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A M E N D M E N T

OFFERED IN THE SENATE:

By: Judiciary Committee

To: CS SENATE BILL No. 43 (L&C)

HOUSE BILL No. \_\_\_\_\_

PAGE: 1

LINE: 9

Page 1, line 9:

Delete lines 9 - 11 and insert:

- (5) Provides benefits for medicare supplemental and individual disability which are unreasonable in relation to the premium charged.

COMMITTEE REPORT  
SENATE

FURTHER: None

2/24/81

Date: March 25, 1981

Mr. President:

The Committee on JUDICIARY has had SB 43  
filing insurance forms

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

- do pass  do not pass
  - do pass with attached amendments(s)  same title
  - replace with CS for \_\_\_\_\_  new title
- and recommends \_\_\_\_\_

AND attaches a "Letter of Intent"  New Fiscal Note

reports it back without recommendation

referred to the \_\_\_\_\_ Committee

MEMBERS SIGNING  
DO PASS

Charles P. ...  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
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MEMBERS HAVING  
OTHER RECOMMENDATIONS:

...  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

...  
\_\_\_\_\_  
CHAIRMAN



# Alaska State Legislature

## Senate

### Judiciary Committee

Official Business

Pouch V  
State Capitol  
Juneau, Alaska 99811

#### SUMMARY OF SENATE JUDICIARY COMMITTEE HEARING OF MARCH 20, 1981

Butrovich Committee Room, State Capitol - Juneau, Alaska

#### Legislation Before Committee:

SB 43 "An Act relating to insurance."

SB 190 "An Act revising the drug laws and making amendments to the criminal laws of the state; and providing for an effective date."

The meeting of the Senate Judiciary Committee was called to order by Chairman Rodey at 1:35 p.m. Committee members present were Senators Hohman, Parr, Ray, and Rodey. Senator Bennett was absent from the meeting.

Committee members heard testimony from Don Koch, Division of Insurance, in support of passage of SB 43. Mr. Koch stated that medicare supplemental policies require that the state perform certain regulatory functions, or the federal government will. These functions are two-fold: (1) apply cost benefits regulations, and (2) adopt minimum standards. Mr. Koch stated that the bill addresses both of these issues and will enable the state to adopt regulations to conform with federal standards.

The Committee next heard testimony from Mike Thomas of the Division of Insurance in support of SB 43, and suggested specific language changes for subsection (5). Chairman Rodey directed the committee staff to prepare an amendment for subsection (5) to read:

- (5) Provides benefits for medicare supplemental and individual disability which are unreasonable in relation to the premium charges. [ ,but this paragraph does not apply to life insurance, annuities, or group disability insurance.]

The Committee then heard testimony from Dan Hickey, Chief Prosecutor, and William Nix, Commissioner of the Department of

THE LEGISLATURE OF THE STATE OF ALASKA  
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. CS SB 43 (L&C)  
 Title An Act Relating to Insurance  
 Requested by Labor & Commerce Committee Date 2-24-81

II. FISCAL DETAIL

Agency Affected Department of Commerce & Economic Development  
 Program Category Affected Public Protection  
 BRU, Program, or Subprogram(s) Affected Division of Insurance  
 (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	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						


FUNDING (Thousands of Dollars)

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

POSITIONS

FULL TIME	0	0	0	0	0	0
PART TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

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

IV. DATE 3-6-81 PREPARED BY  Kenneth C. Moore, Director of Insurance  
 AGENCY Department of Commerce & Economic Development  
 PHONE 465-2515  
 Original: Legislative Finance  
 cc: Budget and Management  
 Prime Sponsor (First Legislator Named)



# Alaska State Legislature

## Senate

### Committee on Labor & Commerce

Pouch V  
State Capitol  
Juneau, Alaska 99811

Official Business

Summary - SB 43 - Rules/by Request

"An Act relating to filing of insurance policy forms."

The addition of subsection 5 to 21.42.130 would insure State compliance with P.L. 96-265 which creates a certification process for certain types of insurers, setting new standards for medicare supplemental insurance, and including a requirement for premium benefit ratios in medicare supplemental insurance.

