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REPRESENTING ACUTE, LONG TERM AND OUTPATIENT FACILITIES

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President
Dennis L. DeWitt
Juneau

February 24, 1982

The Honorable Michael F. Beirne
Alaska State House of Representatives
Pouch V, State Capitol Building
Juneau, Alaska 99811

Dear Representative Beirne:

The HESS Comm' tee will soon be considering legislation to alter the state's Certificate of Need law. We believe that its value is nonexistent in Alaska and therefore ought to be repealed outright. However, none of the legislation currently proposes that action.

I have enclosed correspondence indicating the initiation of a Certificate Need application for an in:in-erator at Providence Hospital in Anchorage. Clearly, it demonstrates the need for at least a substantial change in the types of activities considered by the Certificate of Need regulators. We believe that raising the dollar thresh-old from the current \$150,000 to \$1.5 - \$2 million would focus the regulation activities in a more reasonable area of activity.

Sincerely,



Dennis L. DeWitt
President

DLD:bf
Enclosure

Mr. Randolph Berry
Page Two
January 22, 1982

In addition to the need to replace and upgrade the current incinerator, the new machine will be very energy efficient. We will be able to recover up to 60 pounds of steam heat which will supplement up to 25% of the steam load for the South Tower in the winter and will be able to provide the entire steam heat needs of the South Tower during the summer months.

The proposed incinerator is cost effective. It is projected that the incinerator will pay for itself within six years by savings on the steam heat and current disposal costs for waste. The incinerator is not patient related. There will be no additional operational costs due to the purchase of the machine. We will purchase the machine with cash, and there will be no impact on daily patient charges.

We would like to ask you for a determination of a need for a Certificate of Need and guidance on the process and timing.

Sincerely,


Al M. Camosso
Administrator

cc: Susan Callan
Mary Walters

ANALYSIS FOR HB 195

Relates to comprehensive health planning. Amends sections of AS 18.07 (Comprehensive Health Planning) to comply with amendments to the Public Health Service Act, P.L. 96-70. Amendments relate to certificates of need for the acquisition of major medical equipment and acquisition of an existing Health care facility. Adds new section relating to exemptions from the requirement for a certificate of need for acquisitions of equipment or facility or to provide inpatient institutional health services by health maintenance organizations of a health care facility if certain requirements are met. Amendments made relating to emergency and temporary certificates of need for health maintenance organizations, rehabilitation facilities or ambulatory care facilities. States that the commissioner may not adopt regulations which establish criteria for review of certificates other than those outlined, may not establish criteria for review of applications submitted by health maintenance organizations to provide reasonable and inexpensive services. Commissioner to adopt regulations establishing criteria for review of an application submitted by an osteopathic or allopathic facility. Repeals definitions relating to the Comprehensive Health Planning section (18.07) 111(10), "'office means the office of planning and research in the Department of Health and Social Services." "(11)'secretary' means the secretary of the United States Department of Health, Education and Welfare." Does not provide for an effective date.

HB 195

HOUSE BILL NO. 195 by the Rules Committee by request of the Governor, entitled:

"An Act relating to comprehensive health planning."

was read the first time and referred to the Health, Education & Social Services and Judiciary Committee.

Fiscal note on HB 195 appears in House Journal Supplement No. 9.

The Governor's transmittal letter dated February 18, 1981 follows:

Dear Mr. Speaker:

Under the authority of art. III, sec. 10, of the Alaska Constitution, I am transmitting a bill amending sections in AS 10.07 which relate to comprehensive health planning and resources development. Without this legislation, state law is inconsistent with P.L. 96-79 which amended the federal Public Health Service Act (PHSA) (P.L. 93-641). As a result, the Department of Health and Social Services will lose federal money under the PHSA for public health programs, planning, and resources development, under the Community Mental Health Centers Act (P.L. 94-63), the Comprehensive Alcohol Abuse and Alcohol Prevention, Treatment, and Rehabilitation Act of 1970 (P.L. 91-616), and the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255). Although the date by which the state was to have amended state law to comply with federal law was January 1, 1981, recent federal legislation has changed that date to December 31, 1981. I introduced HB 1007 to accomplish this task late in the last legislative session. The legislature did not consider that bill.

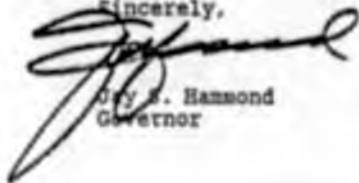
The major amendment in the bill would require a person to obtain a certificate of need before the purchase of major medical equipment for inpatients. Certain exemptions to this requirement would be provided for health maintenance organizations which may be developed in the state. Also, provisions of Titles XV and XVI of the PHSA, as amended by P.L. 96-79, would be incorporated by reference in state law to deal with the functions and responsibilities of the state comprehensive health planning program.

The bill would also clarify the participation of mental health programs, drug and alcohol abuse programs, and rehabilitation programs in the comprehensive health planning process. The bill would also allow the voluntary discontinuance of hospital services which are

HB 195 continued

not needed, and loan programs for the conversion of these services to health services for which there is a need. Technical changes in the composition of the Statewide Health Coordinating Council and Health Systems Agencies, and amendments to their duties, are also proposed in the bill.

Sincerely,



Jay S. Hammond
Governor

HB 196

HOUSE BILL NO. 196 by the Rules Committee by request of the Governor, entitled:

"An Act relating to establishment of the Alaska State Center and a state weather and climate program."

was read the first time and referred to the Health, Education & Social Services and Finance Committees.

Fiscal note on HB 196 appears in House Journal Supplement No. 7.

The Governor's transmittal letter dated February 18, 1961 follows:

Dear Mr. Speaker:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to the establishment of a state climate and weather program and a state climate center. This bill was originally introduced in the last legislature as HB 613. This version is virtually identical to the House Resources Committee's CHED 613.

STATE OF ALASKA

DEPT. OF HEALTH AND SOCIAL SERVICES
OFFICE OF THE COMMISSIONER

JAY S. HAMMOND, GOVERNOR

POUCH H 01
JUNEAU, ALASKA 99811
PHONE: 465-3030

January 13, 1982

Document# 2-82

The Honorable Michael Beirne
House of Representatives
Alaska State Legislature
P. O. Box 4-1539
Anchorage, AK 99509

Dear Dr. Beirne:

Attached are my recommended amendments to House Bill 195, which amends sections in AS 18.07 to conform to federal legislation respecting comprehensive health planning and resources development.

After HB 195 was introduced during the 1981 state legislative session, Congress enacted P.L. 97-35, the Omnibus Reconciliation Act of 1981. P.L. 97-35 raised federally mandated threshold levels for state certificate of need programs, and also allows states to adjust these thresholds annually to account for inflation. These higher threshold levels allow the state more flexibility in determining its own threshold levels and thus increase the state's options in administering its own certificate of need program.

The attached amendment would add P.L. 97-35 to the references to federal law in HB 195.

