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SENATE AMENDMENT

By SENATE RESS COMMITTEE

To: _____ SENATE BILL No. 577

To: _____ HOUSE BILL No. _____

PAGE:

LINE:

1570-11 Line 11

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STATE OF ALASKA

DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

DIVISION OF OCCUPATIONAL LICENSING

JAY S. HAMMOND, GOVERNOR

POUCH L
JUNEAU, ALASKA 99811
PHONE: (907) 465-2534

March 24, 1982

Honorable Charles H. Parr
Alaska State Senate
Pouch V
Juneau, Alaska 99811

Dear Senator Parr:

Re: SB 671, Chiropractic Licensing by Credentials

Speaking on behalf of the Chiropractic Board of Examiners, we are in full support of SB 671. This is legislation which has been derived from the work of the board and the Sunset review provisions of 1980.

This legislation will update our chiropractic law in keeping with the required changes of Sunset review and trends in legislation in the rest of the United States.

Again, we are in favor of the legislation as it stands in SB 671.

If there are any questions, please contact either myself or Dr. Keith Godfrey, the board president, in Anchorage.

Thank you for your consideration.

Sincerely,

for Anita W. [Signature]

for P. T. Davis, DC
Member
Alaska Chiropractic Board
of Examiners

PTD/saG/3

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. SB 671 "An Act relating to licensing of certain
Title chiropractors without examination; and providing for an effective date."
Requested by Senate HESS Committee Date 1-22-82

II. FISCAL DETAIL

Agency Affected Department of Commerce & Economic Development
Program Category Affected Public Protection
BRU, Program, Or Subprogram(s) Affected Regulation & Licensing of Professions
(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						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL	0	0	0	0	0	0

FUNDING (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
FULL TIME	0	0	0	0	0	0
PART TIME						
TEMPORARY						

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

IV. DATE 1-25-82

PREPARED BY Margaret Odland
AGENCY Division of Occupational Licensing
PHONE 465-2535

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

1981 LEGISLATIVE PROPOSAL REQUEST FORM

AGENCY REQUESTING: Department of Commerce & Economic Development
Division of Occupational Licensing

SUBJECT OF PROPOSED BILL: An Act relating to licensing of chiropractors; and providing
for an effective date.

BRIEF SUMMARY: Amends AS 08.20.140: License by credentials; adds requirement
of 3yrs active practice, interview with the board, and various
other evidences of license equivalency for out-of-state licenses.
(Attach a more detailed explanation if you can.)

ESTIMATED FISCAL IMPACT: No fiscal impact

OTHER STATE AGENCIES CONSULTED/AFFECTED: None

CONSTITUTE GROUPS Those opposed: Unknown

Those in favor: Unknown

Those yet to be contacted: None

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

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

PREFERRED HOUSE OF INTRODUCTION: _____

RATE THE BILL'S IMPORTANCE TO DEPARTMENT: _____

DRAFT ATTACHED: Yes X No _____ Not finalized _____

APPROVAL BY COMMISSIONER: _____

DATE: _____

(Return completed form and attachments to Rebecca L. Engen, Special Assistant, Office of the Governor, by October 15, 1981.)

IN THE _____

BY THE RULES COMMITTEE
REQUESTED BY THE GOVERNOR

BILL NO. _____
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE - SECOND SESSION

For an Act entitled: "An Act relating to licensing of chiropractors,
and providing for an effective date."

*Section 1. AS 08.20.140. is repealed and reenacted to read:

Sec. 08.20.140. LICENSE BY CREDENTIALS. The board may provide for licensing without examination of a chiropractor who

(1) is a graduate of a legally chartered accredited school of chiropractic approved by the board which requires for graduation a residence course of instruction of not less than four years of nine months each;

(2) has been licensed to practice chiropractic in another state, territory, or region with licensing requirements similar to or higher than those of this state at the time of original licensure in another state;

(3) has been engaged in continuous active practice for three years immediately preceding the application;

(4) is not the subject of an unresolved complaint, review procedure or disciplinary proceeding undertaken by a professional association;

(5) has not previously had a license revoked;

(6) has not failed the practical examination of this state;

(7) is personally interviewed by the board; and

(8) pays all fees required under AS 08.20.180.

*Sec. 2. This Act takes effect immediately in accordance with AS 01.10.070(c).

