

CERTIFI-  
CATE

OF

NEED

Response to Dennis DeWitt: CS5B 760

1. The original bill was drafted " PL 93-641 as amended by PL 96-79 and PL 97-35" in all referenced places. An redraft for CS, Ed Hein felt this was clearer language and the Dept. supports it because they will not have to request changes each time the ~~idea~~ change the law. It's true that it will automatically adopt any Federal changes.

2. pg 1 line 29 subsection (4) the loan program only contains money for closure of facilities

This bill was gone over by Region X Health Planning people (Ed Ross (206) 442-0516) who have assured the Dept. that the language is sufficient to meet Federal Compliance

The only part not put in by the Feds is the part about the 3 appraisals which came from Fred McBinnis. He told me on the phone that he was mainly concerned at this moment with an inflated sale price of Alaska Hospital, in addition to the nursing home situation.

Amends for  
SB760

1. Replace (Throughout b.11)

"as amended" w/ PL 96-79 and  
PL 97-35

2. Strike line 29 on page 1 and  
lines 1+2 on page 2

This is NOT required for uniformity

3. Strike ~~line~~ line 27 after word "changed"  
and lines 28+29

I cannot find any previous mention for these  
proposals

4.

# STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

## DEPT. OF HEALTH AND SOCIAL SERVICES

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

### DIVISION OF STATE HEALTH PLANNING & DEVELOPMENT

March 11, 1981

Document# 61-81

The Honorable Donald E. Clocksin  
Chairperson, House HESS Committee  
Alaska State Legislature  
Pouch V  
Juneau, Alaska 99811

Dear Mr. Clocksin:

I wish to bring to your Committee's attention House Bill 195, "An Act relating to comprehensive health planning". This Bill was introduced by the Governor to bring the Alaska statutes in compliance with recent Federal amendments to the National Health Planning and Resources Development Act. The State is required to have such amendments incorporated in its statutes this session or jeopardize funding under the Public Health Service Act, the Community Mental Health Centers Act, the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act, and the Drug Abuse Office and Treatment Act of 1972. Alaska currently receives some \$7.0 million under the above named Acts. Failure to comply with the requirements of P.L. 96-79 could cause the loss of these funds to the State, with twenty-five percent of the funds being withheld the first year, fifty percent the second year, seventy-five percent the third year and all funds withheld during the fourth year.

The enclosed position paper, back-up material, and financial note explain in more detail the Bill and the potential impacts. Ms. Phoebe Lindsey, Director of our Division of State Health Planning and Development, is available, to answer your questions on this material.

We believe this piece of legislation to be of critical importance since the State will experience the reduction in funds by FY 83 if not in compliance.

Thank you for your assistance.

Sincerely,



Helen D. Beirne  
Commissioner

Enclosures

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

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. Alaska receives an estimated \$7.0 million annually under the four above-named acts.

The purpose of the National Health Planning Act 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 incorporated into a State Health Plan; this document 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 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.

#### Major Medical Equipment

Section 3 of the proposed amendment adds a requirement for certificate of need review of major medical equipment costing \$150,000 or more 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.

Position Paper on House Bill 195 (Continued)

Health Maintenance Organizations

Section 4 of the proposed amendments adds a new section to AS 18.07 which provides an exemption for certain health maintenance organizations (HMO's) 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 HMO's in Alaska.

The amendments to the national health planning law as incorporated in P.L. 9679 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.

The department recommends one change 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.

There are significant fiscal losses potential to the State if legislation is not passed to enable the State Health Planning and Development Agency (SHPDA) to carry out its full responsibilities under the "Health Planning and Resources Development Amendments of 1979" (Public Law 96-79). P.L. 96-79 revises Titles XV and XVI of the Public Health Service (PHS) Act, enabled by the "National Health Planning and Resources Development Act of 1974 (Public Law 93-641). Consequently, amendment to AS 18.07, which adopted P.L. 93-641 provisions, is necessary to adopt the revisions in P.L. 96-79. If SHPDA is not fully empowered by State statute by January 1982, to conduct the "State Program" mandated by the amended Title XV of the PHS Act, 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. The effects of the withdrawal of "full designation" of the State Health Planning and Development Agency (SHPDA) and/or reversion to "conditional" designation for the period 1/1/82 - 12/31/82, followed by termination of the SHPDA designation agreement is noted below. The impact on Federal funding would be as follows based upon the FY 80 level of \$7.0 million in Federal grants received throughout the State.

It is unclear how such funds would be reduced by the Federal government to programs under the above named Acts. Some of these funds are made available to municipalities and other entities and may not necessarily be appropriated by the State Legislature. Further, not all programs are within the purview of the Department of Health and Social Services; some relate to the Department of Education and /or the University system, for example. The attached letter and printouts from the Department of Health and Human Service's Seattle office provide further detail on potential program impact.

