

SB

549

COMMITTEE REPORT

SENATE

4/7/80

FURTHER: None

Date: 4-9-80

Mr. President:

The Committee on HEALTH, EDUCATION AND SOCIAL SERVICES has had SB 549

professional licensing and the regulation of nursing home administrators

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

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

MEMBERS SIGNING DO PASS

[Handwritten signature]

MEMBERS HAVING OTHER RECOMMENDATIONS:

[Handwritten signature]

CHAIRMAN

[Handwritten initials]

AMENDMENT

OFFERED IN THE SENATE:

BY: SENATE HESS

To: _____ SENATE BILL No. 549

HOUSE BILL No. _____

PAGE: 1

LINE: 22-26

Page 1, lines 22-26

Delete lines 22-26 and insert new language to read:

(a) The board consists of five members: two nursing home administrators licensed under this chapter and practicing in the state, a registered nurse licensed in the state and having no direct financial interest in any nursing home, and two persons from the general public.

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, 1950
Rod Betit, Director
Division of Public Assistance

Approved By: Helene D. Beirne Date 5/9/50
Helene D. Beirne, Commissioner
Department of Health and Social Services

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. O'Brien Date: 5/6/80
 Division/Office: Public Assistance PH:465-3557
 Department of Health & Social Services

March 31, 1980

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 administering 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:

1. 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

RS:DO:lar
bcc: BSS Commissioner's Office

MEMORANDUM

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

DATE: April 18, 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

WORKSHOP RECOMMENDED CHANGES

SB 541 - Dispensing Opticians

Separate fee

- 1) Delete "reasonable" in Sec. 10 (AS 08.71.175(6)(d))

P5, L21

* SB 549 - Nursing Home Administrators

- 1) Make board's composition comply with federal regulations - suggest reducing to three member board

P1, L22

SB 550 - Pharmacy

- 1) Rationale for wholesale licenses

SB 551 - Optometry

- 1) Include Canada
- 2) Remove "certificate number"
- 3) Include definition of optometry/practicing optometry

P3, L12

P6, L21

P7, L1

PART 252—MEDICAL ASSISTANCE PROGRAMS: RELATED RESPONSIBILITIES

§ 252.10 State programs for licensing administrators of nursing homes.

(a) *Purpose.* This section establishes the procedures for States to follow to comply with the requirement for States participating in a title XIX program to establish programs for the licensure of administrators of nursing homes.

(b) *Definitions.* When used in this section:

(1) "Nursing home," for purposes of requiring supervision by a licensed administrator, means any institution or facility, or distinct part of a hospital, which, regardless of its designation, is licensed or formally recognized as meeting State nursing home standards under State law. In those States that do not employ the term "nursing home" in their licensing statutes, "nursing home" means the equivalent term or terms as determined by the administrator, Social and Rehabilitation Service. For purposes of obtaining such determination, the single State agency responsible for the administration of the title XIX program in such State shall submit to the Regional Commissioner copies of current State statutes which define for licensure purposes institutional health care facilities. Not included in this definition is a Christian Science sanatorium operated, or listed and certified, by the First Church of Christ, Scientist, Boston, Mass., or a distinct part of a hospital, which hospital meets the definition in § 249.10(b)(1) or (14)(iv) of this chapter, that is designated or certified as a skilled nursing facility but is not licensed separately or formally approved as a nursing home by the State.

(2) "Nursing home administrator" means any individual who is charged with the general administration of a nursing home, whether or not such individual has an ownership interest in such home, and whether or not his functions and duties are shared with one or more other individuals.

(3) "Board" means a duly appointed State board established for the purpose of carrying out a State program for licensure of administrators of nursing homes, and which is assigned all the duties, functions, and responsibilities prescribed in paragraph (c)(2) of this section. Said board shall be composed of individuals representative of the professions and institutions concerned with the care and treatment of chronically ill or infirm elderly patients; provided that less than a majority of the board membership shall be representative of a single profession or institutional category, and pro-

vided further that the noninstitutional members shall have no direct financial interest in nursing homes. For purposes of this definition, nursing home administrators are considered representatives of institutions. This definition is effective July 1, 1973, or earlier at the option of the State.