1981 LEGISLATIVE PROPOSAL REQUEST FORM

AGENCY REQUESTING: Department of Commerce & Economic Development
Division of Occupational Licensing

SUBJECT OF PROPOSED BILL: An Act relating to the practice of physical therapy; and
providing for an effective date.

BRIEF SUMMARY: Amends sections dealing with referral of patients to include
physical therapists accepting referrals from chiropractors; and
deletes the issuance of a temporary permit to foreign therapists.
(Attach a more detailed explanation if you can.)
See Attached.

ESTIMATED FISCAL IMPACT: No Fiscal Impact

OTHER STATE AGENCIES CONSULTED/AFFECTED: None

CONSTITUTE GROUPS Those opposed: Alaska Association of Physical Therapists

Those in favor: Alaska Chiropractic Association

Those yet to be contacted: None

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

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

PREFERRED HOUSE OF INTRODUCTION: _____

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 L. Engen, Special Assistant, Office of the Governor, by October 15, 1981.)

Proposed Legislation, 1982 - Physical Therapy

The purpose for adding "chiropractic" to AS 08.84.120(8) and 08.84.160, is to allow physical therapists to perform their services on patients referred to them by licensed chiropractors. Unless chiropractors are specifically stated in the law as being allowed to refer patients to physical therapists, it is unlawful for physical therapists in this state to accept and treat such patients as referred. Attached is a letter from the chairman of the Alaska Board of Chiropractic Examiners explaining the position of the board on this issue. It was the Board of Chiropractic Examiners who originally requested this amendment in the physical therapy law. The Board of Physical Therapy is against the requested change. The Department of Law has been researching this issue for several months in regards to anti-trust suits.

The Board of Physical Therapy has requested AS 08.84.065(d) be deleted, which mandated issuance of temporary permits for foreign-trained therapists while serving an internship in the state. The board feels that a temporary permit should only be issued to a foreign-trained therapist after successful completion of an internship, since the purpose of the internship is to evaluate their competency and, often, their proficiency in understanding English.

January 8, 1981

Mr. Keith Godfrey, President
Board of Chiropractic Examiners
3800 Lake Otis Parkway
Anchorage, AK 99504

Re: Refusal by Physical Therapists
of Chiropractic Referrals
J-66-318-81

Dear Mr. Godfrey:

The division of occupational licensing of the Department of Commerce and Economic Development has referred to our office the question raised by Adrian Barber in his letter to you of August 8, 1980 (enclosed). I understand that you wish an attorney general's opinion regarding the validity of AS 08.84.120(8) and AS 08.84.160, which preclude physical therapists from accepting referrals or prescriptions from chiropractors.

First, it is correct that the statutory sections do exclude chiropractors from the classes of health care providers from whom physical therapists may accept referrals or prescriptions, since AS 08.84.160 specifically names health care providers from which a physical therapist may accept prescriptions, and does not include chiropractors. Also, the Chairperson of the Physical Therapy Board, Ms. Donna Klokkevold, informs us that that board does interpret the statute to exclude referrals from chiropractors and that physical therapists do not accept such referrals.

The validity of the statutory provisions is questionable, as the exclusion of chiropractors may represent a serious antitrust violation. This is probably a question of federal law, however, under the Sherman Antitrust Act */ The extension

*/ As you are aware, several lawsuits have been brought by or on behalf of chiropractors in other states in which this issue is being litigated.

January 8, 1980

of antitrust doctrine into the area of health care is a fairly recent trend in the law, and it is not possible to state definitely what the law is on the particular point that you raise.

Our office can only state that, as a general matter, a law must be followed until (1) it is amended or otherwise changed by the legislature; or (2) it is attacked and found invalid by a proper court. Our office has no power to invalidate the determinations of the legislature, although, in situations where we believe a particular provision is clearly unconstitutional, we will advise an agency to not carry out or enforce it. These particular provisions appear questionable not only on antitrust grounds, but also on grounds that a patient has a right to the full course of treatment recommended by the health care provider of his or her choice. Further, they appear subject to attack on the constitutional grounds of equal protection and right to privacy. However, they are not so clearly infirm that we may confidently state that they are invalid.

