

HB

802

CSHB 802 AM An Act relating to ~~state~~ <sup>state</sup> ~~services~~ <sup>services</sup> and the coverage of the ~~state~~ <sup>state</sup> ~~of the state~~ <sup>of the state</sup> ~~the definition of~~ <sup>the definition of</sup>

Introduced 3-27-80  
Logged: 4-1-80  
Referrals: Rules  
Comm. meeting: - 5-19-80  
Comm. action: 5-19-80 Passed unanimously. 3 do pass - 2 absent

Notified ASS  
" Ins. Kenny Moore Dir. to be here. FN herein  
Voting record  
31 yeas  
4 nays  
5 not voting  
Position paper requested  
At last  
189-5977  
576-1077

COMMITTEE REPORT

SENATE

4/1/80

FURTHER: Judiciary

Date: 5-19-80

Mr. President:

The Committee on HEALTH, EDUCATION AND SOCIAL SERVICES has had CSHB 802 am health care services

under consideration and (a majority of the committee) (the committee) reports it back with the following recommendations:

- [x] do pass [ ] do not pass
[ ] do pass with attached amendments(s) [ ] same title
[ ] replace with CS for [ ] new title
and recommends
[ ] AND attaches a "Letter of Intent" [ ] New Fiscal Note
[ ] reports it back without recommendation
[ ] referred to the Committee

MEMBERS SIGNING DO PASS

MEMBERS HAVING OTHER RECOMMENDATIONS:

Handwritten signatures for members signing do pass.

Blank lines for members having other recommendations.

Chairman signature and title.

Nurse  
Midwives  
(SUBSTITUTE  
offered)

HOUSE BILL NO. 802, (see page 238). Reported back to the House by HESS with a majority recommending replace with a SUBSTITUTE and that it do pass. Not concurring: Chatterton has no recommendation. The substitute deletes provisions added in the original bill relating to disability policies issued or delivered in the state to provide indemnity in reasonable amount for cost of maternity services furnished by certified nurse midwives. Deletes proposed amendment to Group and Disability Insurance relating to the same. Deletes provisions which called for certificate or other evidence of a contract of health insurance issued or delivered by a society in state to provide indemnity for nurse midwife service. Deletes section which added provisions outlining nurse midwife services that must be furnished by medical service corporations, hospital service corporations, or combined medical and hospital service corporations. The substitute adds "nurse midwife" to the definition of "physician" under AS 21.87 (Insurance. Hospital and Medical Service Corporations.) Adds section 21.42.347 (Coverage for Cost of Services Provided by Nurse Midwives) to AS 21.87.340(15) (Hospital and Medical Service Corporations. Other provisions applicable). To Rules.

SENATE

HESS

Bills Remaining in  
Committee at End  
of Session  
June, 80



# ALASKA STATE MEDICAL ASSOCIATION



~~1135 W. Eighth Avenue • Suite 6 • Anchorage, Alaska 99501 • (907) 277-6891~~  
4107 Laurel Street, #1, Anchorage, AK 99504

April 18, 1980

Senator Glenn Hackney, Chairman  
Senate HESS Committee  
Pouch V, MS 3100  
Juneau, AK 99811

Re: HB's 417, 80 and 802

Dear Senator Hackney:

The language of these bills proposes to use the term "physician" to mean providers other than Doctors of Osteopathy and Medicine.

We object to this perversion of the term "physician" since:

- 1) Use of "physician" in other places in the Alaska and Federal Statutes does not have the proposed meaning.
- 2) The proposed meaning is highly divergent from the usual understanding of this term in common usage for decades, and despite technical definition must theoretically lead to ambiguity, misunderstanding and difficulties in administering regulations.

Sincerely,

*Robert Whaley, M.D.*  
52

Robert Whaley, M.D.  
Legislative Committee Member

RW/sel

cc: ASMA Executive Council Members  
ASMA Legislative Committee Members  
Jeff Landry



P.O. BOX 1330  
FAIRBANKS, ALASKA 99701



April 7, 1980

Honorable Glenn Hackney  
Pouch V  
Juneau, Alaska 99811

*Full*

RE: House Bill - 802  
Passed - Nurse Mid-  
Wife Bill

Dear Senator Hackney:

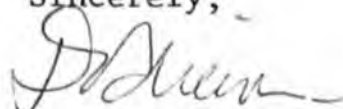
Thank you for requesting medical society input on this bill. The Fairbanks Medical Association has the following concerns with this legislation.

- 1) The provision of hospital privileges for nurse mid-wives should not be tied to licensure. We understand that this feature has been removed from the House passed version, and we hope it will remain a "dead issue".
- 2) Insurance plans and health maintenance organization type plans should not be required to cover these services as a condition of being marketed in Alaska. We understand this also has been removed.
- 3) There must be provision for adequate physician supervision. This will be adequately covered if State Medical Board approval of a supervisory or collaborative relationship with a physician remains a condition of licensure for nurse practitioners, including nurse mid-wives. That state of affairs is threatened by the nurse practice bill which is also currently in the legislature, and you will be receiving comments from us on that bill separately.

I do not believe we have any problems with the requirement that Medicaid cover nurse mid-wife services, which we understand is the only significant provision remaining in the bill, except for our concern that adequate physician supervision be mandatory, preferably a condition of licensure as mentioned above.

Please contact me if you would like to discuss this further. Thank you for your interest.