(4) "Agency," unless otherwise indicated, means the agency of the State responsible for licensing individual practitioners under the healing arts licensing act of the State.

(5) "License" means a certificate or other written evidence issued by a State agency or board to indicate that the bearer has been certified by that body to meet all the standards required of a licensed nursing home administrator under this section.

(6) "Provisional license" means a temporary license issued by the State agency or board to an individual who does not meet all the qualifications for licensure.

(7) "Calendar year" means the period from January 1 through December 31.

(c) *State plan requirements.* A State plan for medical assistance under title XIX of the Social Security Act must include a State program for the licensure of administrators of nursing homes which:

(1) Provides that no nursing home within the State may operate except under the supervision of an administrator licensed in the manner provided in this section.

(2) Provides for licensing of nursing home administrators by the single agency of the State responsible for licensing individual practitioners under the healing arts act of the State, or, in the absence of such an act or agency, a State licensing board representative of the professions and institutions concerned with the care of chronically ill and infirm aged patients and established to carry out the purposes of section 1908 of the Social Security Act; It shall be the function and duty of such agency or board to:

(i) Develop, impose, and enforce standards which must be met by individuals in order to receive a license as a nursing home administrator, which standards shall be designed to insure that nursing home administrators will be individuals who are of good character and are otherwise suitable, and who, by training or experience in the field of institutional administration, are qualified to serve as nursing home administrators;

(ii) Develop and apply appropriate techniques, including examinations and investigations, for determining whether an individual meets such standards.

ST. ANN'S NURSING HOME
415 Sixth Street, Juneau, Alaska 99801 (907) 586-3883

MARCH 30, 1980

THE SENATE HESS COMMITTEE
THE ASSEMBLY BUILDING, ROOM 106
JUNEAU, ALASKA

REF: ~~HOUSE BILL No. 447~~

SENATOR HACKNEY, AND MEMBERS OF THE HESS COMMITTEE:

ST. ANN'S NURSING HOME AND I APPRECIATE THIS OPPORTUNITY TO ADDRESS THIS HEARING CONCERNING THE SUNSETTING OF THE BOARD OF NURSING HOME ADMINISTRATORS.

LADIES AND GENTLEMEN, WE ARE, TO PUT IT MILDLY, CONCERNED FOR THE WELFARE OF NOT ONLY THE TWENTY-EIGHT MEDICAID PATIENTS IN RESIDENCE AT ST. ANN'S, BUT ALSO THE MEDICAID PATIENTS AT INSTITUTIONS SUCH AS OURS THROUGHOUT THE STATE. THERE MUST BE BETWEEN 400 AND 500 ELDERLY CITIZENS OF THE STATE WHO ARE TOTALLY DEPENDENT UPON MEDICAID FOR MAINTENANCE OF THEIR HEALTH CARE IN INSTITUTIONS.

AS AN ADMINISTRATOR OF A NURSING HOME, I AM ACUTELY FEARFUL THAT, SHOULD THIS BILL PASS AND THE UNFORTUNATE SUNSETTING OF THE BOARD OF NURSING HOME ADMINISTRATORS NOT BE REVERSED, THE STATE WILL - WITHIN 30 DAYS - BE OUT OF THE FEDERAL MEDICAID PROGRAM AS FAR AS NURSING HOME CARE IS CONCERNED. UNLESS THE STATE IS WILLING TO PICK UP THE 50% OF COST THAT THE FEDERAL PROGRAM NOW PAYS, AS AN ADMINISTRATOR, I WILL HAVE TO FIND OTHER (AND I'M CERTAIN) LESS SATISFACTORY PLACEMENT FOR THESE TWENTY-EIGHT PATIENTS AT ST. ANN'S.