There is an apparent federal deadline of July 1, 1982 by which time States must act on the requirements concerning medicare supplemental insurance. However, federal surveys of state laws beginning on July 1, 1981 will be used to assess the need for federal intervention. Therefore, it is felt that the issue must be dealt with immediately to avoid such intervention.

The Federal Law - P.L. 265 - is the Social Security Act adopted by the 96th Congress. The 'Baucus Amendment' of the Act required that states comply in two areas concerning medicare supplemental insurance:

1. States shall adopt minimum standards of coverage for medicare supplemental policies.

There is sufficient statutory authority to comply with this requirement under 21.42.120, Filing of Forms.

2. States must enforce cost/benefit ratio regulations.

It is felt, by the Div. of Insurance, that SB 43, with the addition of subsection 5, will comply with the federal requirements.

Fiscal Impact - 0

# STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

## DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

OFFICE OF THE COMMISSIONER

POUCH D

JUNEAU, ALASKA 99811

Phone: 465-2500

February 10, 1981

Honorable Bob Mulcahy, Chairman  
Senate Labor and Commerce Committee  
Pouch V  
Juneau, Alaska 99811

Dear Senator Mulcahy:

Re: Senate Bill 43

On Monday, February 9, 1981, Don Koch of this department appeared before your committee in support of SB 43. A representative of the Health Insurance Association of America (HIAA) also appeared and presented that association's views on SB 43 which were partly in conflict with Mr. Koch's testimony and position. Your committee suggested that it would be appropriate for this department and HIAA to attempt a compromise solution to conflicts.

With the assistance of Mr. Mike Thomas, HIAA's representative, we have worked out a resolution of our differences and ask that you offer the enclosed revision as a substitute to SB 43. It accomplishes the desires of this department in a manner acceptable to HIAA. We sincerely appreciate the reception that you and your committee have given this proposal.

Sincerely,



Charles R. Webber  
Commissioner

CRW/va121G7  
Enclosure

\* Section 1. AS21.42.130 is amended by adding a new subsection to read

(5) provides benefits which are unreasonable in relation to the premium charge, but this subsection shall not apply to life insurance, annuities or group disability insurance.

\* Section 2. AS 21.84.590 is amended by adding a new subsection to read:

(10) AS 21.89.050

\* Section 3. AS 21.87.340(16) is amended to read:

(16) AS 21.89.040 and AS 21.89.050

\* Section 4. AS 21.89 is amended by adding a new section to read:

AS 21.89.050. Medicare Supplement Insurance. The director shall from time to time adopt regulations necessary to comply with the requirements of Section 507(a) of Public Law 96-265 enacted by the Congress of the United States, and of any amendments to that section and of any federal regulations pertaining to that section, in order that this state shall retain its full authority to regulate minimum standards for medicare supplement insurance.

OF COUNSEL  
V E MONAGLE

ROBERTSON, MONAGLE, EASTAUGH & BRADLEY

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February 5, 1981

The Honorable Robert Mulcahy  
Chair, Senate Commerce & Labor Committee  
Alaska State Senate  
Pouch "V", Mail Stop 3100  
Juneau, Alaska 99811

Re: SB 43

Dear Senator Mulcahy:

SB 43 has been introduced at the request of the Governor because of Federal Legislation known as the Baucus Amendment, which became part of PL 96-265, the 1980 Social Security Amendment Law. The Amendment establishes minimum federal requirements for the regulation of individual medicare supplement policies, and for some group medicare supplement policies. The Amendment requires that the federal government regulate any such medicare supplements in a state that is found by the Supplemental Health Insurance Panel established under PL 96-265 not to be expected to have established by July 1, 1982 an approved state regulatory program meeting the standards of the statute. The Division of Insurance believes that SB 43 gives them the only authority that they need to have under the Baucus Amendment which they do not presently have: the power to disapprove policy forms if benefits are not found to be reasonably related to premiums.

This letter is written on behalf of the American Council of Life Insurance, and its sister trade association, the Health Insurance Association of America. The Council believes that SB 43, in its present form, does things which are not required by the Baucus Amendment and are seriously objectionable. We also believe that the bill does not in fact supply all of the authority the Alaska Division of Insurance lacks to adopt regulations completely complying with the Baucus Amendment.