Sincerely,



Donald E. Thieman, M.D.  
President  
Fairbanks Medical Association  
1001 Noble Street  
Fairbanks, Alaska 99701

DET:mb

cc: Douglas Smith, M.D., President  
Alaska State Medical Association  
Winthrop Fish, M.D., Chairman  
Alaska State Medical Association Legislative Committee  
Martha MacDermaid, Executive Secretary  
Alaska State Medical Association

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April 21, 1980

*File*  
The Honorable Glenn Hackney  
Chairman, Senate Health,  
Education & Social Services  
Committee  
Pouch V  
Juneau, Alaska 99811

ReP House Bill 802

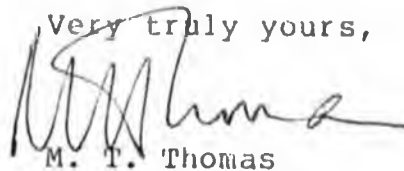
Dear Senator Hackney:

This letter is written on behalf of the American Council of Life Insurance and its sister trade association, the Health Insurance Association of America.

There are technical problems with the bill, as set out in the enclosed letter from Mr. Kuhnen of the HIAA. His suggested amendments are also enclosed. Any questions about these suggested changes can be answered, through me, by Mr. Kuhnen.

Thank you for your consideration.

Very truly yours,

  
M. T. Thomas

MTT/pl

cc: Mr. Bill Lincoln  
Mr. Charles Kuhnen

# HEALTH INSURANCE ASSOCIATION OF AMERICA

CHICAGO

NEW YORK

WASHINGTON

LEGAL DEPARTMENT

Charles D. Kuhnien, Counsel

Chicago Office

332 South Michigan Avenue

Chicago, Illinois 60604

(312) 322-0800

April 8, 1980

Mr. M. T. Thomas  
Attorney at Law  
Robertson, Monagle, Eastaugh, & Bradley  
200 National Bank of Alaska Building  
P.O. Box 1211  
Juneau, Alaska 99802

Re: Alaska HB 802 - Services of Nurse  
Midwives

Dear Mike:

We need to secure an amendment to this bill. We do not oppose covering these services of nurse midwives in lieu of physicians' services for pregnancy and childbirth, provided: (1) the policy covers physicians' services for pregnancy and childbirth, (2) the nurse midwife is licensed as a registered nurse and certified as a nurse midwife, (3) the services performed by the nurse midwife are within the scope of the nurse midwife's certification and license, and (4) any bill requiring this is drafted properly.

We do object most strongly to the provision of the bill which mandate maternity benefits.

Section 2 of the bill is improperly drafted in that: (1) it speaks of "health" insurance instead of "disability" insurance; (2) we provide benefits for the maternity coverage that have nothing to do with practitioner's services, as well as benefits that cover practitioner services and this section does not make the distinction; (3) there is no requirement that the services of the nurse midwife be within the scope of the person's certification; (4) the phrase which begins "in accordance with regulations" is not clearly tied to the practice of nurse midwives rather than to the provision of benefits.

Sections 3, 4, and 5 mandate benefits for maternity services furnished by nurse midwives in all policies which provide for hospital, nursing, medical, or surgical services. We object to the mandating of benefits. Also the sections are improperly drafted in the hospital policies may provide no benefits for the services of any medical practitioner, and in that benefits for nursing services do not cover the services of physicians. The nurse midwife is supposed to be an alternative to the physician for some services in connection with pregnancy and childbirth.

Mr. M. T. Thomas  
April 8, 1980  
Page Two

There is no good reason that everyone who takes out an insurance policy which provides hospital, nursing, medical, or surgical benefits should also have to purchase maternity benefits, whether that person wants to pay for maternity benefits or not. Maternity coverage is now available from many insurers for those who wish to pay for the coverage.

Section 6 of the bill mandates maternity benefits for services or nurse midwives in subscribers' contracts. If the Blues want to accept this, that is alright with us. All we want to make sure of in connection with the Blues are not also required to do.

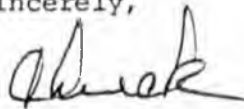
Attached is my redraft of Sections 2 through 8 of the bill. What my redraft says is that if a policy or a subscribers' contract or fraternal benefit society certificate provides benefits for a physician's services in connection with pregnancy or childbirth, benefits shall not be denied when the services are performed by a certified nurse midwife if the services are within the scope of the nurse midwife's certification.

Whenever I have mentioned "certificates" I have done so only in connection with a fraternity benefit society, because we must be careful not to use the word "certificate" in a way in which it can be interpreted to refer to an individual's certificate under a group disability insurance policy.

We need some lead time which I have provided for us. We also should avoid having the state interfere with previously issued policies, but (to be realistic) I have included a provision affecting previously issued group policies under certain circumstances.

The ACLI's position, I believe, is the same as ours on this bill.

Sincerely,



Charles D. Kuhnen  
Counsel

CDK/erc

# Fairbanks Memorial Hospital

1650 Cowles St.

FAIRBANKS, ALASKA 99701

April 18, 1980

OPERATED BY  
LUTHERAN HOSPITALS AND HOMES SOCIETY  
FARGO, NORTH DAKOTA 58102

State Medical Board  
c/o Jeffrey A. Partnow, M.D.