MARCH 30, 1980

PAGE 2

WHERE CAN THEY GO -- THOSE PATIENTS WHO HAVE SUFFERED SO MUCH BECAUSE OF PHYSICAL DISABILITIES BROUGHT ON BY ADVANCE AGE. WHERE IS THE LOVING AND THOUGHTFUL AND SKILLED NURSING CARE GOING TO COME FROM. THE COMMUNITY HOME HEALTH CARE AND HOMEMAKERS PROGRAMS ARE STRAINED TO THE LIMIT NOW. NO OTHER FACILITIES CAN TAKE UP ALL THE EXTRA LOAD. DOES THE LEGISLATURE WANT NURSING HOMES TO CUT DOWN ON CARE TO FIT THE SHRUNKEN DOLLARS? NO ONE BELIEVES YOU ARE ASKING THAT -- THE EMPHASIS HAS ALWAYS BEEN ON INCREASED AND BETTER CARE.

UNDER THE TERMS OF THE FEDERAL SOCIAL SECURITY ACT THAT ESTABLISHES STATE MEDICAID PROGRAMS, IT IS CLEARLY STATED THAT THERE MUST BE A "HEALING ARTS ACT" OR A "BOARD OF NURSING HOME ADMINISTRATORS" TO EXAMINE AND LICENSE ADMINISTRATORS. THERE IS NO ROOM FOR DEVIATION SINCE THIS IS A STATUTORY PROVISION RATHER THAN A DEPARTMENTAL REGULATION. HOWEVER, NO DEFINITIONS AS TO SIZE AND COMPOSITION ARE GIVEN EXCEPT THAT A "BOARD" MUST INCLUDE ONE MEMBER FROM THE INSTITUTIONAL SETTING. WE FEEL THAT THE STATE SHOULD HAVE THE RIGHT TO DETERMINE WHAT DEPARTMENT SUCH A "BOARD" WOULD FUNCTION IN, AND WE DO UNDERSTAND THAT THE DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT IS A LOGICAL CHOICE. HOWEVER, THE NECESSITY FOR THE "BOARD" TO BE A DISTINCT AND RECOGNIZABLE ENTITY (WITHIN THE DEPARTMENT) REMAINS.

ST. ANN'S NURSING HOME FEELS STRONGLY THAT THE STATE HAS AN OBLIGATION TO THESE ELDERLY CITIZENS. THEY HAVE SUFFERED MUCH BY REASON OF HAVING FIXED AND LOW INCOMES AT A TIME OF SPIRALLING AND SKYROCKETING COSTS. THEY ARE TRULY LIVING AT SUBSISTENCE LEVELS EVEN IF THEY ARE LUCKY ENOUGH TO AVOID THE RAVAGES OF TIME. ON THEIR RESTRICTED INCOME, IF ILLNESS, INJURY, STROKE OR HEART PROBLEMS HIT THEM, THEY ARE ABSOLUTELY DEPENDENT ON PUBLIC ASSISTANCE AND MEDICAID. THESE CITIZENS, POOR ONLY BECAUSE OF CIRCUMSTANCES OUT OF THEIR CONTROL, ARE DOWN FOR THE COUNT. I, FOR ONE, DON'T WANT TO BE THE ONE TO KICK THEM WHEN THEY ARE HELPLESS.