February 5, 1981

In general, Baucus calls for a regulatory program to require insurance policies and Blue Cross/Blue Shield Plan medicare supplements to meet minimum standards of an NAIC 1979 Model Act and Regulation, and to meet minimum loss ratio standards. The NAIC 1979 Models generally establish minimum standards for policy benefits and provisions, prohibit certain types of policy provisions, have some disclosure requirements, and require the insurer to furnish a prescribed notice when its policy replaces another policy.

The NAIC, with HIAA input, revised its Model Act and Regulation in December 1980, to produce what we hope is a regulatory plan that meets the Baucus requirements. Unfortunately, Baucus contains some ambiguities which are not yet resolved, and the federal regulations have not yet been issued. The enclosed copies of the revised NAIC Model Act and Regulation have been marked by hand to correct some errors. Most states will probably adopt both the Act and the Regulation in this form.

The Insurance Division believes that under AS 21.42.130(2), requiring the Division to disapprove a policy form if it contains a "misleading clause," or an "exception or condition which deceptively affects the risk purported to be assumed in the general coverage of the contract," they can disapprove any policy form that purports to be a medicare supplement if it does not meet the requirements of the regulation they expect to adopt on medicare supplements.

We disagree with the Division's approach because the Division has not been given statutory authority to establish minimum standards for medicare supplements; that is, they may not establish minimum benefits or required and prohibited provisions. The Amendment also would appear to us to be inadequate because some of the Baucus requirements have nothing to do with the approval or disapproval of a policy form under AS 21.42.130. What we are most concerned about is that it may be decided at the federal level that the Insurance Division did not have the authority to adopt the regulation, and that therefore the state is not in compliance with Baucus.

Ironically, while the present bill may include too little to satisfy the requirements of the Baucus Amendment, it also includes in other ways much more than is needed to respond to Baucus, and we are concerned about this over-

February 5, 1981

inclusiveness as well. SB 43 by its terms is not limited to Medicare Supplement coverage. The bill applies to all types of insurance policies that are subject to AS 21.42.130, including life insurance, annuities, and all disability (health) insurance. Also, although casualty insurance is subject to actual rate regulation under AS 21.39, there are some exceptions to such regulation included in Sections 20 and 40, and those exceptions seem to be inconsistent with the proposed amendment. We point out in passing that the Blue Cross/Blue Shield carriers are not subject to this Section, because their policy form and rate provisions are in AS 21.87.

Health insurance rates are normally established by insurance company life actuaries, or sometimes by specially trained health actuaries. The process of setting rates in this area is very complex. Insurance departments are generally not equipped to regulate health insurance rates. Among other things, the qualified actuaries are simply not available. Part of the problem is due to the complexity of the process of rate making, but part of it is also due to the diversity of coverages. For example, rates for the same individual policy may be quite different, depending on risk characteristics of the people it is marketed to, and group policy rates are normally different for each group. Health insurance rates are in fact regulated by the intense competition in the business among the large number of health carriers. The exception is in the case of credit health insurance, where coverages are standardized and simplified and there is reverse competition in the sense that the higher the rate is set, the more the insurer can pay the creditor for its services. In that area, insurance rates are regulated by insurance departments. In Alaska, credit life and disability are governed by a special chapter, AS 21.57.

We are not sure that the Insurance Division really intends to exercise any authority over group health insurance rates, except to the extent required by Baucus for medicare supplements. We would be opposed to their being given the authority to do so in the future.

An alternative to SB 43 which would avoid both over-inclusion and under-inclusion, would be a bill which simply and directly authorized the Director to adopt

The Honorable Robert Mulcahy  
Page Four

February 5, 1961

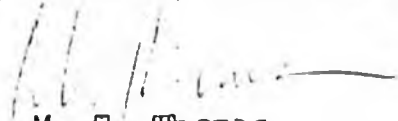
Whatever regulations are necessary to meet the minimum requirements of the federal law. A draft of a bill which would do that is enclosed.