Sincerely,



Helen D. Beirne
Commissioner

CERTIFICATE OF NEED REVIEW

Sec. 936. (a) Section 1531 of the Public Health Service Act (42 U.S.C. 800n) is amended—

- (1) by striking out "\$75,000" each place it occurs in paragraph (5) and inserting in lieu thereof "\$250,000";
- (2) by striking out "\$150,000" each place it occurs in paragraph (6) and inserting in lieu thereof "\$600,000"; and
- (3) by striking out "\$150,000" each place it occurs in paragraph (7) and inserting in lieu thereof "\$400,000".

(b)(1) Section 1521(d)(1)(B) of the Public Health Service Act (42 U.S.C. 300m(d)(1)(B)(ii)) is amended—

- (A) by striking out "twelve months" the second time it appears in clause (i) and inserting in lieu thereof "twenty-four months", and
- (B) by striking out "twelve months" the second time it appears in clause (ii) and inserting in lieu thereof "twenty-four months".

(2) The first sentence of section 1521(b)(2)(B) of such Act is amended to read as follows: "The period of an agreement described in subparagraph (A) shall not extend beyond the period set forth in subsection (d)(1)(B)".

EFFECTIVE DATE

Sec. 937. The amendments made by this subtitle shall take effect October 1, 1981.

Subtitle F—Health Maintenance Organizations

CHAPTER 10—HEALTH MAINTENANCE ORGANIZATIONS

SHORT TITLE; REFERENCE TO ACT

Sec. 940. (a) This subtitle may be cited as the "Health Maintenance Organization Amendments of 1981".

(b) Whenever in this subtitle an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Public Health Service Act.

EXTENSIONS

Sec. 941. (a) Subsection (a) of section 1309 (42 U.S.C. 300e-8(a)) is amended to read as follows:

"(a)(1) For grants and contracts under sections 1303 and 1304 there is authorized to be appropriated \$20,000,000 for the fiscal years 1982, 1983, and 1984. No funds appropriated under this paragraph may be expended or obligated for a grant or contract unless the entity received a grant or contract under section 1303 or 1304 during or before the fiscal year 1981.

"(2) For grants under section 1317 there is authorized to be appropriated \$1,000,000 for each of the fiscal years 1982, 1983, and 1984."

(b) Subsection (b) of section 1309 is amended to read as follows:

"(b) To maintain in the loan fund established under section 1309(a) for the purpose of making new loans a balance of at least \$5,000,000 at the end of each fiscal year and to meet the obligations of the loan fund resulting from defaults on loans made from the fund and to meet the other obligations of the fund, there is authorized to be appropriated to

the loan fund
be necessary
(c) Section
"1981" and it

REVIEW

Sec. 942. (1) subparagraph as subparagraph (2) Section subparagraph (3)(A) Section striking out thereof "provisions which are provided by (B) Section services" and (4) Section 1 out "or (B)" and other health or (C)".

(5) The amendments respect to the accordance with after four year health maintenance Act if the health maintenance Act is satisfactory to years it will provide which are provided by professionals within a medical group (b)(1) Section striking out clauses (i) and (j) (2) Subparagraph follows: "(D) Continued health professional health services require, but only insure the delivery management." (c)(1) The first amended by inserting "except that a health service area located within a health service area is not a health service within a health service area" (2) The first sentence is amended to read "promptly a reasonable prompt"

"Part C--State Health Planning and Development

"Designation of State Health Planning and
Development Agencies

"Sec. 1521. (a) For the purpose of the performance within each State of the health planning and development functions prescribed by section 1523, the Secretary shall enter into and renew agreements (described in subsection (b)) for the designation of a State health planning and development agency for each State.

"(b)(1) A designation agreement under subsection (a) is an agreement with the Governor of a State for the designation of an agency (selected by the Governor) of the government of that State as the State health planning and development agency (hereinafter in this title referred to as the 'State Agency') to administer the State administrative program prescribed by section 1522 and to carry out the State's health planning and development functions prescribed by section 1523. The Secretary may not enter into such an agreement with the Governor of a State unless--

"(A) there has been submitted by the State a State administrative program which has been approved by the Secretary,

"(B) an application has been made to the Secretary for such an agreement and the application contains assurances satisfactory to the Secretary that the agency selected by the Governor for designation as the State Agency has the authority and resources to administer the State administrative program of the State and to carry out the health planning and development functions prescribed by section 1523, and

"(C) in the case of an agreement entered into under paragraph (3), there has been established for the State a Statewide Health Coordinating Council meeting the requirements of section 1524.

"(2)(A) The agreement entered into with a Governor of a State under subsection (a) may provide for the designation of a State Agency on a conditional basis with a view to determining the capacity of the designated State Agency to administer the State administrative program of the State and to carry out the health planning and development functions prescribed by section 1523. The Secretary shall require as a condition to the entering into of such an agreement that the Governor submit on behalf of the agency to be designated a plan for the agency's orderly assumption and implementation of such functions.

"(B) The period of an agreement described in subparagraph (A) shall not extend beyond the period set forth in subsection (d)(1)(B).
~~July 31, 1970, or thirty-six months after such agreement has been entered into, whichever comes later, except that the Secretary may extend the period for such additional time as he finds appropriate if he finds that the designated State Agency is making a good faith effort to comply with the requirements of section 1523.~~ During such period the Secretary may require that the designated State Agency perform only such of the functions of a State Agency prescribed by section 1523 as he determines it is capable of performing. The number and type of



such functions shall, during such period, be progressively increased as the designated State Agency becomes capable of added responsibility, so that by the end of such period the designated State Agency may be considered for designation under paragraph (3).

"(C) Any agreement with a Governor of a State entered into under subparagraph (A) may be terminated by the Governor upon ninety days' notice to the Secretary or by the Secretary upon ninety days' notice to the Governor.

"(3)(A) If, on the basis of an application for designation as a State Agency (and, in the case of an agency conditionally designated under paragraph (2), on the basis of its performance under an agreement with a Governor of a State entered into under such paragraph), the Secretary determines that the agency is capable of fulfilling, in a satisfactory manner, the responsibilities of a State Agency, he shall enter into an agreement with the Governor of the State designating the agency as the State Agency for the State. No such agreement may be made unless an application therefor is submitted to, and approved by, the Secretary. Any such agreement shall be for a term of not to exceed thirty-six months, except that, prior to the expiration of such term, such agreement may be terminated--

"(i) by the Governor at such time and upon such notice to the Secretary as he may by regulation prescribe, or

"(ii) by the Secretary if the Secretary determines, in accordance with subparagraph (B), that the designated State Agency is not complying with the provisions of such agreement.

An agreement under this paragraph shall contain such provisions as the Secretary may require to assure that the requirements of this part respecting State Agencies are complied with.

"(B) Before the Secretary may terminate an agreement with a designated State Agency under subparagraph (A)(ii), the Secretary shall--

"(i) consult with the Statewide Health Coordinating Council of the State for which the State Agency is designated respecting the proposed termination,

"(ii) give the State Agency notice of the intention to terminate the agreement and in the notice specify with particularity (i) the basis for the determination of the Secretary that the State Agency is not in compliance with the agreement, and (ii) the actions that the State Agency should take to come into compliance with the agreement, and

"(iii) provide the State Agency with a reasonable opportunity for a hearing, before an officer or employee of the Department of Health, Education, and Welfare designated for such purpose, on the matter specified in the notice.