SENATE HESS COMMITTEE (HB #447)

MARCH 30, 1980

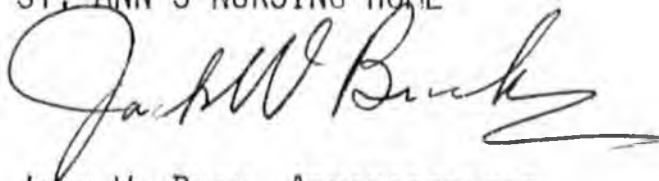
PAGE 3

LADIES AND GENTLEMEN, THE BOARD OF NURSING HOME ADMINISTRATORS IS THE SMALLEST CONCERN HERE. WHAT FORM THE "BOARD" TAKES IN SIZE AND LOCATION WITHIN THE STRUCTURE OF GOVERNMENT IS RELATIVELY UNIMPORTANT AND WITHIN YOUR POWER TO CONTROL. THE IMPORTANT --- THE OVERRIDING CONCERN WE MUST DEAL WITH IS "DO WE REALLY HATE OUR ELDERS SO MUCH THAT WE WANT TO DENY THEM THE ONLY SECURITY THEY HAVE?"

WE MUST HAVE A DISTINCT "BOARD OF NURSING HOME ADMINISTRATORS".

THE PATIENTS AT ST. ANN'S AND I THANK YOU FOR YOUR KINDNESS AND CONSIDERATION IN ALLOWING US TO PRESENT THIS TESTIMONY.

SINCERELY,
ST. ANN'S NURSING HOME

A handwritten signature in cursive script, reading "Jack W. Buck". The signature is written in dark ink and is positioned below the typed name and title.

JACK W. BUCK, ADMINISTRATOR

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

DATE: April 18, 1980

FILE NO.

TELEPHONE NO.

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

SUBJECT: Position Paper - Senate Bill 549

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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 FOLLOWING DOCUMENT(S) MAY NOT FILM
LEGIBLY BECAUSE OF POOR QUALITY OF THE
ORIGINAL.

March 31, 1980

Document Number 59-80

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

Dear Senator MacInoy:

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 "unsetting" 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 XIV S. 1396 a(29)) necessary if the State or 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" licensure 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.

It seems needed as a method of administering the issuance of Nursing Home Administrators licensed through the Department of Commerce and Economic Development while at the same time providing a method of "peer review". Some alternatives that we have considered are:

1. The Alaska State Board of Nursing Home Administrators
2. The Alaska State Board of Nursing Home Administrators
3. The Alaska State Board of Nursing Home Administrators
4. The Alaska State Board of Nursing Home Administrators

March 31, 1980

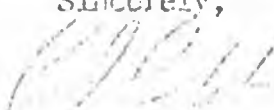
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- b. Revocation of licenses.
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- d. Adoption of criteria for educational requirements.

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,


Red Mattie
Director

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LEGIBLY BECAUSE OF POOR QUALITY OF THE
ORIGINAL.

AMENDMENT # 1

OFFERED IN THE SENATE:

By: SENATE HESS

To: _____ SENATE BILL No. 549

HOUSE BILL No. _____

PAGE: 1

LINE: 22-26

Page 1, lines 22-26

Delete lines 22-26 and insert new language to read:

(a) The board consists of five members: two nursing home administrators licensed under this chapter and practicing in the state, a registered nurse licensed in the state and having no direct financial interest in any nursing home, and two persons from the general public.

code of federal regulations



Alaska State Department

42

Public Health

PART 400 TO END

Revised as of October 1, 1979

§ 431.630

Title 42—Public Health

but were not because the person was not enrolled in part B. This limit applies to all recipients eligible for enrollment under part B, whether individually or through an agreement under sec. 1843(a) of the Act. However, FFP is available to expenditures required by §§ 435.914 and 436.901 of this subchapter for retroactive coverage of recipients.

143 FR 45188, Sept. 29, 1978, as amended at 44 FR 17965, Mar. 24, 1979.

§ 431.630 Coordination of Medicaid with Professional Standards Review Organizations.

The State plan must provide that the Medicaid agency will comply with provisions of Part 463 of this chapter relating to the activities of PSROs.

141 FR 16398, Mar. 19, 1979.

Subpart N—State Programs for Licensing Nursing Home Administrators

§ 431.700 Basis and purpose.

This subpart implements sections 1903(a)(29) and 1908 of the Act which require that the State plan include a State program for licensing nursing home administrators.