Position Paper on House Bill 195 (Continued)

Period	% Federal Funds Forfeited	Total Esti- mated Forfeiture
1/1/82 - 12/31/82	25%	\$2.0 million
1/1/83 - 12/31/83	50%	3.5 million
1/1/84 - 12/31/84	75%	5.0 million
1/1/85	100%	7.0 million

The inclusion of physicians, rehabilitation facilities and health maintenance organizations will be incorporated into the current capital expenditure review program which is staffed by one health economist position. It is important to note that the volume of reviews is increasing. In 1979 four reviews were completed; in the first nine months of 1980, six reviews were completed and an additional four reviews are in progress. There are an additional 10 letters of intent pending that may result in full applications at any time. This volume may be expected to increase as Alaska's older facilities are renovated, modernized or replaced to meet increasing demand. The review program requires stringent time frames to avoid obstructing the development of needed facilities and services. It is anticipated that an additional staff position will be required in fiscal year 1983. Considerable travel is also required in conducting this responsibility. Staff meet with the prospective applicant in a preapplication conference to explain the forms and facilitate the process. Staff also participate in local review meetings related to the application to ensure appropriate public input from health care providers and consumers. An average cost per trip is \$360 (and increasing airfares will continue to elevate this cost) so that travel associated with each application averages \$720. This budget component must be increased in further budgets to accommodate the substantially increased volume of work.

Recommended by:

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

Date:

March 5, 1981

Approved by:

Helen D. Beirne  
Helen D. Beirne  
Commissioner

Date:

3-10-81

I. REQUEST

Bill/Resolution No. House Bill 195  
 Title "An Act relating to comprehensive health planning."  
 Requested by Department of Health & Social Services Date March 5, 1981

II. FISCAL DETAIL

Agency Affected Department of Health & Social Services  
 Program Category Affected Health  
 BRU, Program, or Subprogram(s) Affected \_\_\_\_\_  
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)  
EXPENDITURES (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES		0				
200 TRAVEL		0				
300 CONTRACTUAL		0				
400 COMMODITIES		0				
500 EQUIPMENT		0				
600 LAND & STRUCTURES		0				
700 GRANTS, CLAIMS, ETC.		0				
<b>TOTAL</b>		<b>0</b>				

FUNDING (Thousands of Dollars)

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

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

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

This Bill does not directly impact the Division of State Health Planning and Development

IV. DATE March 5, 1981

PREPARED BY Shirley A. Lindsay  
 AGENCY DHHS - Div. of State Health Planning & Development  
 PHONE 465-3037

Original: Legislative Finance  
 cc: Budget and Management  
 Prime Sponsor (First Legislator Named) M. McQuinn M&B Approval M. McQuinn Date 3/6/81

AGENCY REQUESTING: Department of Health and Social Services

SUBJECT OF PROPOSED BILL: Amending the Comprehensive Health Planning Statutes (same HB 195)

BRIEF SUMMARY: This bill will bring State statutes into conformity with Federal requirements per health planning (same as HB 195 but reflects Federal Omnibus Reconciliation Act of 1981)(Ph 97-35) (Attach a more detailed explanation if you can.)

ESTIMATED FISCAL IMPACT: \$-0 - does not change fiscal note given for HB 195

OTHER STATE AGENCIES CONSULTED/AFFECTED: \_\_\_\_\_

CONSTITUTE GROUPS Those opposed: \_\_\_\_\_

Those in favor: State Health Coordinating Council and the Health Systems Agencies

Those yet to be contacted: \_\_\_\_\_

Has this or a substantially similar bill been introduced (and not passed) in the legislature in a previous session? Yes X No \_\_\_\_\_

If so, please state: Bill number HB 195-(1980)  
 Dept. of Law log no: J-77- -  
 (if it was a Governor's bill)

PREFERRED HOUSE OF INTRODUCTION: House

RATE THE BILL'S IMPORTANT TO DEPARTMENT: \_\_\_\_\_

DRAFT ATTACHED: Yes X No \_\_\_\_\_ Not finalized \_\_\_\_\_

APPROVAL BY COMMISSIONER: \_\_\_\_\_

DATE: \_\_\_\_\_  
 (Return completed form and attachments to Rebecca I. Engen, Special Assistant, Office of the Governor, by October 15, 1981.)