The Secretary may not terminate such an agreement before consulting with the National Council on Health Planning and Development respecting the proposed termination. Before the Secretary may permit the term of an agreement to expire without renewing the agreement, the

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Secretary shall make the consultations prescribed by clause (i) and the preceding sentence, give the State Agency with which the agreement was made notice of the intention not to renew the agreement and the reasons for not renewing the agreement, and provide, as prescribed by clause (iii), the State Agency an opportunity for a hearing on the matter specified in the notice.

"(4)(A) An agreement entered into under paragraph (3) for the designation of a State Agency may be renewed by the Secretary for a period not to exceed thirty-six months if upon a review under section 1535 of the State Agency's operation and performance of its function he determines that it has fulfilled, in a satisfactory manner, the responsibilities of a State Agency during the period of the agreement to be renewed and if the applicable State administrative program continues to meet the requirements of section 1522. Before renewing an agreement under this paragraph with a State Agency for a State, the Secretary shall provide each health systems agency designated for a health service area located (in whole or in part) in such State and the Statewide Health Coordinating Council of such State an opportunity to comment on the performance of the State Agency and to provide a recommendation on whether such agreement should be renewed.

"(B) If upon a review under section 1535 of the State Agency's operation and performance of its functions, the Secretary determines that it has not fulfilled, in a satisfactory manner, the responsibilities of a State Agency during the period of the agreement to be renewed or if the applicable State administrative program does not continue to meet the requirements of section 1522, he may terminate such agreement or return the State Agency to a conditionally designated status under paragraph (2) of subsection (b) for a period not to exceed twelve months. At the end of such period, the Secretary shall either terminate its agreement with such State Agency or enter into an agreement with such State Agency under paragraph (3) of subsection (b). The Secretary may not terminate an agreement or return a State Agency to a conditionally designated status unless the Secretary has--

"(i) provided the State Agency with notice of his intent to return it to a conditional status or terminate the agreement with it and included in that notice specification of any functions which the Secretary has determined the State Agency did not satisfactorily fulfill and of any requirements which the Secretary has determined it has not met;

"(ii) provided the State Agency with a reasonable opportunity for a hearing, before an officer or employee of the Department of Health, Education, and Welfare designated for such purpose, on the action proposed to be taken by the Secretary; and

"(iii) in the case of a proposed termination, consulted with the National Council on Health Planning and Development respecting the termination.

"(c) If a designation agreement with the Governor of a State entered into under subsection (b)(2) or (b)(3) is terminated before the date prescribed for its expiration, the Secretary shall, upon application

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and in accordance with subsection (b)(2), or (b)(3) (as the Secretary determines appropriate), enter into another agreement with the Governor for the designation of a State Agency.

"(d)(1) If an agreement under subsection (b)(3) for the designation of a State Agency for a State is not in effect upon the expiration of--

"(A) the fourth fiscal year which begins after the calendar year in which the National Health Planning and Resources Development Act of 1974 is enacted; or

"(B)(i) if the legislature of the State is in a regular session on the date of the enactment of the Health Planning and Resources Development Amendments of 1979 and the legislature will be in session for at least ~~twelve months~~ twenty-four months from such date, from such date, or

"(ii) if the legislature of the State is in session on such date of enactment but twelve months do not remain in such session after such date or if the legislature of the State is not in session on such date, ~~twelve months~~ twenty-four months after the beginning of the first regular session of the legislature beginning after such date,

whichever occurs later, the Secretary shall take the action prescribed by paragraph (2).

"(2) If upon the expiration of the period applicable under paragraph (1) an agreement is not in effect for the designation of a State Agency for a State, the Secretary shall until such an agreement is in effect take the following action:

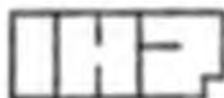
"(A) During the first twelve months after the date of the expiration of the applicable period, the Secretary shall reduce by 25 percent the amount of each allotment, grant, loan, and loan guarantee made to and each contract entered into with an individual or entity in such State during such period under this Act, the Community Mental Health Centers Act, the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970, and the Drug Abuse Office and Treatment Act of 1972.

"(B) During the second twelve months after such expiration date, the Secretary shall reduce by 50 percent the amount of each such allotment, grant, loan, loan guarantee, and contract.

"(C) During the third twelve months after such expiration date, the Secretary shall reduce by 75 percent the amount of each allotment, grant, loan, loan guarantee, and contract.

"(D) After the expiration of thirty-six months after such expiration date, the Secretary may not make or enter into any such allotment, grant, loan, loan guarantee, and contract.

Material added by FY 1981 Budget Reconciliation Act is
underlined; material deleted is crossed out.
HP 7/31/81



"Part D--General Provisions

"Definitions

"Sec. 1531. Except as otherwise provided, for purposes of this title:

"(1) The term 'State' includes the District of Columbia.

"(2) The term 'Governor' means the chief executive officer of a State or his designee.

"(3) The term 'provider of health care' means an individual--

"(A) who is a direct provider of health care (including a physician, dentist, nurse, podiatrist, optometrist, physician assistant, or ancillary personnel employed under the supervision of a physician) in that the individual's primary current activity is the provision of health care to individuals or the administration of facilities or institutions (including hospitals, long-term care facilities, rehabilitation facilities, alcohol and drug abuse treatment facilities, outpatient facilities, and health maintenance organizations) in which such care is provided and, when required by State law, the individual has received professional training in the provision of such care or in such administration and is licensed or certified for such provision or administration;

"(B) who holds a fiduciary position with, or has a fiduciary interest in, any entity described in clause (ii) or (iv) of subparagraph (C) other than an entity described in such clause which is also an entity described in section 501(c)(3) of the Internal Revenue Code of 1954 and which does not have as its primary purpose the delivery of health care, the conduct of research, the conduct of instruction for health professionals, or the production of drugs or articles described in clause (iii) of subparagraph (C);

"(C) who receives (either directly or through the individual's spouse) more than one-fifth of his gross annual income from any one or combination of--

"(i) fees or other compensation for research into or instruction in the provision of health care,

"(ii) entities engaged in the provision of health care or in research or instruction in the provision of health care,

"(iii) producing or supplying drugs or other articles for individuals or entities for use in the provision of or in research into or instruction in the provision of health care, or

"(iv) entities engaged in producing drugs or such other articles;

"(D) who is the member of the immediate family of an individual described in subparagraph (A), (B), or (C); or

"(E) who is engaged in issuing any policy or contract of individual or group health insurance or hospital or medical service benefits.

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Notwithstanding subparagraph (B), an individual shall not be considered a provider of health care solely because the individual is the member of the governing body of an entity described in clause (ii) or (iv) of subparagraph (C).

"(4) The term 'health resources' includes health services, health professions personnel, and health facilities, except that such term does not include Christian Science sanatoriums operated, or listed and certified, by the First Church of Christ, Scientist, Boston, Massachusetts.