SUBJECT: Lay Midwifery

Dear Jeff,


In recent months the members of the Department of OB/GYN and Pediatrics have become aware of at least one person, calling herself a lay midwife, soliciting deliveries to take place in the patient's home. We have checked into the legality of this situation, that is, lay midwifery, and find that the State Statutes are deficient in this regard, that is, it is currently illegal for a certified nurse midwife or even a physician to practice in any manner, including attendance at home deliveries unless they are appropriately licensed. Since the subject of lay midwifery is not covered at all, it is apparently the opinion of the Attorney General's office that it is not illegal for someone to label themselves a lay midwife and provide care for home deliveries. We feel that this situation is inappropriate and that someone, i.e., the State of Alaska, should spell out the necessary conditions under which a lay midwife may be defined and may practice. To ignore this problem is to condone its existence. We would, therefore, recommend that a bill be drawn up using the outline provided below to rectify the situation. Senator Don Bennett has stated that he would be willing to sponsor such a bill if it was recommended by the Medical Board.

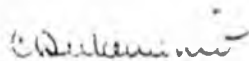
## AN ACT RELATING TO LAY MIDWIFERY

- PROBLEM: The lack of a statute providing for licensure of lay midwives.
- GOAL: The purpose of this bill is to prevent unqualified persons from misleading the public by providing for the licensure of lay midwives.
- DEFINITION: In this bill the word "physician" shall mean a person with an M.D. or a D.O. degree.
- DEFINITION: A lay midwife is a person who engages in planned attendance and/or assistance at delivery of a baby wherever the delivery may occur and whether for fee or other consideration. This definition applies only to those persons who are not otherwise licensed as a physician or as a nurse midwife under current statute.

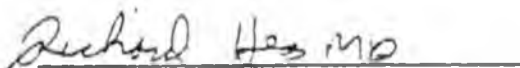
- PROVISION I: In order to be licensed in the State of Alaska a lay midwife must have a supervisory-consultative relationship with a licensed physician who must ascertain that the lay midwife has appropriate qualifications and training.
- PROVISION II: The supervisory physician must have staff privileges in the OB/GYN Department of the hospital or other medical facility to which a patient with complications would be referred.
- PROVISION III: The supervisory physician or another physician of his designation must be available for consultation at all times by the lay midwife.
- PROVISION IV: The application for licensure must include the following:
1. The name and address of the supervisory physician.
  2. The physician shall state that the applicant is qualified to practice lay midwifery.
  3. The application shall include a brief description of the method of supervision and the mechanism for consultation.
  4. The institution in which the physician has privileges must be listed.
- PROVISION V: A fee should be established payable to the Department of Commerce, and the length of the licensure period and the date of its expiration should be spelled out.
- PROVISION VI: Practice of lay midwifery as defined, without a current license, is an offense punishable by--(the same provision should be used here as would apply for a nurse practicing without a license.)

The undersigned staff members of Fairbanks Memorial Hospital concur in recommending that such a bill be drawn up as soon as possible.

  
David Cammack, M.D.

  
Clarice Dukeminier, M.D.

  
Lawrence Dunlap, M.D.

  
Richard Hess, M.D.

*Robert A Roth MD*

Robert Roth, M.D.

*Ralph A Wells MD*

Ralph Wells, M.D.

*Joseph Worrall MD*

Joseph Worrall, M.D.

*Leanne Converse*

Leanne Converse, M.D.

*Alan MacFarlane MD*

Alan MacFarlane, M.D.

*Richard C Reem MD*

Richard Reem, M.D.

*Donald Thieman MD*

Donald Thieman, M.D.

*Nancy Schultz MD*

Nancy Schultz, M.D.

*James Bertelson*

James Bertelson, M.D.

Midwives

Amends AS 18.20 (Hospitals) by addition of new section which prohibits the issuance of a license to a hospital which doesn't per nurse practitioners, certified as nurse midwives in accordance with state regulations, to practice as nurse midwives in the hospital. Amends AS 21.42 (The Insurance Contract) by adding new section which requires all individual and group health insurance policies providing coverage on an expense-incurred basis, and all individual and group service or indemnity contracts issued by a nonprofit corporation, to provide that the health insurance benefits applicable to maternity shall be payable for maternity services furnished by certified nurse midwives. Amends AS 21.51 (Disability Insurance Policies) by adding new section which requires disability policies issued or delivered in state to provide indemnity in reasonable amount for cost of maternity service furnished by certified nurse midwives. Amends AS 21.54 (Group Blanket Disability Insurance) by adding a new section with above effect. Amends AS 21.8- (Fraternal Benefit Societies) by adding

HB 802

new section which requires certificate or other evidence of a contract of health insurance issued or delivered by a society in state to provide indemnity for nurse midwife services. Amends AS 21.87 (Hospital & Medical Service Corporations) by adding new section outlining nurse midwife services that must be furnished by medical service corporations, hospital service corporations, or combined medical and hospital service corporations. Adds "nurse midwife" to definition of "participant physician" under AS 21.87.330(8) and adds definition of "nurse midwife" (registered professional nurse who is certified as an advanced nurse practitioner under AS 08.68410(9) and authorized to practice as a nurse midwife under regulations adopted in accordance with AS 08.68.410(5)). Does not provide for effective date.