As stated at the beginning of this letter, the impetus for SB 43 is the Baucus Amendment. There are some interpretation problems in the Amendment, and the federal regulations have not been adopted. Those regulations may clarify, confuse, or add to, the requirements. The state's need to retain adequate authority to regulate insurance in the face of the Baucus Amendment can be met simply and directly, without either raising questions about the adequacy of the state's authority, or getting into complicated questions of rate regulation beyond medicare supplement insurance. We would urge that this more direct approach be used.

Thank you for this opportunity to comment on SB 43. I would be glad to obtain any further information the Committee may want that the Association has available to it. I would appreciate being advised of any scheduled hearing on the bill.

Sincerely,

ROBERTSON, MONAGLE, EASTAUGH & BRADLEY

  
M. T. Thomas

MTT:vb

Enclosures

cc: Charles D. Kuhnen (w/o enclosures)  
Bill Lincoln (w/o enclosures)

Attachment A

Section 1. AS 21.36 is amended by adding a new section to read:

Section 21.36.360. Medicare supplement insurance. The Director shall from time to time adopt such rules as are necessary to comply with the requirements of Section 507(a) of Public Law 96-265 enacted by the Congress of the United States, and of any amendments to that section and of any Federal regulations pertaining to that section, in order that this State shall retain its full authority to regulate minimum standards for Medicare supplement insurance.

PRESENT STATUTES go to 21.36.200

offered by Mike Thomas  
INSURANCE Lobbyist

STATE OF ALASKA  
THE LEGISLATURE

FOUR-YEAR STATE OFFICE  
JUNEAU, ALASKA 99801  
907 465 2511

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

February 4, 1981

SUBJECT: Possible alternate language for SB 43  
(Work Order No. 12-0479)

TO: Senate Labor and Commerce Committee  
Attn: Linda Otey, A.A.

FROM: Linn H. Asper  
Legislative Counsel

In connection with my memorandum of January 28th on SB 43, I have prepared the following alternate language for SB 43 to limit the bill to medicaid supplemental insurance. As noted in the memorandum, I would place the new language in AS 21.89, as follows:

AS 21.89 is amended by adding a new section to read:

Sec. 21.89.060. MEDICAID SUPPLEMENTAL INSURANCE. A medicaid supplemental insurance policy may not be issued unless it provides benefits which are reasonably related to the premiums charged, based on guidelines as set out in regulations to be adopted by the director. In this section "medicaid supplemental insurance policy" means a health insurance policy or health benefit plan offered by a private entity to individuals eligible for medicaid benefits, to provide reimbursement for medical expenses not covered by the medicaid program.

LHA:ljb

Chapter 89. Miscellaneous Provisions.

Sec. 21.89.010. Settlements. A settlement made under a motor liability insurance policy of a claim against an insured arising from that policy from an accident or other event insured against for damage to or destruction of property owned by another insured shall not be construed as an admission of liability by the

insured, or the insurer's recognition of that liability, with respect to any other claim arising from the same accident or event. The settlement shall be inadmissible in evidence in any legal action. (1 ch 123 SLA 1966)

Legislative committee report.—For 123, SLA 1966, see House Journal, legislative committee report on ch. (1966, page 841.

alternate language: Medicaid Supplemental Insurance

Sec. 21.89.060

STATE OF ALASKA  
THE LEGISLATURE

POLICY STATE CAPITOL  
JUNEAU ALASKA 99801  
907-465-3822

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

January 28, 1981

SUBJECT: Filing Insurance Policy Forms - SB 43  
(Work Order No. 12-0479)

TO: Senate Labor and Commerce Committee  
ATTN: Linda Otey

FROM: *LHA* Linn H. Asper  
Legislative Counsel

You have asked if SB 43 as drafted, if enacted, will insure state compliance with P.L. 96-265 (42 U.S.C. Sec. 1395ss) and prevent federal intervention to regulate medicare supplemental insurance policies.

P.L. 96-265 creates a certification process for certain types of insurers, setting new standards for medicare supplemental insurance, including a requirement that such policies must be designed to pay out at least 75 percent of premiums collected in benefits. [42 U.S.C. Sec. 1395ss(c)(2)]. This is a federal requirement not directly related to state insurance laws, but if a state has not created requirements similar or identical to the federal requirements by July 1, 1982, the federal certification will come into play, superseding state regulation in this area. The State of Alaska favors state rather than federal regulation of the insurance industry in Alaska and thus wishes to obtain legislative authority to control premium-benefit ratios by enactment of SB 43.