"(5) The term 'institutional health services' means health services which (A) are provided through private and public hospitals, rehabilitation facilities, nursing homes, and other health care facilities, as defined by the Secretary by regulation, and (B) entail annual operating costs of at least the expenditure minimum. For purposes of this paragraph, the term 'expenditure minimum' means ~~\$75,000~~ \$250,000 for the twelve-month period beginning with the month in which this paragraph is enacted and for each twelve-month period thereafter, ~~-\$75,000~~ \$250,000 or, at the discretion of the State, the figure in effect for the preceding twelve-month period, adjusted to reflect the change in the preceding twelve-month period in an index maintained or developed by the Department of Commerce and designated by the Secretary by regulation for purposes of making such adjustment.

"(6) For purposes of sections 1523 and 1527, the term 'capital expenditure' means an expenditure--

"(A) made by or on behalf of a health care facility (as such a facility is defined in regulations prescribed under paragraph (5)); and

"(B)(i) which (I) under generally accepted accounting principles is not properly chargeable as an expense of operation and maintenance, or (II) is made to obtain by lease or comparable arrangement any facility or part thereof or any equipment for a facility or part; and

"(II) which (I) exceeds the expenditure minimum, (II) substantially changes the bed capacity of the facility with respect to which the expenditure is made, or (III) substantially changes the services of such facility.

For purposes of subparagraph (B)(ii)(I), the cost of any studies, surveys, designs, plans, working drawings, specifications, and other activities essential to the acquisition, improvement, expansion, or replacement of any plant or any equipment with respect to which an expenditure described in subparagraph (B)(i) is made shall be included in determining if such expenditure exceeds the expenditure minimum. Donations of equipment or facilities to a health care facility which if acquired directly by such facility would be subject to review under section 1527 shall be considered capital expenditures for purposes of sections 1523 and 1527, and a transfer of equipment or facilities at fair market value would be subject to review under section 1527. For purposes of this paragraph, the term 'expenditure minimum' means ~~-\$150,000~~ \$600,000 for the twelve-month period beginning with the month in which this paragraph is enacted and for each twelve-month period

Material added by FY 1981 Budget Reconciliation Act is
underlined; material deleted is crossed out.

IMP 7/31/81



thereafter, ~~-\$150,000-~~ \$600,000 or, at the discretion of the State, the figure in effect for the preceding twelve-month period, adjusted to reflect the change in the preceding twelve-month period in an index maintained or developed by the Department of Commerce and designated by the Secretary by regulation for purposes of making such adjustment.

"(7) For purposes of sections 1523 and 1527, the term 'major medical equipment' means equipment which is used for the provision of medical and other health services and which costs in excess of ~~-\$150,000-~~ \$400,000, except that such term does not include medical equipment acquired by or on behalf of a clinical laboratory to provide clinical laboratory services if the clinical laboratory is independent of a physician's office and a hospital and it has been determined under title XVIII of the Social Security Act to meet the requirements of paragraphs (10) and (11) of section 1861(s) of such Act. In determining whether medical equipment has a value in excess of ~~-\$150,000-~~ \$400,000, the value of studies, surveys, designs, plans, working drawings, specifications, and other activities essential to the acquisition of such equipment shall be included.

"(8) The term 'health maintenance organization' means a public or private organization, organized under the laws of any State, which--

"(A) is a qualified health maintenance organization under section 1310(d); or

"(B)(i) provides or otherwise makes available to enrolled participants health care services, including at least the following basic health care services: usual physician services, hospitalization, laboratory, X-ray, emergency and preventive services, and out of area coverage; (ii) is compensated (except for copayments) for the provision of the basic health care services listed in clause (i) to enrolled participants by a payment which is paid on a periodic basis without regard to the date the health care services are provided and which is fixed without regard to the frequency, extent, or kind of health service actually provided; and (iii) provides physicians' services primarily (i) directly through physicians who are either employees or partners of such organization, or (ii) through arrangements with individual physicians or one or more groups of physicians (organized on a group practice or individual practice basis).

"(9) For purposes of paragraph (5) of this section and sections 1523(a)(4)(B) and section 1527, the term 'rehabilitation facility' means an inpatient facility which is operated for the primary purpose of assisting in the rehabilitation of disabled persons through an integrated program of medical and other services which are provided under competent professional supervision. For purposes of the remaining provisions of this title, the term 'rehabilitation facility' means an inpatient facility described in the preceding sentence and, in addition, an outpatient facility which is operated as described in such sentence.

"(10) The term 'medically underserved population' has the same meaning as such term has under section 330(b)(3).

"(11) Any reference to the term 'health' includes physical and mental health.

"(12) The term 'physician' means a doctor of medicine or osteopathy legally authorized to practice medicine and surgery by a State.



STATE OF ALASKA

DEPT. OF HEALTH AND SOCIAL SERVICES

OFFICE OF THE COMMISSIONER

JAY S. HAMMOND, GOVERNOR

POUCH H 01
JUNEAU, ALASKA 99811

PHONE: 465-3030

January 13, 1982

Document# 2-82

The Honorable Michael Beirne
House of Representatives
Alaska State Legislature
P. O. Box 4-1539
Anchorage, AK 99509

Dear Dr. Beirne:

Attached are my recommended amendments to House Bill 195, which amends sections in AS 18.07 to conform to federal legislation respecting comprehensive health planning and resources development.

After HB 195 was introduced during the 1981 state legislative session, Congress enacted P.L. 97-35, the Omnibus Reconciliation Act of 1981. P.L. 97-35 raised federally mandated threshold levels for state certificate of need programs, and also allows states to adjust these thresholds annually to account for inflation. These higher threshold levels allow the state more flexibility in determining its own threshold levels and thus increase the state's options in administering its own certificate of need program.

The attached amendment would add P.L. 97-35 to the references to federal law in HB 195.

Sincerely,



Helen D. Beirne
Commissioner

CERTIFICATE OF NEED REVIEW

Sec. 936. (a) Section 1531 of the Public Health Service Act (42 U.S.C. 800m) is amended—

- (1) by striking out "\$75,000" each place it occurs in paragraph (5) and inserting in lieu thereof "\$250,000";
- (2) by striking out "\$150,000" each place it occurs in paragraph (6) and inserting in lieu thereof "\$600,000"; and
- (3) by striking out "\$150,000" each place it occurs in paragraph (7) and inserting in lieu thereof "\$400,000".

(b)(1) Section 1521(d)(1)(B) of the Public Health Service Act (42 U.S.C. 800m(d)(1)(B)(ii)) is amended—

- (A) by striking out "twelve months" the second time it appears in clause (i) and inserting in lieu thereof "twenty-four months", and
- (B) by striking out "twelve months" the second time it appears in clause (ii) and inserting in lieu thereof "twenty-four months".

(2) The first sentence of section 1521(b)(2)(B) of such Act is amended to read as follows: "The period of an agreement described in subparagraph (A) shall not extend beyond the period set forth in subsection (d)(1)(B)."

EFFECTIVE DATE

Sec. 937. The amendments made by this subtitle shall take effect October 1, 1981.