Nurse  
Midwives  
(SUBSTITUTE  
offered)

CS HB 802

HOUSE BILL NO. 802, (██████████). Reported back to the House by HESS with a majority recommending replace with a SUBSTITUTE and that it do pass. Not concurring: Chatterton has no recommendation. The substitute deletes provisions added in the original bill relating to disability policies issued or delivered in the state to provide indemnity in reasonable amount for cost of maternity services furnished by certified nurse midwives. Deletes proposed amendment to Group and Disability Insurance relating to the same. Deletes provisions which called for certificate or other evidence of a contract of health insurance issued or delivered by a society in state to provide indemnity for nurse midwife service. Deletes section which added provisions outlining nurse midwife services that must be furnished by medical service corporations, hospital service corporations, or combined medical and hospital service corporations. The substitute adds "nurse midwife" to the definition of "physician" under AS 21.87 (Insurance, Hospital and Medical Service Corporations.) Adds section 21.42.347 (Coverage for Cost of Services Provided by Nurse Midwives) to AS 21.87.340(15) (Hospital and Medical Service Corporations. Other provisions applicable). To Rules.

Midwives COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 802 (Amended), (see pages 238,435, and bills passed in the House, this report). Received in the Senate on April 1 and referred to HESS, then to Judiciary.



§ 21.87.330

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§ 21.87.340

INSURANCE

§ 21.89.010

health care services is to be rendered to or on behalf of the sub-  
scriber by a physician or hospital that has entered into a service  
agreement with the corporation covering the services;

(7) "participant hospital" is one which has entered into a ser-  
vice agreement with a service corporation;

(8) "participant physician" means a doctor, dentist, osteopath,  
optometrist, chiropractor or other licensed health care practitioner  
who has entered into a service agreement with a service corpo-  
ration; and

(9) "physician" includes also "surgeon." (§ 1 ch 120 SLA 1966)

Sec. 21.87.340. Other provisions applicable. In addition to the  
visions contained or referred to previously in this chapter, the  
visions of chapters and provisions of th's title also apply with  
to service corporations to the extent applicable and not  
in conflict with the express provisions of this chapter and the rea-  
sonable implications of the express provisions, and for the pur-  
pose of the application the corporations shall be considered to be  
"insurers":

- 1 AS 21.03
- 2 AS 21.06
- 3 AS 21.09
- 4 AS 21.18.010
- 5 AS 21.18.030
- 6 AS 21.18.040
- 7 AS 21.18.120
- 8 AS 21.21.921
- 9 AS 21.36
- 10 AS 21.69.400
- 11 AS 21.69.520
- 12 AS 21.69.600, AS 21.69.620, and AS 21.69.630
- 13 AS 21.78
- 14 AS 21.90 (§ 1 ch 120 SLA 1966)

§ 21.87.350. Existing certificates of authority. A health care  
service corporation registered to do business in this state on July  
1, 1966, shall be registered under this chapter, whether or  
not it meets the requirements of this chapter. (§ 1 ch 120 SLA  
1966)

Chapter 89. Miscellaneous Provisions.

Settlements. A settlement made under a motor  
vehicle policy of a claim against an insured arising  
from an accident or other event insured  
against by the policy, or the destruction of property owned by another  
person, shall not be considered as an admission of liability by the

Title 23  
Labor and Workmen's  
Compensation

Title 22  
Judiciary

mat. of the contract. White v. Alaska Ins. Guar. Ass'n, Sup. Ct. Op. No. 1813 (File No. 3796), 592 P.2d 367 (1979).

The insured is the person who places his name in a blank on the policy form following the words "does insure" or some phrase of similar import. White v. Alaska Ins. Guar. Ass'n, Sup. Ct. Op. No. 1813 (File No. 3796), 592 P.2d 367 (1979).

**Noncompensable claims.** — Claims by law firms, attorneys, and insurance adjusters for professional services rendered to insolvent insurance companies are not compensable from the coffers of the Alaska Insurance Guaranty Association. White v. Alaska Ins. Guar. Ass'n, Sup. Ct. Op. No. 1813 (File No. 3796), 592 P.2d 367 (1979).

Law firms, attorneys, and insurance claims adjusters who were retained by insolvent insurance companies to adjust, settle, and defend claims and lawsuits against policyholders of automobile liability insurance, did not fit into the category of "insured" or "claimant" and thus could not invoke the protection of the "covered claims" clause of this chapter. White v. Alaska Ins. Guar. Ass'n, Sup. Ct. Op. No. 1813 (File No. 3796), 592 P.2d 367 (1979).

...shall assume all liabilities and expenses incurred by the Health Care Providers Joint Underwriting Association upon the declaration of invalidity; and that if the requirement that health care providers purchase medical insurance from the Medical Corporation of Alaska is found to be void; however, the Medical Corporation of Alaska and the Health Care Providers Joint Underwriting Association shall continue to discharge and pay claims incurred before the declaration of invalidity."

This chapter on its face limits "covered claims" to those asserted by claimants or insureds. White v. Alaska Ins. Guar. Ass'n, Sup. Ct. Op. No. 1813 (File No. 3796), 592 P.2d 367 (1979).

The word "claimant" refers to the insured or a third party victim who may be entitled to reimbursement for injury or damage which under the terms of the policy triggers the insurer's obligation to pay benefits. White v. Alaska Ins. Guar. Ass'n, Sup. Ct. Op. No. 1813 (File No. 3796), 592 P.2d 367 (1979).