The Division of Insurance has stated that the federal deadline of July 1, 1982 is misleading in that there is to be a federal survey of state laws existing on July 1st of this year which will be used to assess the need for federal intervention. The Division believes that changes in state law which become effective before July 1, 1982, but after July 1st of this year will not prevent the federal intervention which they seek to avoid. If the Division is correct, and I have no

January 28, 1981

reason to doubt them on this, then they do need authorizing legislation during this session to allow them to make regulations before July 1st of this year to avoid federal intervention.

It appears that SB 43 will give the Division of Insurance the authority it needs to avoid the threat of federal intervention as to medicaid supplemental insurance. It should be noted that the bill as written would allow regulation of premium-benefit ratios in all insurance policies written in the state, not just medicaid supplemental insurance. This broad authority may be desirable but it is not required by the new federal law. I also have some difficulty with the placement of the new law in AS 21.42.130, which has to do with insurance policy format, not substantive regulation of insurance rates. It might better be placed in AS 21.89 MISCELLANEOUS PROVISIONS, but its placement in AS 21.42.130 will not invalidate the law.

To summarize, SB 43 will have the effect of supplanting federal certification procedures in the area of premium-benefit ratios in medicaid supplemental insurance, if enacted this session. It goes beyond medicaid supplemental insurance and, in fact, gives the Division of Insurance power to set premium-benefit ratios for all insurance policies.

LHA:jdn

OF COUNSEL  
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February 10, 1981

The Honorable Robert Mulcahy  
Chair, Senate Commerce & Labor Committee  
Alaska State Senate  
Pouch "V", Mail Stop 3100  
Juneau, Alaska 99811

Re: Senate Bill 43

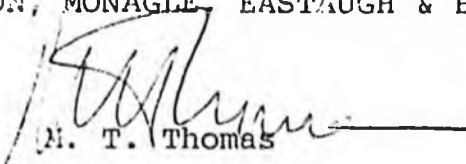
Dear Senator Mulcahy:

I have reviewed Commissioner Webber's letter of February 10, 1981, and the enclosed proposal for a committee substitute. The proposed language will, we believe, adequately and appropriately deal with the director's concerns, and we urge its adoption.

Thank you for your consideration on this bill.

Very truly yours,

ROBERTSON, MONAGLE, EASTAUGH & BRADLEY

  
M. T. Thomas

MTT/dh



Official Business

# Alaska State Legislature

## Senate

### Committee on Labor & Commerce

Page V  
State Capitol  
Juneau, Alaska 99811

February 9, 1981

#### Senate Labor & Commerce Committee Meeting

The meeting was called to order at 3:10 P.M. by Chairman Mulcahy. Those present were: Senators Hohman, Ziegler, Fahrenkamp and Rodey.

First on the agenda was SB 19 "An Act relating to the legal rate of interest and providing for an effective date."

Chairman Mulcahy mentioned that a line of credit funds should be a matter of separate legislation.

Mr. Don Rhoades, President of Peoples Bank in Anchorage, testified on SB 19, citing the Belt & Daniels report, 1980 Federal Deregulation Act, as to impact on banks (tape reading 035 to 150).

Mr. Rhoades stated that Federal regulations pre-empt state usury laws at \$25,000.

Senator Rodey stated that pre-emption for \$25,000 will apply April 1, 1985; we are taking ourselves from within a Federal scheme and developing our own usury statute. Banking deregulation allows us to do it. We are exempting the State of Alaska from the Federal Act and wish to set our own usury rate. Senator Rodey moved to amend SB 19 by deleting the figure \$100,000 in line 17, page 1 of SB 19 to read \$25,000. There were no objections.

SB 19 was passed out of Committee with "Do Pass" recommendations.

