioner for Personnel
Management

SSG/mjc

NURSING HOME ADMINISTRATORS

58549 AM

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POSITION PAPER/Department of Health & Social Services

POSITION PAPER

SENATE BILL NO. 549am

"An act relating to professional licensing and to the regulation of Nursing home administrators, and providing for an effective date."

Senate Bill 549am revises current statutes and adds new sections to clarify and strengthen the administration of nursing home administrators licensing procedures. The bill gives the Board of Nursing Home Administrators the authority to develop regulations for the purpose of requiring disciplinary sanctions and making renewal of licenses dependent upon proof of continued competency.

The bill provides specific administrative procedures for applying disciplinary sanctions, and spells out specific grounds for discipline.

The terms of members of the Board of Nursing and limited to approximately eight years and the nursing home administrators license is to be renewed every four years rather than annually.

The Department of Health and Social Services supports Senate Bill 549am as it is written.

As evidenced by the attached letter from Rod Betit, Director, Division of Public Assistance, the existence of and the smooth operation of a Board of Nursing Home Administrators is important to the operation and funding of the State of Alaska's Medicaid program.

The bill does not fiscally affect the cost of operation of the Department of Health and Social Services other than the federal fund participation for the Medicaid program.

Recommended By: Rod Betit Date May 5, 1980
Rod Betit, Director
Division of Public Assistance

Approved By: Helen D. Beirne Date 5/9/80
Helen D. Beirne, Commissioner
Department of Health and Social Services

March 31, 1980

Document Number 59-80

The Honorable Glenn Hackney
Chairman, Senate HESS Committee
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Senator Hackney:

House Bill 447 proposes terminating the existence of the Board of Nursing Home Administrators on January 1, 1981 and reassigns its responsibilities to the Department of Commerce and Economic Development.

At the time various Boards and Commissions were being considered for "sunsetting" by the Legislature in 1979, it was found that the existence of the Board of Nursing Home Administrators or some similar type of "peer review" system was, by federal law, U.S. Code 42 Sub-Chapter XIX S. 1596 a(29)) necessary if the State of Alaska was to continue to receive federal fund participation for Medicaid nursing home services.

Federal fund participation is an essential part of the Medicaid nursing home services funding. Nursing home services comprise 70% of the total Alaska Medicaid budget (twenty-nine million dollars) and therefore, approximately fourteen million dollars (50% matching) could be lost in federal fund participation if some type of "peer review" licensing function is not provided for in Alaska Statute.

When viewed superficially, it is difficult to justify the need for, and cost of a statewide, regionally represented, five member Board of Nursing Home Administrators when only approximately 35 licenses have been issued since 1976. However, with approximately fourteen million dollars in federal fund participation dependent upon the state having "either a Board of Nursing Home Administrators or an agency of the state responsible for licensing under the Healing Arts Act of the state" the cost and need is easier rationalized.

What seems needed is a method of administrating the issuance of Nursing Home Administrators licensured through the Department of Commerce and Economic Development while at the same time providing a method of inexpensive "peer review." Some alternatives that we have considered are as follows:

- I. Establish the Long Term Care Division of the Alaska State Hospital Association as the board the Department of Commerce and Economic Department must consult with regarding:

March 31, 1980

- a. Promulgating of regulations.
- b. Revocation of licenses.
- c. Establishment of procedures to insure that licenses uphold standards.
- d. Adoption of criteria for educational requirements.

The Long Term Care Division of the Alaska State Hospital Association meets at least bi-annually and at no expense to the State could provide the professional support needed to fulfill federal statute requirements. The Long Term Care Division of the Alaska State Hospital Association is composed of all the nursing home administrators in the State of Alaska.

II. Establish a Board, for federal purposes, composed of state employees who's offices are in Juneau. This type of board should meet during regular working hours and therefore, should be no added expense to the State.


- a. Director of Occupational Licensing.
- b. Director of Public Assistance.
- c. Director of Public Health.
- d. Director of Nursing Board.

III. The development of a comprehensive healing arts act, which would encompass all healing professions.

IV. Reinstatement of the existing Board of Nursing Home Administrators with appropriate funding and staffing in the Division of Occupational Licensing to accomplish the tasks required.

The Division of Public Assistance opposes House Bill 447 and support the reinstatement of the Board of Nursing Home Administrators. We feel the cost of supporting the operation of such a board are justified when compared to the amount of federal fund participation involved.