The word "insured" classically refers to a person whose risk of economic loss of a designated type is part of the subject

**Sec. 21.80.190. Title.** This chapter may be known and cited as the Alaska Insurance Guaranty Association Act. (§ 1 ch 121 SLA 1979)

### Chapter 87. Hospital and Medical Service Corporations.

Section  
340. Other provisions applicable

*Supplement*

**Sec. 21.87.340. Other provisions applicable.** In addition to the provisions contained or referred to previously in this chapter, the following chapters and provisions of this title also apply with respect to service corporations to the extent applicable and not in conflict with the express provisions of this chapter and the reasonable implications of the express provisions, and for the purposes of the application the corporations shall be considered to be mutual "insurers":

- (3) AS 21.09, except AS 21.09.090
  - (15) AS 21.2.345 ✓
  - (16) AS 21.89.040.
- (am § 1 ch 92 SLA 1974; am § 2 ch 95 SLA 1975; am § 2 ch 84 SLA 1976)

insurance.

(b) Repealed by § 25 ch 245 SLA 1970.

(c) Repealed by § 25 ch 245 SLA 1970.

(d) Repealed by § 25 ch 245 SLA 1970. (§ 1 ch 120 SLA 1966; am § 25 ch 245 SLA 1970)

Effect of amendment. — The 1970 amendment repealed subsections (b), (c) and (d)

Legislative committee report. — Chapter 245, SLA 1970 (HCSSB 399 am H).

was identical to CSHB 406 (Jud.). For report on CSHB 406 (Jud.), see 1970 House Journal Supplement No. 6

**Sec. 21.42.120. Filing, approval of forms.**

Stated in *Stordahl v. Government Employees Ins. Co.*, Sup. Ct. Op. No. 1422

(File Nos. 2988, 3130), 564 P.2d 63 (1977)

**Sec. 21.42.130. Grounds for disapproval.**

The supreme court has urged the director of insurance to encourage the use of clearer language in all policies, both to assist the insured in purchasing insurance and to avoid the necessity of

litigation in our courts. *Stordahl v. Government Employees Ins. Co.*, Sup. Ct. Op. No. 1422 (File Nos. 2988, 3130), 564 P.2d 63 (1977).

**Sec. 21.42.230. Construction of policies.**

Insurance policies are to be looked upon as contracts of adhesion for the purpose of determining the rights of the parties thereto. In so construing a policy the supreme court does not require as a condition precedent that ambiguities be found in the policy language. All that is required is that the parties be of such disproportionate bargaining power that the insured could not have negotiated for variations in the terms of the standard policy. Thus, the finding that a policy is a

contract of adhesion depends not upon its language, but upon the relationship of the parties. The result of such a finding is that the policy is construed so as to provide that coverage which a layman would reasonably have expected given his lay interpretation of the policy's terms. *Continental Ins. Co. v. Russell*, Sup. Ct. Op. No. 810 (File No. 1517), 498 P.2d 706 (1972).

Stated in *Stordahl v. Government Employees Ins. Co.*, Sup. Ct. Op. No. 1422 (File Nos. 2988, 3130), 564 P.2d 63 (1977)

**Sec. 21.42.345. Required provision for coverage for newly born children.** All individual and group health insurance policies providing coverage on an expense incurred basis and individual and group service or indemnity type contracts issued by a nonprofit corporation which provide coverage for a family member of the insured or subscriber shall, as to the family members' coverage, also provide that the health insurance benefits applicable for children shall be payable with respect to a newly born child of the insured or subscriber from the moment of birth. The coverage for newly born children shall consist of coverage of

payment of a specific premium or subscription fee is required to provide coverage for a child, the policy or contract may require that notification of birth of a newly born child and payment of the required premium or fees must be furnished to the insurer or nonprofit service or indemnity corporation within 31 days after the date of birth in order to have the coverage continue beyond the 31-day period. The requirements of this chapter shall apply to all insurance policies and subscriber contracts delivered or issued for delivery in this state more than 120 days after the effective date of this Act. (§ 1 ch 95 SLA 1975)

**Sec. 21.42.360. Definitions.**

Repealed by § 11 ch 165 SLA 1976.

Cross reference. — For present provision defining "policy" and "premium," see AS 21.90.110.

Editor's note. — The repealed section derived from § 1, ch. 120, SLA 1966, § 1, ch. 33, SLA 1970.

**Sec. 21.42.370. Separate accounts.** (a) A domestic life insurance company may, after adoption of a resolution by its board of directors, establish one or more separate accounts, and may allocate to them the amounts paid to the company which are to be applied under the terms of an individual or group contract to provide annuity benefits, which may also provide other incidental benefits payable in fixed or in variable dollar amounts or in both.

(b) Notwithstanding any other provision of law, a domestic life insurance company which establishes one or more separate accounts as provided in (a) of this section may provide to the holders of interests in a separate account voting rights with respect to the management of that separate account and the investment of its assets, may establish for the separate account a committee, board or other body, the members of which (1) may be elected solely by holders having voting rights, and (2) may or may not be otherwise affiliated with the life insurance company, and may provide for compliance with any applicable state and federal law in order that contracts assigned to separate accounts may be lawfully sold or offered for sale. If so provided in the applicable contract, the assets in a separate account may not be chargeable with liabilities arising out of any other business of the company.

(c) When the reserve liability of a life insurance company with regard to (1) benefits guaranteed as to amount and duration, and (2) funds guaranteed as to principal amount or stated rate of interest is maintained in a separate account, a portion of the assets of the separate account at least equal to the reserve liability shall be invested in accordance with the law governing the investments of life insurance companies. All other amounts allocated to and accumulations on each account may be invested and reinvested in any class of investment

Title 24

Supplement

Title 24

M

of court. The injunction proceeding is in addition to other penalties and remedies provided in this chapter. (art VIII ch 90 SLA 1957)

Article 5. General Provisions.