Next on the agenda was SB 43 "An Act relating to filing insurance policy forms."

page 2  
Senate L & C Committee Meeting  
February 9, 1981

Mr. Don Koch, Alaska Division of Insurance testified on SB 43. He stated that the Division of Insurance ask through the Governor to respond to Federal legislation which will put the Federal Government in a position to regulate medicare supplement insurance, unless the State of Alaska takes certain actions:

- 1.) Adopt minimum standards for medicare supplemental policies.
- 2.) Implement loss ratio regulation to examine relationships of benefits to cost - Public Law 96-265 effective July 1, 1982. (tape reading 322 to 546)

Mike Thomas, lobbyist for the American Council of Life Insurance testified on SB 43. He felt that the Federal regulations are not necessarily reflective in SB 43. He also felt there were two problems with the bill:

- 1.) It gives the Division the authority to set and approve regulations in all phases of insurance.
- 2.) This bill may not give enough authority to meet requirements. Present statutes do not give authorities. (tape reading 550 to 640)

Chairman Mulcahy felt that further staff research is needed.

The meeting was adjourned by Mulcahy at 3:40 P.M.

# STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

## DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

OFFICE OF THE COMMISSIONER

POUCH D

JUNEAU, ALASKA 99811

Phone: 465-2500

January 20, 1981

Honorable Bob Mulcahy  
Chairman, Senate Labor and  
Commerce Committee  
Pouch V  
Juneau, Alaska 99811

Dear Senator Mulcahy:

RE: Position Paper SB 43

Thank you for your request for information on SB 43.

The recent passage of Public Law 96-265 in the Federal Congress has the effect of transferring a portion of the regulation of insurance to the Federal Government unless the various states establish certain equivalent programs and do so on an extremely short time frame.

The insurance industry has traditionally been regulated by the various states, individually. This approach was reinforced in 1945 with the passage of the McCarran-Ferguson Act (15 USCA 1011-1015). There has been a fairly steady attempt to bring such regulation under a federal agency, particularly by the Federal Trade Commission, which has been resisted by the states with equal fervor. The principal argument at the federal level has been that insurance is interstate commerce and should be regulated by a federal agency. The states, on the other hand, argue that the federal bureaucracy is either unable or unwilling to recognize and be responsive to local conditions and needs. Due to Alaska's population relative to the rest of the nation, this is an argument that has a good deal of substance. In fact, Alaska has already experienced a situation that accents the State's concerns and did so at the expense of Alaska's citizens to the tune of about \$36,000, and that was in 1972 dollars.

Public Law 96-265 addresses changes in the Social Security Act and includes language dealing with medicare supplemental policies. It has two requirements termed "The Baucus Amendments" which impact State regulation of insurance. The first requirement concerns adoption of minimum standards of coverage for medicare supplemental policies. The Division of Insurance has sufficient statutory authority to establish the necessary standards based on an argument that it would be a misrepresentation to offer or sell a contract of insurance that purports to be a medicare supplemental policy unless it provides the adopted minimums. This can be accomplished by regulation and work on it has commenced.

January 20, 1981

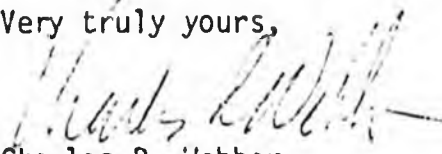
The second requirement of "The Baucus Amendment" is for cost/benefit ratio regulation. This is the area in need of a legislative solution. The Division of Insurance does not currently have rate regulatory authority over disability or accident/health kinds of insurance including medicare supplemental policies. It, in fact, wishes to avoid rate regulation of the kind now applied to property and casualty kinds of insurance as there would be a fiscal impact not commensurate with the results. However, it would be appropriate to determine a reasonable ratio of cost to benefit which could be regulated rather simply based on information supplied to the division annually, thus avoiding an elaborate and costly actuarial review process.

Under the federal legislation, the Secretary of Health, Education and Welfare is required to establish a certification program with respect to the various states that policies issued in those states meet certain standards, unless a state has established a program to regulate the minimum standards and cost/benefit relationship as previously noted. The secretary is to base his actions on a study to be completed by July 1, 1981, so we are faced with an exceptionally short time frame to act and avoid this federal intrusion.

The proposal modifies the reasons under which the Division of Insurance may base the refusal of a filing of a contract form, to include an inappropriate relationship between the benefit provided and the cost of the coverage. This responds to the federal action concerning medicare supplemental policies. It also addresses other kinds of insurance subject to filing under AS 21.42.