We suggest that you contact the governor's legislative assistant regarding a possible change in AS 08.84.120(8) and AS 08.84.160. Then, if legislative change is not forthcoming, your board may want to consider a legal action attacking the provisions in question.

I hope this answers your questions. If I can be of any further assistance, please feel free to contact me.

Sincerely,

WILSON L. CONDON
ATTORNEY GENERAL

By: *Sarah T. Kavasharov*

Sarah T. Kavasharov
Assistant Attorney General

STK/blc

cc: Keith Specking, Legislative Assistant
Office of the Governor

Ms. Donna Klokkevold, Chairperson
Physical Therapy Board

*286-5744
modrak*

February 20, 1981

Ms. Donna Klokkevold
Chairperson
Physical Therapy Board
3800 Lake Otis Parkway
Anchorage, AK 99504

Re: Validity of AS 08.84.120(8) and
AS 08.84.160
Our File: J-66-318-81

Dear Ms. Klokkevold:

On January 8, I sent to you a copy of a letter to Mr. Godfrey, president of the Board of Chiropractic Examiners, regarding the questionable validity of the above statutory provisions. I wonder if your board has had time to review the provisions and what is the board's view about retaining them? Our office believes that their validity is so questionable that an effort should be made to change them, but the first step in the process of change is to determine whether the boards may work this out and agree upon a recommendation that the governor may submit to the legislature.

Please let me hear from you regarding this.

Thank you.

Sincerely,

WILSON L. CONDON
ATTORNEY GENERAL

By:

Sarah T. Kavasharov
Sarah T. Kavasharov
Assistant Attorney General

STK:wjp

cc: Keith Godfrey, President
Board of Chiropractic Examiners

Harry Treager, Director
Division of Occupational Licensing

Keith Specking, Legislative Assistant
Office of the Governor

**DEPARTMENT OF COMMERCE &
ECONOMIC DEVELOPMENT**

DIVISION OF OCCUPATIONAL LICENSING

POUCH D
JUNEAU, ALASKA 99811

Phone: 465-2534

April 6, 1981

State Of Alaska
Department Of Law-Office Of Attorney General
Pouch K-State Capitol
Juneau, Alaska 99811
Attn: Sarah T. Kavasharov

Re: Refusal by Physical Therapists
of Chiropractic Referrals
J-66-318-81

Dear Ms. Kavasharov:

I am enclosing explanations of the Chiropractic activities along with those of the Alaska Chiropractic Society in regard to the Physical Therapist Board and their statutory provisions validity.

Lacking any response from the Physical Therapy Board or further response from the Physical Therapy Association to date, it now appears we are at an impasse as far as reaching an agreement for the Governor to submit to the Legislature. With the present session this far along it seems unlikely it would get far anyway.

Judging from what has transpired thus far, it appears the Physical Therapists are more prepared to have The Department of Law recommend the provisions not be enforced; or, have them changed without inter-professional cooperation. The Chiropractic Physicians feel with temporary non-enforcement, at least the problem would temporarily be alleviated with legislation to follow next session.

It has been suggested the Physical Therapy Law is now open because of H.B.106. We have no idea whether the Physical Therapists requested the Bill, whether it could be amended or if it stands a chance of going anywhere this session. The Academy of Physical and Rehabilitative Medicine has settled out of court with the Chiropractors in their suit. Their recommendations include full inter-professional cooperation between Medical Physicians' and Chiropractic Physicians.

With the "hand and glove" relationship existing between the Physical Medicine people and the Physical Therapists it seems quite odd there would be any difficulty in the Physical Therapists changing their statutes to accomplish this end.

APR 9 1981

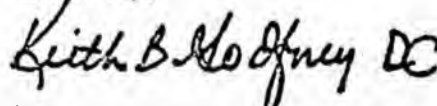
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Re: Refusal by Physical Therapists
of Chiropractic Referrals
J-66-318-81

As the American Osteopathic Association stated in their settlement, "inter-professional cooperation and referrals are in the best interest of the patient." That's just exactly where our concerns lie.

We look forward to hearing from you and remain interested in pursuing this problem toward an equitable solution.

Sincerely,



Keith B. Godfrey, D.C.
President-Alaska Board Of
Chiropractic Examiners.