Subtitle F—Health Maintenance Organizations

CHAPTER 10—HEALTH MAINTENANCE ORGANIZATIONS

SHORT TITLE, REFERENCE TO ACT

Sec. 940. (a) This subtitle may be cited as the "Health Maintenance Organization Amendments of 1981".

(b) Whenever in this subtitle an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Public Health Service Act.

EXTENSIONS

Sec. 941. (a) Subsection (a) of section 1309 (42 U.S.C. 800e-8(a)) is amended to read as follows:

"(a)(1) For grants and contracts under sections 1303 and 1304 there is authorized to be appropriated \$20,000,000 for the fiscal years 1982, 1983, and 1984. No funds appropriated under this paragraph may be expended or obligated for a grant or contract unless the entity received a grant or contract under section 303 or 304 during or before the fiscal year 1981.

"(2) For grants under section 1317 there is authorized to be appropriated \$1,000,000 for each of the fiscal years 1982, 1983, and 1984."

(b) Subsection (b) of section 1309 is amended to read as follows:
"(b) To maintain in the loan fund established under section 1309(a) for the purpose of making new loans a balance of at least \$5,000,000 at the end of each fiscal year and to meet the obligations of the loan fund resulting from defaults on loans made from the fund and to meet the other obligations of the fund, there is authorized to be appropriated to

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REVISION

Sec. 942. (a)
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(2) Section 1
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POSITION PAPER
ON
HOUSE BILL NO. 195

For an Act entitled "An Act relating to comprehensive health planning."

House Bill 195 amends AS 18.07 to comply with amendments to the National Health Planning and Resources Development Act, as incorporated in Public Law 96-79, signed into effect October 4, 1979. Such amendments are required of all states wishing to participate in and receive funding under the Public Health Service Act, the Community Mental Health Centers Act, the Comprehensive Alcohol Abuse Act and Alcoholism Prevention, Treatment and Rehabilitation Act and the Drug Abuse Office and Treatment Act of 1972. The Department of Health and Social Services supports passage of House Bill 195, and recommends amendments to HB 195 to include provisions of P.L. 97-35 which was signed into effect since the introduction of House Bill 195. Proposed amendments are attached to this position paper and explained herein.

The purpose of the national health planning law is to encourage consumer and provider involvement at both the local and the state level in planning for and implementing a health care system in Alaska that provides equitable access to quality care at reasonable costs. This process requires the development of local health plans which are used as an information source in the development of a State Health Plan. The State Health Plan is to serve as a guide to the Governor and the Legislature for health policy development and resource allocation.

The primary amendments to AS 18.07 as set out in HB 195 fall into three categories: coverage of rehabilitation facilities, major medical equipment and coverage of health maintenance organizations. Each of these issues is addressed in detail below:

Rehabilitation Facilities

Section 2 of the proposed amendment includes rehabilitation facilities as facilities subject to certificate of need review. Rehabilitation facility is defined to mean an inpatient facility which is operated primarily to assist in the rehabilitation of disabled persons through an integrated program of medical and other health services which are provided under competent supervision. This definition should not result in additional health care facilities being subject to certificate of need review in Alaska, but will serve to clarify the type of rehabilitation facilities which are subject to certificate of need review.

employment training - ACA-

Major Medical Equipment

Section 3 of the proposed amendment adds a requirement for certificate of need review of major medical equipment which will be used for inpatients, regardless of its location. Major medical equipment located outside a health care facility may be exempt from review if: 1) the sponsor notifies the state agency in writing of intent to purchase such equipment; and 2) the state agency determines that the equipment will not be used for inpatients.

The purpose of this provision is to close the gap which currently allows a physician to purchase major medical equipment for a health care facility and thereby avoid the requirement for a certificate of need. Although this provision is required to be in effect in each state, its impact will not be significant in Alaska, since Alaskan physicians generally rely upon hospitals to provide such equipment.

Health Maintenance Organizations

Section 4 of HB 195 would add a new section to AS 18.07 providing an exemption for certain health maintenance organizations (HMOs) which have an enrollment of at least 50,000 from certificate of need review. The impact of this provision is not expected to be significant since there are no such HMOs in Alaska.

The amendments to the National Health Planning Law as incorporated in P.L. 96-79 and addressed in House Bill No. 195 also modify the planning process, strengthen the role of the Governor in approval and use of the State Health Plan and introduce organizational changes within the planning boards and advisory committees.

Amendments to Existing Bill

After House Bill 195 was introduced during the 1981 state legislative session, Congress enacted P.L. 97-35, the Omnibus Reconciliation Act of 1981. This Public Law allows increased options with regard to state health planning and state certificate of need programs. The federally mandated threshold levels for state certificate of need programs were raised, and states permitted to make adjustments to those thresholds to account for inflation. The new Federal threshold levels are as follows:

- \$600,000 - capital expenditures related to construction;
- \$400,000 - for capital expenditures for major medical equipment; and
- \$250,000 - for annual operating costs for new institutional health services.

Section 18.07.031 (5) of House Bill 195 provides certificate of need coverage of the "acquisition of an existing health facility." The Federal program requires states to include a provision for reviewing proposed acquisitions of health facilities, but permits states to exempt from review of those those acquisitions which do not involve a change in the facility's bed capacity, the addition of a new service, or the elimination of an existing service. With passage of House Bill 195 the Department intends to adopt regulations providing for these exemptions. This provision of House Bill 195 is not expected to have a significant effect since the State program already requires a certificate of need review of activities involving a change in bed capacity, or the addition or elimination of a health service regardless of whether an acquisition occurs.

The department also recommends an amendment in Section 2 of the Bill. Line 7, page 3 should be changed to read:

- (2) to acquire major medical equipment which is not owned by or...

The word "not" was unintentionally deleted during the typing of the Bill.

Impact of non-passage of the Bill

There are significant potential fiscal losses to the State if legislation is not passed enabling the State Health Planning and Development Agency (SHPDA) to carry out its full responsibilities under the Public Law 96-79 ("The Health Planning and Resources Development Amendments of 1979"). If SHPDA is not fully empowered by State statute as of by January 1983, to conduct the "State Program" mandated by P.L. 93-641, as amended by P.L. 96-79, the SHPDA designation agreement with the Federal government is subject to termination, or the SHPDA designation agreement may be made conditional for one year and the designation then withdrawn. Should the agreement be terminated, the State would no longer be eligible for certain federal human service program funds

Recent indications of reduced Federal funding through block grant programs has caused uncertainty as to the impact of a reversion of the State Health Planning and Development Agency (SHPDA) to "Conditional Designation" for the period of January 1, 1983 through December 31, 1983 or termination of the SHPDA/Federal health planning agreement. During 1981 the total Federal funding which could be impacted by sanctions under P.L. 93-641, as amended by P.L. 96-79 was approximately \$7,000,000 annually received under the Public Health Service Act, the Community Mental Health Centers Act, the Comprehensive Alcohol Abuse Act, and Alcoholism Prevention, Treatment and Rehabilitation Act, and the Drug Abuse, Office and Treatment Act of 1972. Approximate 1983 Federal funding under those Acts is given as follows:

Total Project Grants	\$4,161,000
Formula Grants	\$ 900,000

The methods by which the Federal government would reduce program funds under the aforementioned Acts is unclear. Some of the funds are made available to municipalities and other entities; some will be through block grants to the State. Some of the affected programs are within the purview of the Alaska Department of Health and Social Services; some relate to the Department of Education and/or the University system.