We are prepared to offer testimony and/or respond to questions when this issue is heard before your committee.

Very truly yours,



Charles R. Webber  
Commissioner

CRW/jarE8



# Alaska State Legislature

## Senate

### Committee on Labor & Commerce

Official Business

Page V  
State Capitol  
Juneau, Alaska 99811

Summary - SB 43 - Rules/by Request

"An Act relating to filing of insurance policy forms."

The addition of subsection 5 to 21.42.130 would insure State compliance with P.L. 96-265 which creates a certification process for certain types of insurers, setting new standards for medicare supplemental insurance, and including a requirement for premium benefit ratios in medicare supplemental insurance.

There is an apparent federal deadline of July 1, 1982 by which time States must act on the requirements concerning medicare supplemental insurance. However, federal surveys of state laws beginning on July 1, 1981 will be used to assess the need for federal intervention. Therefore, it is felt that the issue must be dealt with immediately to avoid such intervention.

The Federal Law - P.L. 265 - is the Social Security Act adopted by the 96th Congress. The 'Baucus Amendment' of the Act required that states comply in two areas concerning medicare supplemental insurance:

1. States shall adopt minimum standards of coverage for medicare supplemental policies.

There is sufficient statutory authority to comply with this requirement under 21.42.120, Filing of Forms.

2. States must enforce cost/benefit ratio regulations.

It is felt, by the Div. of Insurance, that SB 43, with the addition of subsection 5, will comply with the federal requirements.

Fiscal Impact - Ø

STATE OF ALASKA  
THE LEGISLATURE

FOUCHY STATE CAPITOL  
JUNEAU ALASKA 99801  
907 465-3811

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

February 17, 1981

SUBJECT: Insurance  
(CSSB 43)

TO: Senate Labor and Commerce Committee

FROM: *LHA* Linn H. Asper  
Legislative Counsel

I have prepared a committee substitute for SB 43 according to your drafting request of February 16th. The drafted bill is in the form requested in the letter to you from Mike Thomas, with some technical changes. I would still recommend the language suggested in my memo to you dated February 4th as being more clear than this committee substitute, and would also refer you to my first memo, dated January 28th.

LHA:ljb

Enclosure

STATE OF ALASKA  
THE LEGISLATURE

POUCHY - STATE CAPITOL  
SUNEAU ALASKA 99511  
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

February 4, 1981

SUBJECT: Possible alternate language for SB 43  
(Work Order No. 12-0479)

TO: Senate Labor and Commerce Committee  
Attn: Linda Otey, A.A.

FROM: Linn H. Asper  
Legislative Counsel

In connection with my memorandum of January 28th on SB 43, I have prepared the following alternate language for SB 43 to limit the bill to medicaid supplemental insurance. As noted in the memorandum, I would place the new language in AS 21.89, as follows:

AS 21.89 is amended by adding a new section to read:

Sec. 21.89.060. MEDICAID SUPPLEMENTAL INSURANCE. A medicaid supplemental insurance policy may not be issued unless it provides benefits which are reasonably related to the premiums charged, based on guidelines as set out in regulations to be adopted by the director. In this section "medicaid supplemental insurance policy" means health insurance policy or health benefit plan offered by a private entity to individuals eligible for medicaid benefits, to provide reimbursement for medical expenses not covered by the medicaid program.

LHA:ljb

# STATE OF ALASKA THE LEGISLATURE

POUCH - STATE CAPITOL  
JUNEAU, ALASKA 998  
907-465-3810

## LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

January 28, 1981

SUBJECT: Filing Insurance Policy Forms - SB 43  
(Work Order No. 12-0479)

TO: Senate Labor and Commerce Committee  
ATTN: Linda Otey

FROM: *LHC* Linn H. Asper  
Legislative Counsel

You have asked if SB 43 as drafted, if enacted, will insure state compliance with P.L. 96-265 (42 U.S.C. Sec. 1395ss) and prevent federal intervention to regulate medicare supplemental insurance policies.