## EFFECT OF PROPOSED AMENDMENT OF HOUSE BILL 195

The federal Omnibus Reconciliation Act of 1981 (PL 97-35) 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, with states allowed to make annual adjustments in these thresholds to account for inflation. The new federal threshold levels are as follows:

- (1) \$600,000 for construction and other capital expenditures other than for major medical equipment;
- (2) \$400,000 for capital expenditures for major medical equipment; and
- (3) \$250,000 in annual operating costs for new institutional health services.

The proposed additions to Sections 1 and 2 of HB 195 would add further amendments to AS 18.07.011 and AS 18.07.021 to insert appropriate references to PL 97-35 so that the state may take advantage of the new options allowed it under the federal legislation. With these amendments the DHSS will revise its regulations to provide corresponding increases in the threshold levels for Alaska certificate of need review.

The other effects of HB 195 and the necessity for its passage as expressed in the Executive Summary remain unchanged.

AGENCY REQUESTING:

Department of Health and Social Services

SUBJECT OF PROPOSED BILL:

Amending the Comprehensive Health Planning Statutes.

BRIEF SUMMARY:

This bill will bring state statutes into conformity with federal requirements for health planning. (See attached summary)

(Attach a more detailed explanation if you can.)

ESTIMATED FISCAL IMPACT:

\$0 - FY 82

OTHER STATE AGENCIES CONSULTED/AFFECTED:

CONSTITUENT GROUPS Those opposed:

Those in favor:

State Health Coordinating Council and the Health Systems Agencies

Those yet to be contacted:

Has this or a substantially similar bill been introduced in the legislature in the past? Yes XX No     

If so, state

Bill number: H.P. 1007

Dept. of Law log no: J-77-

(if it was an Administration     )

PREFERRED HOUSE OF INTRODUCTION:

House

RATE THE BILL'S IMPORTANCE TO DEPARTMENT: Essential. State may jeopardize

\$1.4 million in federal funds in 1981 if bill is not passed.

DRAFT ATTACHED:

Yes XX

No     

Not finalized     

APPROVAL BY COMMISSIONER:

Helen D. Beiner

DATE:

10/29/80

(Return completed form and attachments to Legislative Assistant, Office of the Governor, by October 15, 1980.)

## Executive Summary

### Amendment to AS 18.07 "Comprehensive Health Planning"

The proposed legislation would amend existing statute AS 18.07 to comply with amendments to the National Health Planning and Resources Development Act, as incorporated in PL 96-79, signed into effect October 4, 1979. Such amendments are required of all states wishing to participate in and receive continued 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. Alaska receives an estimated \$5.6 million annually under the four above-named acts.

The purpose of the National Health Planning Act 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 incorporated into a State Health Plan; this document is to serve as a guide to the Governor and the Legislature for health policy development and resource allocation.

The proposed legislation amends the State's existing certificate of need program to bring it into conformance with the new requirements outlined in Section 1532 of PL 96-79. The primary additions to this section fall into three categories: major medical equipment, health maintenance organizations and coverage of rehabilitation facilities. Each of these issues is addressed below:

#### Major Medical Equipment

Section 1527(e) adds a requirement for certificate of need review of major medical equipment costing in excess of \$150,000 which will be used for inpatients regardless of its location. Major medical equipment located outside of a health care facility may be exempt from the 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 a "loophole" which would allow 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 1527 has been amended to exempt certain health maintenance organization (HMOs) which have enrollment of at least 50,000 from certificate of need review. The purpose of this amendment nationwide is to encourage competition in the delivery of health services and to afford competitive delivery systems an opportunity to get established. The impact of this provision is not expected to be significant since there are currently no such HMOs in Alaska.

#### Rehabilitation Facilities

Section 1527 has been amended to include rehabilitation facilities as facilities subject to certificate of need review. Rehabilitation facility is defined to mean inpatient or outpatient facilities which are 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. This provision will bring a few facilities under review which previously had not been required to obtain certificates of need.

The amendments to the national planning law, as incorporated in P.L. 96-79 also modify the planning process, strengthen the role of a Governor in approval and use of the State Health Plan and introduce organizational changes within the planning boards and advisory committees.

CS for SB 760

Section 1

Brings this section of the statute in compliance with PL96-79 and the Omnibus Reconciliation Act.

Section 2

More clearly delineates the functions of the state health planning agency. (as amended). Subsections (3) and (4) are functions currently in place but not specifically outlined in statute.

Section 3

Clarification of requirement for C.O.N. Subsections (4) and (5) are new, making reference to acquisition of facilities and major medical equipment purchases which have been referenced in regulations but not in statute. References to HMO's are for the purposes of bringing state law in compliance with federal law.

Section 4

A new section dealing with exemptions from C.O.N. grants more flexibility to the department in delineating conditions that do not require the C.O.N. process. Once again, references to HMO's are required for federal compliance.