The National Health Planning and resources Development Act is scheduled for renewal by October 4, 1982. It is unclear at this point whether Congress will be seeking to amend or extend this legislation, replace this act with an Administration pro-competitive bill, or allow the federal authority to expire. Alaska's statutes incorporate the federal act by reference and will need to be amended at some future date to be consistent with Congressional action.

attachment: proposed amendments to HB 195

Recommended by:

Phoebe A Lindsey
Phoebe A. Lindsey, Director
Division of State Health
Planning & Development

Date:

Approved by:

Helen D. Beirne
Helen D. Beirne
Commissioner

Date:

3-1-82

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

I. REQUEST

Bill/Resolution No. Modification to House Bill 195
 Title "An act relating to comprehensive health planning
 Requested by Department of Health and Social Services

II. FISCAL DETAIL

Agency Affected Health and Social Services
 Program Category Affected Health
 B.U., 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 82	FY 83	FY 84	FY 85	FY 86	FY 87
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 Source)	-0-	-0-	-0-	-0-	-0-	-0-
	-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-
	-0-	-0-	-0-	-0-	-0-	-0-

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

This Bill does not directly impact the Division of State Health Planning and Development. The amendments proposed do not change the original fiscal note which projected a -0- impact

IV. DATE 2/16/82

Phyllis A. Bentley
 PREPARED BY Dave W. Williams
 AGENCY DS - Division of State Health Planning
 PHONE _____

Original: Legislative Finance
 cc: Budget and Management
 Prime Sponsor (First Legislator Named)
 33-001 (Rev. 12/81)

400
✓

A M E N D M E N T

Offered in the HOUSE

TO: HOUSE BILL 195

Page 1, lines 12, 14, 15, 22, 25, 27;

Page 2, lines 1 and 5;

Page 8, lines 19 and 23; and

Page 9, line 9:

following "P.L. 96-79", insert "and P.L. 97-35"

Page 3, line 7 should be amended to read:

(2) to acquire major medical equipment which is not owned by or...

*Certificate of Need only when public monies are used.
Not if only private monies are involved.*

Introduced: 2/19/81
Referred: Health, Education & Social Services and Judiciary

1 IN THE HOUSE

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

2 HOUSE BILL NO. 195

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to comprehensive health planning."

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

8 * Section 1. AS 18.07.011 is amended to read:

9 Sec. 18.07.011. STATEWIDE HEALTH COORDINATING COUNCIL. There is
10 created the Statewide Health Coordinating Council. The council shall
11 be organized in the manner described by sec. 1524(b), P.L. 93-641,
12 as amended by P.L. 96-79 [SEC. 237(a)(1)(A), P.L. 94-63 AND AS 47.30.-
13 605(a)]. The council shall perform the functions listed in sec.
14 1524(c), P.L. 93-641, as amended by P.L. 96-79, and comply with
15 sec. 1524(d) and (e) of P.L. 93-641, as amended by P.L. 96-79 [SEC.
16 237(a)(1)(A), P.L. 94-63 AND AS 47.30.605(b)].

17 * Sec. 2. AS 18.07.021 is amended to read:

18 Sec. 18.07.021. STATE HEALTH PLANNING AND DEVELOPMENT AGENCY.

19 The OFFICE OF PLANNING AND RESEARCH IN THE DEPARTMENT IS THE state
20 health planning and development agency in the department is the state
certificate of need - cost 25% for budget + fiscal cost
21 agency designated under sec. 1521(b)(3), P.L. 93-641, as amended by
22 P.L. 96-79. The state agency [OFFICE] shall *no monies = no reg.*

23 (1) administer the state program and perform the state
24 functions set out in [ENUMERATED UNDER] sec. 1522, [SEC.] 1523, 1525,
25 and 1526 of P.L. 93-641, as amended by P.L. 96-79;

26 (2) administer the certificate of need program set out [OUT-
27 LINED] in sec. 1527 of P.L. 93-641, as amended by P.L. 96-79, for a
28 health care facility including a rehabilitation facility;

29 (3) conduct health system reviews under sec. 1523 and

NB 195

eliminate Health System agency

1 1532 of P.L. 93-641, as amended by P.L. 96-79,

2 (4) administer the grant, loan, and loan guarantee programs
3 for health facility construction, modernization, or conversion under
4 secs. 1620 -- 1625 and secs. 1640 -- 1643 of P.L. 93-641, as amended
5 by P.L. 96-79 [AS 18.07.041 -- 18.07.111, AND OTHER FUNCTIONS PRE-
6 SCRIBED IN THIS CHAPTER].

7 * Sec. 3. AS 18.07.031 is amended to read:

*No or
change
amendment*

8 Sec. 18.07.031. CERTIFICATE OF NEED REQUIRED. (a) No person may
9 undertake the following unless authorized under the terms of a certifi-
10 cate of need or exempt from the requirement for a certificate of need
11 in accordance with this chapter [ISSUED BY THE OFFICE]:

- 12 (1) construction of a health care facility;
13 (2) alteration of the bed capacity of a health care facility;
14 (3) addition or elimination of a category of health services
15 provided by a health care facility;
16 (4) acquisition of major medical equipment; and
17 (5) acquisition of an existing health care facility.

18 (b) This section applies to a health care facility controlled by
19 a health maintenance organization or an ambulatory care facility con-
20 trolled by a health maintenance organization only if

21 (1) the organization or facility offers inpatient health care
22 services or acquires major medical equipment for use primarily for in-
23 patient health care; and

24 (2) the department does not grant the organization or faci-
25 lity an exemption under AS 18.07.032.

26 * Sec. 4. AS 18.07 is amended by adding a new section to read.

27 Sec. 18.07.032. EXEMPTION FROM THE REQUIREMENT FOR A CERTIFICATE
28 OF NEED. (a) A person may be exempt from the requirements of AS 18.-
29 07.031 only if the person applies to the department for the exemption

AS-

1 at least 30 days before the person agrees to spend money for the pro-
2 posed activity or contracts for the proposed activity.

3 (b) The department shall grant an exemption if the application is
4 made as provided in (a) of this section and the exemption is requested

5 (1) to acquire an existing health care facility if the
6 services or bed capacity of the facility are not changed;

7 (2) to acquire major medical equipment which is ^{not} owned by or
8 located in a health care facility and is not used to provide services
9 for inpatients of a hospital;

10 (3) to provide inpatient institutional health services by

11 (A) a health maintenance organization if

12 (i) the organization has, in the service area of
13 the organization, an enrollment of at least 50,000 indivi-
14 duals,

15 (ii) the facility in which the service is provided
16 is geographically located so that the service is reasonably
17 accessible to the individuals enrolled with the organization,
18 and

19 (iii) at least 75 percent of the patients who can
20 reasonably be expected to receive the health service are
21 individuals enrolled with the organization;

22 (B) a health care facility if

23 (i) the health care facility primarily provides
24 inpatient services,

25 (ii) the facility is controlled by a health main-
26 tenance organization meeting the enrollment requirements set
27 out in (A) of this paragraph, and

28 (iii) the location and expected use of the facility
29 meet the requirements set out in (A) of this paragraph;

1 (C) a health care facility, or part of it, if

2 (i) the facility is leased by a health maintenance
3 organization meeting the enrollment requirements set out in
4 (A) of this paragraph,

5 (ii) at least 15 years remain in the term of the
6 lease, and

7 (iii) the location and expected use of the facility
8 meet the requirements set out in (A) of this paragraph.