Sincerely,


Rod Betit
Director

RB:DO:lar
bcc: DASS Commissioner's Office

TO: Debra Behr, Special Assistant
to the Commissioner
Health & Social Services

DATE: April 13, 1980

FILE NO:

TELEPHONE NO:

FROM: Portia Kaufmann, Administrator
State Health Planning & Development
Certification & Licensing

SUBJECT: Position Paper - Senate Bill 549

For an act entitled: "An Act relating to professional licensing and to the regulation of nursing home administrators; and providing for an effective date."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA.

* Section 1. AS 08.01.010 is amended by adding a new paragraph to read:

(22) Board of Nursing Home Administrators.

Discussion:

1. A current license is required by Federal regulations for nursing home administrators.
2. Federal regulations do not require the administrator of a hospital with long term care beds to be a licensed nursing home administrator unless state regulations have this requirement.

As of this date, the State of Alaska has required a hospital administrator to be licensed as a nursing home administrator if the hospital has a long term care unit.

3. Intermediate Care Facilities for the mentally retarded federal regulations require the administrator to be a qualified Mental Retardation Specialist (A educational background in preference to medical background), unless the State requires him/her to be a licensed nursing home administrator.

Intermediate Care Facilities for the mentally retarded (ICF/MR) that care for persons with developmental disabilities have an orientation to normalization and a wellness model as opposed to the medical model. Therefore, the administrator of an ICF/MR must have a different background. Alaska has adopted for licensure the Federal Regulations for ICF/MR. Therefore, ICF/MRs are not licensed as nursing homes, but as ICF/MRs.

Senate Bill No. 549 refers to the re-establishment of the Board of Nursing to administer the required licensure program for nursing home administrators.

Comment: The Department of Health & Social Services concurs with the content of this Bill.

cc Phoebe Lindsley, Director
State Health Planning & Development
PK:arn

THE LEGISLATURE OF THE STATE OF ALASKA
ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. Senate Bill No 549am
 Title "An act relating to professional licensing & regulation of Nursing Home Administrators"
 Requested by Commissioner's Office Date 5/6/80

II. FISCAL DETAIL

Agency Affected Department of Health and Social Services
 Program Category Affected Health /Division of Public Assistance
 BRU, Program, or Subprogram(s) Affected Medicaid
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 80	FY 81	FY 82	FY 83	FY 84	FY 85
100 PERSONAL SERVICES	0	0	0	0	0	0
200 TRAVEL	0	0	0	0	0	0
300 CONTRACTUAL	0	0	0	0	0	0
400 COMMODITIES	0	0	0	0	0	0
500 EQUIPMENT	0	0	0	0	0	0
600 LAND & STRUCTURES	0	0	0	0	0	0
700 GRANTS, CLAIMS, ETC.	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0

FUNDING (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER (Specify Fund Source)	0	0	0	0	0	0

POSITIONS

FULL TIME	0	0	0	0	0	0
PART TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

iii. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

Original: Legislative Finance
 cc: Budget and Management
 Prime Sponsor (First Legislator Named)

Prepared by: Robert H. Cohen Date: 5/6/80
 Division/Office: Public Assistance Pij: 465-3355
 Department of Health & Social Services

Approval DISS Det. & Bdgt: _____ Date: _____

s existing statutes.

s Board under centralized
sing.

es terms of membership to
years and limits members
o successive terms.

Board power to approve
sing, to impose discipl-
y sanctions, and to require
of continued competency.

des for the removal of
members.

res licensed administrators
ll nursing homes.

s fees.

lishes grounds for the
sition of disciplinary
ctions and specifies what
ctions may be imposed.

Concludes that the Board has not operated in the public interest because of problems inherent in the regulatory scheme. Recommends that the Board be sunset and the licensing function be transferred to the Division of Occupational Licensing.

the Board to those
ed by the administrative
lication procedures.

ls the sanctions
ing expenses and the
cability of the
istrative Procedures

ACCEPT
SB 549 am

Introduced: 4/7/80
Referred: Health, Education
and Social Services

1 IN THE SENATE

BY THE HEALTH, EDUCATION AND
SOCIAL SERVICES COMMITTEE

2

SENATE BILL NO. 549 am

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

ELEVENTH LEGISLATURE - SECOND SESSION

5

A BILL

6

For an Act entitled: "An Act relating to professional licensing and to the
7 regulation of nursing home administrators; and pro-
8 viding for an effective date."