Section 5

The only change is in the wording. "Office" was made "department" for continuity.

Section 6

Language clean up only for continuity in the statutes.

Section 7

Adds ambulatory care facility and HMO to current statute. Defines emergency situations for which an emergency C.O.N. can be granted - the elimination of safety hazards and compliance with licensure and accreditation.

Section 8

Clarification of 18.07.081. Protects certificate holders from arbitrary legal action to suspend or revoke a C.O.N. by a potential competitor.

Section 9

Language clean up for continuity.

Section 10

Language clean up in subsection (a). (b) is new. Defines the extent to which the Commissioner Cannot adopt regulations: for emergency certificates and for HMO's. (c) compliance with federal requirements for osteopathic facilities.

Section 11

Language clean-up amending PL 93-641

Section 12

Adds rehabilitation facility to the definition of health care facility for compliance purposes.

(A) is new, shows exemption of Pioneers Homes from CON.

(B) same reference as current Statute in new subsection.

Section 13

Language clean up amending PL 93-641

Section 14

All new definitions for terms used in this section and to conform with federal requirements.

(42 USC 1395 is the Social Security Act)

Section 15

Language clean up, amending PL 93-641

Section 16

Amending PL 93-641 in reference to the Advisory Board on Alcoholism.

Section 17

Language clean up amending PL 93-641 in reference to the grant in aid program in Alcoholism Statute.

Section 18

Repeals definitions of "office" and "secretary" because they are not longer used in the statute

Section 19

Effective date.

C.O.N. Thresholds

Old threshold was \$150,000 for any construction, services and equipment purchase.

New Thresholds

\$600,000 - Capital expenditures for construction.

\$400,000 - Major medical equipment.

\$250,000 - New services (annual operating costs).

## Section 1

Brings this section of the statute in compliance with PL 96-79 and the Omnibus Remediation Act.

## Section 2

more clearly delineates <sup>the</sup> functions of <sup>the</sup> state health planning agency. (as amended). Subsections (3) and (4) are functions currently in place but not specifically outlined in statute.

## Section 3

Clarification of requirement for C.O.N. Subsections (4) and (5) are new, making reference to acquisition of facilities and major medical equipment purchases which have been referenced in regulations but not <sup>in</sup> ~~statutes~~. References to HMO's are for the purposes of bringing state law in compliance with Federal law.

## Section 4

A new section dealing with exemptions from CON. Grants more flexibility to the department in delineating conditions that do not require the C.O.N. process. Once again, references to HMO's are required for federal compliance.

### Section 5

The only change is in wording. "Office" was made "department" for continuity.

### Sec 6

Language Clean up only for continuity in the Statute

### Sec 7

Adds ambulatory care facility and HMO to current Statute.

Defines emergency situations for which an emergency COA can be granted - the elimination of safety ~~standards~~ <sup>hazards</sup> and compliance with licensure and accreditation.

### Sec 8

Clarification of 18.07.081. Protects certificate holders from <sup>arbitrary</sup> ~~repeal~~ <sup>legal action to</sup> ~~revocation~~ <sup>revoke</sup> of COA ~~in an arbitrary fashion~~ by a potential competitor. ~~action of~~

### Sec 9

Language Clean up for continuity

## Sec 10

Language clean up in subsection (a)  
(b) is new. Defines the extent to  
which the Commissioner CANNOT  
adopt regulations:

for emergency certificates  
for HMO's

(c) Compliance with Fed. requirements  
for osteopathic facilities.

## Sec 11

Language clean-up amending PL 93-641

## Sec 12

adds rehabilitation facility to the definition  
of health care facility for compliance  
purposes

(A) is new, shows exemption of  
Pioneer's Homes from CON

(B) same reference as current statute  
in new subsection.

## Sec 13.

Language clean up amending PL 93-641

## Sec 14.

~~major medical programs~~ All new definitions

the terms used in this section and  
\* (42 USC 1395 is the Social Security Act)  
conforms with Federal requirements.

Sec 15

language clean up, amending PL 93-641

Sec 16

amending PL 93-641 in reference to  
the Advisory Board on Alcoholism

Sec 17

language clean up amending PL 93-641  
in reference to the grant in aid program  
in Mental Health statute.

Sec 18

repeals definitions of "office" and  
"secretary" because they are <sup>no longer</sup> used in  
the statute.

Sec 19

effective date.

## CON Thresholds

Old threshold was \$150,000 for <sup>any</sup> construction, services and equipment purchase

### NEW Thresholds

\$600,000 - Capital expendi<sup>tures</sup> for construction

400,000 - major medical equipment

250,000 - new services (annual operating costs)