9 (c) If a proposed health care facility, or part of it, does not
10 provide institutional health services by the date it files an applica-
11 tion for exemption for the facility, the facility shall meet the re-
12 quirements of (b)(3) of this section at the time the facility first
13 provides the service. The department shall approve the application for
14 exemption if it is determined that the applicable requirements of
15 (b)(3) of this section are met.

16 (d) An exemption granted under (b)(3) of this section does not,
17 with respect to a health care facility or medical equipment involved in
18 the exemption, apply to:

19 (1) a sale or lease by the recipient of the exemption after
20 the exemption is granted;

21 (2) the acquisition of a controlling interest in the facili-
22 ty or equipment after the exemption is granted;

23 (3) the use by any person other than the lessee of leased
24 facilities described in (b)(3)(C) of this section after the exemption
25 is granted.

26 * Sec. 5. AS 18.07.041 is amended to read:

27 Sec. 18.07.041. STANDARD OF REVIEW FOR APPLICATIONS FOR CERTIFI-
28 CATES OF NEED. The department [OFFICE] shall grant a sponsor a certi-
29 ficate of need or modify a certificate of need if the availability and

1 quality of existing health care resources or the accessibility to those
2 resources is less than the current or projected requirement for health
3 services required to maintain the good health of Alaska citizens.

4 * Sec. 6. AS 18.07.061 is amended to read:

5 Sec. 18.07.061. MODIFICATION AND TERMINATION OF ACTIVITIES. The
6 certificate holder shall apply to the department [OFFICE] for a modifi-
7 cation of the certificate of need before terminating part of the ac-
8 tivities authorized by the terms of issuance, but the certificate
9 holder is not required to obtain the acquiescence of the department
10 [OFFICE] before terminating all the activities authorized by the cer-
11 tificate of need. If a certificate holder terminates all of the ac-
12 tivities authorized by a certificate of need, the certificate holder is
13 required to notify the department [OFFICE] 60 days before termination
14 and to surrender the certificate of need to the department [OFFICE]
15 within 30 days of termination.

16 * Sec. 7. AS 18.07.071 is amended to read;

17 Sec. 18.07.071. EMERGENCY AND TEMPORARY [TEMPORARY AND EMERGENCY]
18 CERTIFICATES OF NEED. (a) The department [OFFICE] shall grant a
19 sponsor an emergency certificate of need for the construction of a
20 health care facility, health maintenance organization, rehabilitation
21 facility, or ambulatory care facility if the facility or service:
22 (1) is needed and consistent with the state health plan;
23 (2) is required to eliminate or prevent immediate safety
24 hazards as defined by federal, state or local fire, building or life
25 safety codes or regulations, or
26 (3) is required to comply with state licensure standards or
27 with accreditation standards necessary for the receipt of reimbursement
28 under Title XVIII of the Social Security Act (42 USC 1395) or payments
29 under the state plan for medical assistance approved under Title XIX of

1 the Social Security Act (42 USC 1396) [FOR WHICH A CERTIFICATE IS
2 REQUIRED UNDER AS 18.07.041 IF THE SPONSOR SHOWS, BY AFFIDAVIT OR
3 FORMAL HEARING, THAT THE ACT OF CONSTRUCTION CONSISTS OF EFFECTING
4 EMERGENCY REPAIRS].

5 (b) The department [OFFICE] may grant a sponsor a temporary
6 certificate of need for the temporary operation of a category of health
7 service, if the sponsor shows by affidavit or formal hearing

8 (1) the necessity for early, immediate, or temporary relief,
9 and

10 (2) adverse effect to the public interest by reason of delay
11 occasioned by compliance with the requirements of AS 18.07.041 and
12 application procedures prescribed by regulations under this chapter.

13 (c) The state agency shall review each affidavit requesting an
14 emergency or temporary certificate of need under the criteria set out
15 in (a) of this section.

16 (d) A temporary certificate of need granted under (a) [AND (b)]
17 of this section confers no vested rights on behalf of the applicant.
18 The department [OFFICE] shall impose those special limitations and
19 restrictions concerning duration and right of extension which the
20 department [OFFICE] considers appropriate. [NO TEMPORARY CERTIFICATE
21 MAY BE GRANTED FOR A PERIOD LONGER THAN NECESSARY FOR THE SPONSOR TO
22 OBTAIN REVIEW OF THE ACTION CERTIFIED BY THE TEMPORARY CERTIFICATE
23 UNDER AS 18.07.051. APPLICATION FOR A CERTIFICATE OF NEED UNDER AS
24 18.07.041 MUST COMMENCE WITHIN 60 DAYS OF THE DATE OF ISSUANCE OF THE
25 TEMPORARY CERTIFICATE.]

26 * Sec. 8. AS 18.07.081(a) is amended to read:

27 (a) The department [OFFICE], a member of the public who is sub-
28 stantially and adversely affected by activities authorized by the
29 certificate of need, or another applicant for a certificate of need

1 for a similar service within the same health service area may initiate
2 a hearing to obtain modification, suspension or revocation of an
3 existing certificate of need by filing an accusation with the commis-
4 sioner as prescribed under AS 44.62.360. No revocation, modification,
5 or suspension of an outstanding certificate of need may be undertaken
6 unless it is in accordance with AS 44.62.330 -- 44.62.630.

7 * Sec. 9. AS 18.07.081(c) is amended to read:

8 (c) A certificate of need shall be suspended if an accusation is
9 filed before the commencement of activities authorized under AS 18.07.-
10 041 which charges that factors upon which the certificate of need was
11 issued have changed, or new factors have been discovered which signifi-
12 cantly alter the need for the activity authorized. A suspension of a
13 certificate of need may not exceed 60 days. At the end of this period
14 or sooner, the department [OFFICE] shall revoke or reinstate the certi-
15 ficate of need.

16 * Sec. 10. AS 18.07.101 is amended to read:

17 Sec. 18.07.101. REGULATIONS. (a) The commissioner shall adopt,
18 in accordance with the Administrative Procedure Act (AS 44.62), regula-
19 tions which establish procedures and criteria under which sponsors may
20 make application for certificates of need required by this chapter and
21 which govern the review of those applications by the department and
22 health systems agencies [OFFICE], establish requirements for a uniform
23 statewide system of reporting financial and other operating data, and
24 otherwise carry out the purposes of this chapter.