9

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

10

* Section 1. AS 08.01.010 is amended by adding a new paragraph to read:

11

(22) Board of Nursing Home Administrators.

12

* Sec. 2. AS 08.01.050(19) is amended to read:

13

(19) provide investigative services to the boards established

14

under AS 08.20, [AS 08.32,] AS 08.36, AS 08.64, AS 08.68, AS 08.70,

15

AS 08.71, AS 08.72, AS 08.80, AS 08.84, and AS 08.86, for the purpose of
16 ass sting those boards in matters of professional discipline.

17

* Sec. 3. AS 08.01.100(a) is amended to read:

18

(a) Except as provided in this title, [ALL] licenses shall be

19

renewed biennially on the dates set by the department with the approval
20 of the respective board.

21

* Sec. 4. AS 08.70.020(a) is amended to read:

22

(a) The board consists of five members: two nursing home adminis-

23

trators licensed under this chapter and practicing in the state, a

24

registered nurse licensed in the state and having no direct financial

25

interest in any nursing home, and two persons from the general public.

26

* Sec. 5. AS 08.70.020(c) is amended to read:

27

(c) Board members serve staggered terms of four [THREE] years or

28

until their successor is appointed, except that a member appointed to a

29

vacated term serves the duration of that term. A person who has served

→ Does this
mean an
employee?
A owner?
what?
definition

1 two successive complete terms may not be reappointed until four years
2 from the expiration of the second term [ON THE FIRST BOARD TWO MEMBERS
3 SERVE ONE-YEAR TERMS, TWO MEMBERS SERVE TWO-YEAR TERMS AND ONE MEMBER
4 SERVES A THREE-YEAR TERM].

5 * Sec. 6. AS 08.70.050(a)(2) is amended to read:

6 (2) examine, approve issuance of licenses and renewal of
7 [LICENSE, AND RENEW THE] licenses of qualified persons;

8 * Sec. 7. AS 08.70.050(a)(3) is amended to read:

9 (3) establish procedures to insure that licensees continue to
10 uphold the board's standards; impose disciplinary sanctions upon [RE-
11 VOKE, SUSPEND, OR REFUSE TO RENEW LICENSES OF] persons who fail to
12 uphold the standards;

13 * Sec. 8. AS 08.70.050(a) is amended by adding a new paragraph to read:

14 (6) adopt regulations insuring that renewal of a license is
15 contingent upon proof of continued competency by the licensee.

16 * Sec. 9. AS 08.70 is amended by adding a new section to read:

17 Sec. 08.70.055. REMOVAL OF BOARD MEMBERS. A member of the board
18 may be removed from office by the governor for cause. The board may by
19 regulation provide that unexcused absences from meetings constitute
20 cause for removal.

21 * Sec. 10. AS 08.70.080 is amended to read:

22 Sec. 08.70.080. LICENSE REQUIRED. Only a licensed nursing home
23 administrator may manage, supervise, or be generally in charge of a
24 nursing home [UNLESS EXCEPTED BY THIS CHAPTER]. Only a nursing home
25 which is supervised by a licensed nursing home administrator may operate
26 in Alaska [UNLESS SPECIALLY EXCEPTED BY THE BOARD. THIS SECTION DOES
27 NOT APPLY TO THE ALASKA PIONEERS' HOMES].

28 * Sec. 11. AS 08.70.140(b) is amended to read:

29 (b) An administrator may apply to the board for renewal of his

refer to pg 1 line 19 ~~initially~~

1 license [every four years] by submitting an application for renewal and
2 proof of continued competency as required by regulation [TO THE BOARD];
3 application forms for renewal are provided by the department.

4 * Sec. 12. AS 08.70.140(c) is amended to read:

5 (c) A person whose license has expired for a period of 24 [12]
6 months or more must apply for a license in the same manner as an
7 applicant who has not been licensed before.