Section

100. Exceptions to application of chapter

100. Definitions

Sec. 08.68.100. Exceptions to application of chapter. (a) This chapter does not apply to

(1) a qualified nurse licensed in another state employed by the United States Government or a bureau, or agency, or division of the United States Government while in the discharge of his official duties;

(2) nursing service given temporarily in the case of a public emergency or disaster;

(3) the practice of nursing by a student enrolled in a nursing education program accredited by the board when the practice is in connection with the student's course of study; or

(4) the practice of nursing by a nurse enrolled in an approved teacher course.

(b) For purposes of this section the word "nurses" includes professional and practical nurses, and "nursing" means professional and practical nursing. (art IX ch 90 SLA 1957; am § 10 ch 129 SLA 1974)

Effect of amendment. — The 1971

amendment added paragraph (4) to

the section.

Sec. 08.68.110. Definitions. As used in this chapter

(1) "board" means the Board of Nursing;

(2) "licensed professional nurse" is equivalent to the common title registered nurse;

(3) "licensed practical nurse" is equivalent to the title licensed vocational nurse;

(4) "practical nursing" also means vocational nursing;

(5) "practice of professional nursing" means the performance for compensation of observation, care and counsel of the ill, injured, or infirm, or the maintenance of health or prevention of illness of other persons; the instruction and teaching of personnel; or the administration of medication and treatments prescribed by a licensed physician or dentist which require substantial specialized judgment and skill based on the knowledge and application of the principles of biological, physical, and social science, but the foregoing do not include acts of medical diagnosis or the prescription of medical therapeutic or corrective measures unless authorized by regulations promulgated jointly by the State Medical Board and the Board of Nursing and as implemented by the Board

(6) "practice of practical nursing" means the performance for compensation of selected acts in the care or prevention of illness, and in the care of the ill, injured, or infirm under the direction of a licensed professional nurse or a licensed physician or a licensed dentist not requiring the substantial specialized skill, judgment and knowledge required in professional nursing;

(7) an "accredited nursing education program" is a program having curricula and standards which meet the requirements established by the board;

(8) "endorsement" is the licensing or registering of an applicant without examination through the acceptance of a license or registration issued by any state or territory after a comprehensive examination which is equivalent to the examination offered in this state, and providing the applicant meets all other qualifications required by law;

(9) "advanced nurse practitioner" means a registered professional nurse who by virtue of specialized education and experience, has become certified to perform acts of medical diagnosis, and prescription of medical, therapeutic or corrective measures as authorized by regulations promulgated under (5) of this section. (§ 2 ch 90 SLA 1957; am § 5 ch 37 SLA 1970; am § 3 ch 67 SLA 1973; am §§ 11, 12 ch 129 SLA 1974)

Effect of amendments. — The 1973 amendment added the language beginning "as authorized" to the end of paragraph (5).

The 1974 amendment substituted "state or territory" for "state, territory, or foreign country" near the middle of paragraph (8) and added paragraph (9).

Chapter 70. Nursing Home Administrators.

Section

- Creation of Board of Nursing Home Administrators
- Membership board, source of appointments; term of office
- Election of officers
- Board meetings; Quorum
- Duties and powers of the board
- Expenses
- Applicability of Administrative Procedure Act
- License required

Section

- 90. Application
- 110. Licensing
- 120. Examination
- 130. Provisional licenses
- 140. Expiration and renewal
- 150. Fees
- 160. Unlawful acts
- 170. Penalties
- 180. Definitions
- 190. Facilities operated by religious organizations

Sec. 08.70.010. Creation of Board of Nursing Home Administrators. There is established the Board of Nursing Home Administrators. (§ 1 ch 123 SLA 1975)

Legislative committee report. — For [Julyenry] am 10, see 1975 House Journal, p. 1221. (ch 123, SLA 1975 (HCSSB 132))

Sec. 08.70.020. Membership board; source of appointments; term of office. (a) The board consists of five members: two nursing home

Monday, May 19th, 1980

To Senator Glenn Hackney and Committee Members

The Alaska Nurse's Association supports HB802am as it is.

Please do give it a "Do Pass"

Barbara Walker- Lobbyist - Phone 789--977

Alaska Nurse's Association

PROVIDENCE  
HOSPITAL

3200 PROVIDENCE DRIVE - POUCH 6604  
ANCHORAGE, ALASKA 99502  
PHONE: (907) 276-4511



SERVING IN THE WEST SINCE 1856

April 7, 1980

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

Position Paper: CS H.B. 802 a.m. - "An Act relating to nurse midwives"

Dear Senator Hackney:

Recently, the House passed CS H.B. 802 a.m., "An Act relating to health care services and the coverage of the services of nurse midwives under the insurance laws of the state and clarifying the definition of physician under AS 21.87."

On March 5, 1980 we sent you a copy of our position on this bill. The original of the letter had been sent to Representative Buchholdt. Although the House did amend the original bill and delete some sections that we had objections to, we still have some concerns.

1. Section 4 - AS 21.87.330 (9), which defines "physician" also includes nurse midwives. Nurse midwives are not physicians. They do, in fact, have to work under the supervision of a physician, and then, only if the hospital by-laws permit it.

Section 3 - AS 21.87.330 (8) also refers to nurse midwives as participant physicians. We feel that to include midwives, as well as chiropractors and optometrists, as physicians is very misleading and should be re-defined accordingly.