25 (b) The commissioner may not adopt regulations which

26 (1) establish criteria for the review of applications for
27 emergency certificates other than those stated in AS 18.07.071; and

28 (2) establish criteria for the review of applications sub-
29 mitted by a health maintenance organization or a health care facility

1 other than those necessary to determine:

2 (A) the needs of existing or future members, and

3 (B) the ability of the organization to provide, through
4 services or facilities available to the organization, reasonable
5 and inexpensive institutional health services consistent with the
6 basic method of operation of the organization and the ability of
7 the organization to provide the services on a long-term basis
8 through physicians and other health professionals associated with
9 the organization.

10 (c) The commissioner shall adopt regulations which establish cri-
11 teria for the review of an application submitted by an osteopathic or
12 allopathic facility which include a determination of the need for and
13 availability of facilities for osteopathic or allopathic physicians,
14 their patients and the effect of the facility on training programs for
15 doctors of osteopathy and medicine.

16 * Sec. 11. AS 18.07.111(5) is amended to read:

17 (5) "council" means the Statewide Health Coordinating Council
18 organized and operated in accordance with sec. 1524, P.L. 93-641, as
19 amended by P.L. 96-79;

20 * Sec. 12. AS 18.07.111(9) is amended to read:

21 (9) "health systems agency" means an entity organized and
22 operated in accordance with sec. 1521(b), P.L. 93-641, as amended by
23 P.L. 96-79, engaging in health planning and development functions in a
24 specified health service area of the state;

25 * Sec. 13. AS 18.07.111 is amended by adding new paragraphs to read:

26 (12) "major medical equipment"

27 (A) means medical equipment which is used to provide
28 medical and other health services and which costs more than
29 \$150,000, and

1 (B) does not include medical equipment acquired by or
2 on behalf of a clinical laboratory which

3 (i) is not in or part of a physician's office or a
4 hospital; and

5 (ii) meets the requirements of 42 USC 1395;

6 (13) "health maintenance organization" means a health main-
7 tenance organization as defined in regulations adopted by the secretary
8 of the United States Department of Health and Human Services under the
9 Public Health Service Act (P.L. 93-641), as amended by P.L. 96-79; ^{and PL}
10 ⁹⁷⁻³⁵

11 (14) "rehabilitation facility" means an inpatient facility
12 which is operated primarily to assist in the rehabilitation of disabled
13 persons through an integrated program of medical and other health
14 services which are provided under competent professional supervision.

15 * Sec. 14. AS 18.07.111(10) and (11) are repealed.
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Dennis L. DeWitt
Juneau

February 24, 1982

The Honorable Michael F. Beirne
Alaska State House of Representatives
Pouch V, State Capitol Building
Juneau, Alaska 99811

Dear Representative Beirne:

The HESS Committee will soon be considering legislation to alter the state's Certificate of Need law. We believe that its value is nonexistent in Alaska and therefore ought to be repealed outright. However, none of the legislation currently proposes that action.

I have enclosed correspondence indicating the initiation of a Certificate of Need application for an incinerator at Providence Hospital in Anchorage. Clearly, it demonstrates the need for at least a substantial change in the types of activities considered by the Certificate of Need regulators. We believe that raising the dollar threshold from the current \$150,000 to \$1.5 - \$2 million would focus the regulation activities in a more reasonable area of activity.

Sincerely,


Dennis L. DeWitt
President

DLD:bf
Enclosure

PROVIDENCE HOSPITAL

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



SERVING IN THE WEST SINCE 1856

January 26, 1982

Mr. Randolph Berry
CON Coordinator
Department of Health & Social Services
Pouch H-01A
Juneau, AK 99811

Dear Mr. Berry:

Providence Hospital hereby notifies you of our intent to apply for a Certificate of Need to replace and upgrade the current incinerator. The machine we are planning to purchase is A39 Incinerator manufactured by Compro Division of Sunbeam Equipment Corporation. The estimated cost of the machine is \$178,000, including shipping and installation.

We recognize that the thresholds for CON may change significantly by action of the current State Legislature. However, we must place the order for the incinerator by April and be ready to receive the machine by mid-July in order to have it installed, operational and tested by winter. Therefore, we cannot afford to wait if we do have to proceed with the CON preparation.

There are several significant reasons why we must replace and upgrade the incinerator.

- The current incinerator was installed in 1963, shortly after the Services Building was complete. It has been rebuilt two times and is absolutely beyond further repair.
- The use of the current incinerator is restricted; if it were fired at full capacity, it would not meet EPA pollution codes.
- The current incinerator does not have sufficient capacity (e.g. heating capability) to burn all the specialty waste produced by a hospital, in particular, human tissue, syringes, surgical specimens, human limbs and any glass specimen and sample containers. According to State of Alaska regulation, hospitals are required to burn placentas. The current incinerator is not capable of burning placentas. The new incinerator would have that capacity.

Mr. Randolph Berry
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January 22, 1982

In addition to the need to replace and upgrade the current incinerator, the new machine will be very energy efficient. We will be able to recover up to 60 pounds of steam heat which will supplement up to 25% of the steam load for the South Tower in the winter and will be able to provide the entire steam heat needs of the South Tower during the summer months.

The proposed incinerator is cost effective. It is projected that the incinerator will pay for itself within six years by savings on the steam heat and current disposal costs for waste. The incinerator is not patient related. There will be no additional operational costs due to the purchase of the machine. We will purchase the machine with cash, and there will be no impact on daily patient charges.

We would like to ask you for a determination of a need for a Certificate of Need and guidance on the process and timing.

Sincerely,


Al M. Camosso
Administrator

cc: Susan Callan
Mary Walters

ANALYSIS FOR HB 195

Relates to comprehensive health planning. Amends sections of AS 18.07 (Comprehensive Health Planning) to comply with amendments to the Public Health Service Act, P.L. 96-70. Amendments relate to certificates of need for the acquisition of major medical equipment and acquisition of an existing Health care facility. Adds new section relating to exemptions from the requirement for a certificate of need for acquisitions of equipment or facility or to provide inpatient institutional health services by health maintenance organizations of a health care facility if certain requirements are met. Amendments made relating to emergency and temporary certificates of need for health maintenance organizations, rehabilitation facilities or ambulatory care facilities. States that the commissioner may not adopt regulations which establish criteria for review of certificates other than those outlined, may not establish criteria for review of applications submitted by health maintenance organizations to provide reasonable and inexpensive services. Commissioner to adopt regulations establishing criteria for review of an application submitted by an osteopathic or allopathic facility. Repeals definitions relating to the Comprehensive Health Planning section (18.07) 111(10), "'office means the office of planning and research in the Department of Health and Social Services.'" "(11)'secretary' means the secretary of the United States Department of Health, Education and Welfare." Does not provide for an effective date.

3/3/52
MS 195

see with
- object in its current form

- 1 in Threshold

Stem Anderson - All. Sharp

15% designation

- (C)

250	SVC.
400	group.
600	cap. cont.

Lindsay + Williams

Position paper.

Threshold

Will keep & value in 82?
Danger of adopt. paper?

MS 195 ?

Can - Note 8