§ 431.701 Definitions.

Unless otherwise indicated, the following definitions apply for purposes of this subpart:

"Agency" means the State agency responsible for licensing individual practitioners under the State's healing arts licensing act.

"Board" means an appointed State board established to carry out a State program for licensing administrators of nursing homes, in a State that does not have a healing arts licensing act or an agency as defined in this section.

"Licensed" means certified by a State agency or board as meeting all of the requirements for a licensed nursing home administrator specified in this subpart.

"Nursing home" means any institution, facility, or distinct part of a hospital that is licensed or formally recognized as meeting nursing home standards established under State law, or that is determined under § 431.704 to

be included under the requirements of this subpart. The term does not include—

(a) A Christian Science sanatorium operated, or listed and certified, by the First Church of Christ, Scientist, Boston, Mass.; or

(b) A distinct part of a hospital if the hospital meets the definition in §§ 440.10 or 440.140 of this subchapter, and the distinct part is not licensed separately or formally approved as a nursing home by the State even though it is designated or certified as a skilled nursing facility.

"Nursing home administrator" means any person who is in charge of the general administration of a nursing home whether or not the person—

(a) Has an ownership interest in the home; or

(b) Shares his functions and duties with one or more other persons.

§ 431.702 State plan requirement.

A State plan must provide that the State has a program for licensing administrators of nursing homes that meets the requirements of §§ 431.703 through 431.713 of this subpart.

§ 431.703 Licensing requirement.

The State licensing program must provide that only nursing homes supervised by an administrator licensed in accordance with the requirements of this subpart may operate in the State.

§ 431.704 Nursing homes designated by other terms.

If a State licensing law does not use the term "nursing home," the HCFA Administrator will determine the term or terms equivalent to "nursing home" for purposes of applying the requirements of this subpart. To obtain this determination, the Medicaid agency must submit to the Regional Medical Director copies of current State laws that define institutional health care facilities for licensing purposes.

§ 431.705 Licensing authority.

(a) The State licensing program must provide for licensing of nursing home administrators by—

(1) The agency designated under the healing arts act of the State; or

(2) A State licensing board.

(b) The State agency or board must perform the functions and duties specified in §§ 431.707 through 431.713 and the board must meet the membership requirements specified in § 431.706 of this subpart.

§ 431.706 Composition of licensing board.

(a) The board must be composed of persons representing professions and institutions concerned with the care and treatment of chronically ill or infirm elderly patients. However—

(1) A majority of the board members may not be representative of a single profession or category of institution; and

(2) Members not representative of institutions may not have a direct financial interest in any nursing home.

(b) For purposes of this section, nursing home administrators are considered representatives of institutions.

§ 431.707 Standards.

(a) The agency or board must develop, impose, and enforce standards that must be met by individuals in order to be licensed as a nursing home administrator.

(b) The standards must be designed to insure that nursing home administrators are—

- (1) Of good character;
- (2) Otherwise suitable; and
- (3) Qualified to serve because of training or experience in institutional administration.

§ 431.708 Procedures for applying standards.

The agency or board must develop and apply appropriate procedures and techniques, including examinations and investigations, for determining if a person meets the licensing standards.

§ 431.709 Issuance and revocation of license.

Except as provided in § 431.714 of this subpart, the agency or board must—

(a) Issue licenses to persons who meet the agency's or board's standards; and

(b) Revoke or suspend a license if the agency or board determines that

the person holding the license substantially fails to meet the standards.

§ 431.710 Provisional licenses.

To fill a position of nursing home administrator that unexpectedly becomes vacant, the agency or board may issue one provisional license, for a single period not to exceed 6 months. The license may be issued to a person who does not meet all of the licensing requirements established under § 431.707 but, who—

- (a) Is of good character and otherwise suitable; and
- (b) Meets any other standards established for provisional licensure by the agency or board.

§ 431.711 Compliance with standards.