2. As nurse midwives are currently allowed to practice under the supervision of a physician in many health care service institutions, we don't see the necessity for passage of this bill. Being under the supervision of a physician, a midwife's services in a maternity case should be covered by existing health insurance plans.

Senator Glenn Hackney  
Page 2  
April 7, 1980

We would appreciate your consideration of these comments. If you need further clarification, please feel free to contact us at any time.

Sincerely,



Al M. Camosso  
Administrator

/ MC/mm

cc: Max Kersbergen  
William Dann  
Charles Rigden  
Ron Hammett  
Donald DeMers  
Jack Brown  
Alaskan Hospital Administrators  
Advisory Board

POSITION PAPER

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO 802 am

"An Act relating to health care services and the coverage of the services of nurse midwives under the insurance laws of the state and clarifying the definition of physician under AS 21.87."

CSHB No. 802 am requires the coverage of nurse midwives' practice under those health and disability insurance policies that pay for maternity care, and adds nurse midwife services to the list of medical services provided to persons eligible for Medicaid. The Bill also amends the definition of "participant physician" to include the nurse midwife and adds a new paragraph defining "nurse midwife" to the Alaska Statutes.

The Department of Health and Social Services will limit its comments to the areas of the practice of the nurse midwife and coverage of these services under the State Medicaid Program. It is our understanding that the Department of Commerce and Economic Development, Division of Insurance, has commented separately on the section dealing with mandatory insurance coverage.

Practice of Nurse Midwives

Nurse midwives have been a part of the American health care system for over fifty years. The practice of nurse midwifery, including the management of labor and delivery, is recognized in the laws of all states except Kansas, Michigan, and Wisconsin. The typical recent graduate of a nurse midwifery educational program has six years of professional nursing experience and a bachelor's degree in addition to nine months to two years of midwifery training. Upon successful completion of the course and a national certification examination, the nurse midwife is prepared to care for women's health needs, including normal childbirth and uncomplicated gynecological and family planning services.

The nurse midwife according to Alaska law collaborates with a physician. Nationally, nurse midwives are employed by hospitals, public health agencies, private physicians, the military, prepaid health plans, and birthing centers. Their practice typically extends beyond pregnancy and birth to include the post-partum care of the well woman and neonatal care of the infant. Health education is a vital component of the nurse midwife's role.

The use of nurse midwives can offer greater availability of quality prenatal care, delivery, and post-natal care in medically underserved areas. As a member of the health care team, the nurse midwife can provide professional care to the normal obstetrical or postpartum patient, freeing her collaborating physician to concentrate on patients with problems requiring medical expertise. An expanded use of nurse midwives also can offer an alternative style of care to families at a special time in their lives. The desire of certain families for such an alternative may partially account for the apparent increase in home deliveries, a practice which involves increased risk to mother and baby.

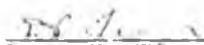
Medicaid Coverage of Nurse Midwives

Federal regulations permit the expansion of covered services under Medicaid to include qualified nurse midwives as defined in the amended Committee Substitute for HB No. 802. The Department of Health and Social Services supports the inclusion of nurse midwives under the list of covered medical services, and expects no resulting additional cost to the State.

Department Position

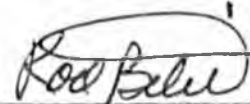
The Department of Health and Social Services recognizes the valuable contribution that nurse midwives can make to the overall physical and emotional health of the family at time of pregnancy and delivery. We would encourage hospitals to provide staff privileges to well-qualified nurse midwives who meet the requirements of the Advanced Nurse Practitioner Guidelines issued by the Alaska Board of Nursing. We endorse coverage of nurse midwife services under Medicaid.

Recommended by:

  
Dean F. Tirador, M.D.  
Director, Division  
of Public Health

Date:

4/29/80




Rod Betit, Director  
Division of  
Public Assistance

Date:

\_\_\_\_\_

Approved by:

  
Helen D. Beirne  
Commissioner

Date:

5/5/80

THE LEGISLATURE OF THE STATE OF ALASKA  
ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST  
 Bill/Resolution No. CSHB No. 802 am  
 Title "An Act relating to health care services and the coverage of .... nurse midwives."  
 Requested by Commissioner's Office Date 4/29/80

II. FISCAL DETAIL  
 Agency Affected Department of Health and Social Services  
 Program Category Affected Health/Division of Public Health  
 BRU, Program, or Subprogram(s) Affected \_\_\_\_\_  
 (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: Mary Deaver Date: 4/29/80  
 Division/Office: P.H. Admin. PH: 5090  
 Department of Health & Social Services

33-001 (Rev. 12/79)  
 Modify by DHSS (11-28-79)

Approval DHSS Mgt. & Bdgt: [Signature] Date: \_\_\_\_\_

# LASKA STATE MEDICAL ASSOCIATION



~~205 W. Eighth Avenue - Suite 200 - Anchorage, Alaska 99501 - (907) 277-0891~~  
4107 Laurel St., #1, Anchorage, AK 99504

April 3, 1980

Senator Glenn Hackney,  
Chairman, Senate HSS Committee  
Pouch V, M/S 3100  
Juneau, AK 99811

Dear Senator Hackney:

You will be addressing HB 802, relating to nurse-midwives. The bill poses a problem for us.

It appears that many women desire delivery by nurse-midwives, and it is highly probable that well-trained midwives are perfectly capable of performing uncomplicated deliveries.