8 * Sec. 13. AS 08.70.150 is amended to read:

9 Sec. 08.70.150. FEES. The following fees shall be imposed under
10 this chapter when applicable:

- 11 (1) examination fee \$50 [\$25]
- 12 (2) investigation fee for persons applying
13 for a license under AS 08.70.110(b) \$50 [\$25]
- 14 (3) [ANNUAL] license renewal fee [required
15 [every four years]]. \$200 [\$50]

16 * Sec. 14. AS 08.70 is amended by adding a new section to read:

17 Sec. 08.70.155. GROUNDS FOR IMPOSITION OF DISCIPLINARY SANCTIONS.

18 After a hearing the board may impose disciplinary sanctions when it
19 finds that a licensee

- 20 (1) secured a license through deceit, fraud, or intentional
21 misrepresentation;
- 22 (2) engaged in deceit, fraud, or intentional misrepresenta-
23 tion in the course of providing professional services or engaging in
24 professional activities;
- 25 (3) advertised professional services in a false or misleading
26 manner;
- 27 (4) has been convicted of a felony or other crime which
28 affects his ability to continue to practice competently and safely;
- 29 (5) intentionally or negligently engaged in or permitted the

1 performance of patient care by persons under his supervision which does
2 not conform to minimum professional standards regardless of whether
3 actual injury to the patient occurred;

4 (6) failed to comply with this chapter, with a regulation
5 adopted under this chapter, or with an order of the board;

6 (7) continued to practice after becoming unfit due to

7 (A) professional incompetence;

8 (B) failure to keep informed of or use current profes-
9 sional theories or practices;

10 (C) addiction or severe dependency on alcohol or other
11 drugs which impairs his ability to practice safely;

12 (D) physical or mental disability;

13 (8) engaged in lewd or immoral conduct in connection with the
14 delivery of professional service to patients;

15 (9) sold or furnished a license to another;

16 (10) practiced as a nursing home administrator or used a
17 designation tending to imply that he is a nursing home administrator
18 without a license issued under this chapter.

19 * Sec. 15. AS 08.70.160 is repealed and re-enacted to read:

20 Sec. 08.70.160. DISCIPLINARY SANCTIONS. (a) When it finds that a
21 licensee is guilty of an offense under AS 08.70.155, the board may
22 impose the following sanctions singly or in combination:

23 (1) permanently revoke a license to practice;

24 (2) suspend a license for a determinate period of time;

25 (3) censure a licensee;

26 (4) issue a letter of reprimand;

27 (5) place a licensee on probationary status and require him

28 to

29 (A) report regularly to the board upon matters involving

1 the basis of probation;

2 (B) limit practice to those areas prescribed;

3 (C) continue professional education until a satisfactory
4 degree of skill has been attained in those areas determined by the
5 board to need improvement;

6 (6) impose limitations or conditions on the practice of a
7 licensee.

8 (b) The board may withdraw probation status if it finds that the
9 deficiencies which required the sanction have been remedied.

10 (c) The board may summarily suspend a license before final hearing
11 or during the appeals process if the board finds that the licensee poses
12 a clear and immediate danger to the public health and safety if he
13 continues to practice. A person whose license is suspended under this
14 section shall be entitled to a hearing by the board no later than seven
15 days after the effective date of the order. The person may appeal the
16 suspension after a hearing to a court of competent jurisdiction.

17 (d) The board may reinstate a license which has been suspended or
18 revoked if the board finds after a hearing that the applicant is able to
19 practice with skill and safety.

20 (e) The board shall seek consistency in the application of dis-
21 ciplinary sanctions, and significant departure from prior decisions
22 involving similar situations shall be explained in findings of fact or
23 orders.

24 * Sec. 16. AS 08.70.170 is amended to read:

25 Sec. 08.70.170. PENALTIES. A person convicted of violating a
26 provision of this chapter is guilty of a class B misdemeanor [PUNISHABLE
27 BY A FINE OF NOT MORE THAN \$500, OR BY IMPRISONMENT FOR NOT MORE THAN
28 ONE YEAR, OR BY BOTH].

29 * Sec. 17. AS 44.62.330(a) is amended by adding a new paragraph to read:

1 (47) Board of Nursing Home Administrators (AS 08.70.010).

2 * Sec. 18. AS 08.70.060, 08.70.070, and 08.70.140(a) are repealed.

3 * Sec. 19. This Act takes effect immediately in accordance with AS 01.10.
4 070(c).

5 By def amend ~~to~~ nursing
6 home to read (?) full
7 nursing home a Hosp. w/
8 nursing wing?