The agency or board must establish and carry out procedures to insure that licensed administrators comply with the standards in this subpart when they serve as nursing home administrators.

§ 431.712 Failure to comply with standards.

The agency or board must investigate and act on all complaints it receives of violations of standards.

§ 431.713 Continuing study and investigation.

The agency or board must conduct a continuing study of nursing homes and administrators within the State to improve—

- (a) Licensing standards; and
- (b) The procedures and methods for enforcing the standards.

§ 431.714 Waivers.

The agency or board may waive any standards developed under § 431.707 of this subpart for any person who has served in the capacity of a nursing home administrator during all of the 3 calendar years immediately preceding the calendar year in which the State first meets the requirements in this subpart.

§ 431.715 Federal financial participation.

No FFP is available in expenditures by the licensing board for establishing and maintaining standards for the li-

NURSING HOME ADMINISTRATORS

- BY FED. REG. →
- ✓ Sec. 1 -- Brings Nursing Home Administrators under "Centralized Licensing" Chapter of Title 8
 - ✓ Sec. 2 -- Allows for OL to provide investigative services to the nursing home administrators board
 - ✓ Sec. 3 -- Provisions of this chapter will not affect other boards and commissions provided for in Title 8
 - ✓ Sec. 4 -- Changes board composition
 - ✓ Sec. 5 -- Allows for board members to serve terms of four years instead of three. Limits board membership to two consecutive four year terms
 - ✓ Sec. 6 -- Gives board power of approving issuance of licenses and renewals
 - ✓ 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 - Allowing 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 for violating chapter

Sec. 17 - Brings nursing homes administrators under the
"administrative adjudication" section of Title 44

Sec. 18 - Repeal section

Sec. 19 - Effective date

WO 8317
Cook

BY THE HEALTH, EDUCATION AND
SOCIAL SERVICES COMMITTEE

1 IN THE SENATE

2 SENATE BILL NO.

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 assisting 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: three [TWO] nursing home
23 administrators licensed under this chapter and practicing in the state,
24 one [A] registered nurse licensed in the state, and one public member
25 [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

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

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 and be examined in the same
 7 manner as an applicant who has not been licensed before.

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

9 Sec. 08.70.15C. 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 reasonable 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).

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NURSING HOME ADMINISTRATORS

The following changes are to be incorporated into the practice act revisions re: the following health boards - Dental, Dispensing Opticians, Veterinarians, Physical Therapists, Optometrists, Psychologists, Chiropractors, Pharmacy, Nursing Home Administrators, Medical.

- P1, L22 #1 - Board members and composition, ^{NURSING HOME ADMINISTRATORS /}
^{1 REGISTERED NURSE / 1 PUBLIC MEMBER}
- P1, L29 - Limit board membership to two consecutive four year terms.
- P3, L9 #2 - Revise fee schedule,
P3, L1 Allow for license renewal to occur every four years
- #3 - Eliminate re: to "good character," "professional conduct," etc., unless behavior defined.
- * #4 - Consider giving boards responsibility of determining licensing standards through regulations.
- * #5 - Out-of-state licensees credentialed through a process/by standards equivalent to ours - should be licensed by endorsement.
- #6 - Eliminate standards protecting economic interest of occupational groups, reducing information flow or restricting competition.
- #7 - License renewal provisions have been revised which allow for renewal to occur every four years.
MAKE license renewal contingent upon proof of continued competency with BOARDS DETERMINING BY REGULATION how continued competency will be demonstrated.
- P3, L2
- #8 - Licensing violations: make sure that each board may revoke, suspend or take any other disciplinary action necessary to correct incompetency.
- P4, L7
- #9 - Establish section providing for removal of board members.
Grounds for removal should include: (1) unexcused absences, (2) license violation, (3) anything detrimental to public interest served by board.
- P2, L17

* PROVIDED FOR IN 08.70.050(b)

** " " 08.70.110(b)

(Nursing Home Admin
already have provided
for these provisions)