You will be receiving a longer letter from us dealing with the social problems we expect to result from the admission into the practice of medicine of a seemingly limitless supply of non-physicians, specifically dealing with how many medical practitioners society can be expected to support.

The nurse-midwife is the leading edge. Such individuals are governed by the Advanced Nurse Practitioner regulations which are in many regards nearly identical to the PA regulations. We have no serious doubt that HB 802 will provide a precedent for nurse practitioners in general and PA's to demand essentially independent practice, fee for service, access to third party payers, including government sources, and equal access to hospital facilities.

Our perception is that the general public does not know this, would not desire it, cannot afford it and would be ill-served by it. This is a position our detractors will call self-serving. We can therefore only hope that those in the Legislature with vision and concern for the future quality of their own medical care will give careful consideration to the potential problems we can expect with passage of HB 802.

Sincerely,

*[Signature]*  
Wendell Hill, M.D.  
Chairman, Legislative Committee



# TANANA VALLEY MEDICAL-SURGICAL GROUP, INC.

(A PROFESSIONAL CORPORATION)

1001 NOBLE STREET • FAIRBANKS, ALASKA 99701 • PHONE 452-1611

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G. A. SEELIGER, MGR.  
JAN WIESE, OFFICE MGR.

March 17, 1980

Honorable Glenn Hackney  
Pouch V  
Juneau, Alaska 99811

Dear Senator Hackney:

This letter is in reference to House Bill #802. I am writing to you because I would be directly affected by this bill as I am a practicing obstetrician-gynecologist with staff privileges at the Fairbanks Memorial Hospital and in active private practice at the Tanana Valley Medical-Surgical Clinic. I am urging you to defeat this bill because

- 1) it would permit the independent practice in the hospital of a nurse without requiring supervision by an appropriate qualified physician. This would be unwise and would also be contrary to current regulations, as applied to supervision of physician extenders.
- 2) as worded, the bill would unnecessarily require the presence of a nurse mid-wife where there may be no need; for instance, in hospitals which do not have an obstetrical service and perhaps in Outpatient clinics, depending on how one interprets the bill.
- 3) if strictly interpreted, the bill would place sanctions against those institutions which do not have a nurse mid-wife even if a nurse mid-wife was not needed and if one was not available. This is clearly unwise.
- 4) this bill is unnecessary because nurse mid-wives are currently permitted to practice in Alaska's hospitals and the regulations governing the setting for their practice, with appropriate physician supervision, is already covered by statute.

Senator Kackney

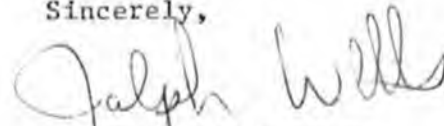
March 17, 1980

Page 2

An additional subject, which I would like to bring to your attention along these lines, is that the state law is deficient in the areas of non-medically qualified practitioners of health care. I am specifically referring to the independent practice of "lay mid-wives" in Anchorage and Fairbanks and perhaps in other areas of the state as well. The term "lay mid-wife" refers to a person who is not a physician and not a trained nurse and these persons may, in fact, have no training at all. At the present time there is no regulation prohibiting them from practicing medicine and this is an extremely dangerous condition. At the present time in Fairbanks, there is at least one "lay mid-wife" who is soliciting mothers for home deliveries. It is my strong opinion that home deliveries are unwise and can unnecessarily jeopardize the health of the mothers and babies, especially so when the attendant is not trained to handle emergencies which frequently arise. The health of the public is especially jeopardized by the fact that under current statute the State of Alaska has no control over these persons' qualifications or lack of qualifications, whereas a physician or registered nurse or even a completely trained mid-wife is prohibited from this same activity if they are not appropriately licensed in the state. I am sure you will agree that this is an absurdity and an oversight which should be corrected as soon as possible. I urge you to help correct this situation and offer my services, as well as those of the Department of Obstetrics and Gynecology at Fairbanks Memorial Hospital towards the end of drafting appropriate legislation.

Thank you very much for your time and consideration.

Sincerely,



Ralph A. Wells, M.D.  
Obstetrics & Gynecology

RAW:mb

Suggested Revisions to Alaska HB 802

Strike everything after Section 1 and substitute the following:

Sec. 2. AS 21.42 is amended by adding a new section to read:

Sec. 21.42.347. SERVICES OF NURSE MIDWIVES. Notwithstanding the provisions of an individual or group disability insurance policy, subscriber's contract, or fraternal benefit society certificate, which policy or subscriber's contract or fraternity benefit society certificate provides benefits for physicians' services in connection with pregnancy or childbirth, benefits shall not be denied because any such service is performed instead by an advanced nurse practitioner, certified to practice as a nurse midwife in accordance with regulations adopted under AS 08.68.410(5), provided the service performed is within the lawful scope of practice of the nurse midwife under such certification.

Sec. 3. AS 21.84.590 is amended by adding a new item to read:

(10) AS 21.42.347

Sec. 4. AS 21.87.340 is amended by adding a new item to read:

(17) AS 21.42.347

Sec. 5. Sections 2 through 4 of this act apply to any such individual or group policy, subscriber's contract, or fraternity benefit society certificate which is delivered in this state on or after January 1, 1981; and to any such group policy, subscriber's contract, or fraternity benefit society certificate delivered in this state before that date when, on or after that date, either the benefits are amended or the applicable collective bargaining agreement, if any, expires, whichever occurs later.