KBG/kh

Enclosed:

- 1-Board letter read at
P.T. Association meeting.
- 2-Letter to Board from ACS.
- 3-Letter to Dr. Barber from
Marsha Wakeland, L.P.T.
- 4-Supporting material presented
by ACS to P.T. Assoc.

Minutes of Meeting
Alaska Physical Therapy Board

5-14-81

12 AAC 74.940 - #3, line 2, change the word "continuing" to "daily."
#4, line 2, change the word "working" to "practicing." #5, line 1,
delete the word "periodic" to read "on-site supervision."

The board decided not to adopt the changes made to these regulations at this time but to wait until Marjorie Odland, Regulations Specialist, reviews the changes and presents a final draft for the board's review.

BOARD POLICIES: There were no policies to be reviewed because a majority of the topics which were covered by policies are now addressed by regulations. The board suggested that policies be tabled until such time that the regulations are finalized.

HB 106 (Athletic Trainers): Donna Klokkevold explained to the board that HB 106 was introduced to the Legislature by request of a physician in Anchorage. The board expressed that they had no desire to regulate athletic trainers under the Physical Therapy Practice Act. The board also stated, for the record, that the board was not in favor of HB 106 and will not pursue the matter further unless asked to.

Tom Sutton advised that the APTA does not give recognition to athletic trainers either.

CHIROPRACTOR STATUTES: Donna Klokkevold mentioned the on-going problem of chiropractor statutes being in conflict with the physical therapy statutes. Donna advised she received a letter, dated February 20, 1981, from Sarah Kavasharov, Assistant Attorney General, in which Sarah was contacted by the Board of Chiropractors inquiring about the validity of the Physical Therapy statutes which state that physical therapists accept referrals from medical doctors only. Sarah Kavasharov asked if the Physical Therapy Board had reviewed this statute. Donna brought the letter to the Alaska Physical Therapy Associations' meeting for their opinions. The APTA invited the chiropractors to their meeting which they did attend, and, following their discussions, the therapists expressed that they were not in favor of having the physical therapy statutes changed. Donna advised she read an opinion by an attorney for the American Physical Therapy Association, who researched this topic and stated that the physical therapists had no reason to change their statutes unless it came to court. Bud Simpson also agreed with the opinion of the APTA attorney and also mentioned that he could not see where the physical therapy statutes would be questionable in respect to its validity because various organizations are created differently under the anti-trust laws. He also mentioned that one reason that the physical therapists may want to accept referrals by chiropractors would be to avoid chiropractors practicing physical therapy. Donna advised she had consulted a physician in regard to this topic and the physician felt it would be fine to have a chiropractor-physician referral, where the physician could review any problems but not a chiropractor-therapist situation where there would not be an adequate diagnostician involved.

IN THE _____

BY THE RULES COMMITTEE
REQUESTED BY THE GOVERNOR

BILL NO. _____
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE - SECOND SESSION

For an Act entitled: "An Act relating to the practice of physical therapy, and providing for an effective date."

*Section 1. AS 08.84.120(8) is amended to read:

(8) has treated or attempted to treat ailments of human beings otherwise than by physical therapy, or has attempted to practice independent of the prescription and direction of a person licensed to practice medicine, osteopathy, dentistry [OR], podiatry or chiropractic.

*Sec. 2. AS 08.84.160 is amended to read:

A person licensed under this chapter may not treat human ailments by physical therapy or otherwise except under the prescription and direction of a person licensed to practice medicine, osteopathy, dentistry, [OR] podiatry or chiropractic. This chapter does not authorize any person to practice medicine, osteopathy, chiropractic, or other method of healing.

*Sec. 3. AS 08.84.065(d) is repealed.

*Sec. 4. This Act takes effect immediately in accordance with AS 01.10.070(c).

Alaska Treatment Center - Donna Klokkavold. 272-0586

Beth Nanson 3260 Hospital Ave 99801

Physical Therapist 1-14-

representing Alaska Chapter of physical therapy in
Juneau. Also considered non-medical approach
to treatment. Diagnostic capabilities are
questionable. Some of their techniques are
similar to physical therapy modalities.
PT do therapy but don't diagnose

Check rule of Pt. Assoc.

^{physical therapy}
Adapted Barney - pres the chapter
Natl Pt. Assoc - code of ethics
does not include Chiropr - only from medical

Do other states:

Idaho

Calif. does not require referral
Hawaii