P.L. 96-265 creates a certification process for certain types of insurers, setting new standards for medicare supplemental insurance, including a requirement that such policies must be designed to pay out at least 75 percent of premiums collected in benefits. [42 U.S.C. Sec. 1395ss(c)(2)]. This is a federal requirement not directly related to state insurance laws, but if a state has not created requirements similar or identical to the federal requirements by July 1, 1982, the federal certification will come into play, superseding state regulation in this area. The State of Alaska favors state rather than federal regulation of the insurance industry in Alaska and thus wishes to obtain legislative authority to control premium-benefit ratios by enactment of SB 43.

The Division of Insurance has stated that the federal deadline of July 1, 1982 is misleading in that there is to be a federal survey of state laws existing on July 1st of this year which will be used to assess the need for federal intervention. The Division believes that changes in state law which become effective before July 1, 1982, but after July 1st of this year will not prevent the federal intervention which they seek to avoid. If the Division is correct, and I have no

reason to doubt them on this, then they do need authorizing legislation during this session to allow them to make regulations before July 1st of this year to avoid federal intervention.

It appears that SB 43 will give the Division of Insurance the authority it needs to avoid the threat of federal intervention as to medicaid supplemental insurance. It should be noted that the bill as written would allow regulation of premium-benefit ratios in all insurance policies written in the state, not just medicaid supplemental insurance. This broad authority may be desirable but it is not required by the new federal law. I also have some difficulty with the placement of the new law in AS 21.42.130, which has to do with insurance policy format, not substantive regulation of insurance rates. It might better be placed in AS 21.89 MISCELLANEOUS PROVISIONS, but its placement in AS 21.42.130 will not invalidate the law.

To summarize, SB 43 will have the effect of supplanting federal certification procedures in the area of premium-benefit ratios in medicaid supplemental insurance, if enacted this session. It goes beyond medicaid supplemental insurance and, in fact, gives the Division of Insurance power to set premium-benefit ratios for all insurance policies.

LHA:jdn

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to the manner of distribution of benefits or to the reservation of rights and benefits under life or disability insurance policies and are used at the request of the individual policyholder, contract holder, or certificate holder. Forms for use in property, marine (other than wet marine and transportation coverages), casualty and surety insurance coverages the filing required by this section may be made by rating organizations on behalf of its members and subscribers; but this provision does not prohibit a member or subscriber from filing the forms on its own behalf.

(b) Each filing shall be made not less than 30 days in advance of delivery. At the expiration of the 30 days the form filed shall be considered approved unless before the 30-day period it has been affirmatively approved or disapproved by order of the director. Approval of the form by the director constitutes a waiver of the unexpired portion of the waiting period. The director may extend by not more than an additional 30 days the period within which he may affirmatively approve or disapprove the form, by giving notice of the extension before expiration of the initial 30-day period. At the expiration of the extended period, and in the absence of a prior affirmative approval or disapproval, the form shall be considered approved. The director may at any time, after notice and for cause shown, withdraw the approval.

(c) An order of the Director disapproving the form or withdrawing a previous approval shall state the grounds and the particulars in such detail as reasonably to inform the insurer thereof.

(d) The director may, by order, exempt from the requirements of this section for as long as he considers proper an insurance document or form or type thereof as specified in the order, to which, in his opinion, this section may not practicably be applied, or the filing and approval of which are, in his opinion, not desirable or necessary for the protection of the public.

(e) This section applies also to a form used by domestic insurers for delivery in a jurisdiction outside this state, if the insurance supervisory official of the jurisdiction informs the director that the form is not subject to approval or disapproval by the official, and upon the director's order requiring the form to be submitted to him for the purpose. The applicable same standards shall apply to these forms as apply to forms for domestic use. (§ 1 ch 129 SLA 1966)

Sec. 21.42.130. Grounds for disapproval. The director shall disapprove a form filed under § 120 of this chapter or withdraw a previous approval thereof, only if the form

(1) is in any respect in violation of or does not comply with this title;

(2) contains or incorporates by reference, where incorporation is permissible, an inconsistent, ambiguous, or misleading clause.

21. 42. 130

or exception and condition which deceptively affects the risk pur-  
ported to be assumed in the general coverage of the contract;

(3) has a title, heading, or other indication of its provisions  
which is misleading;

(4) is printed or otherwise reproduced in a manner which  
renders a provision of the form substantially illegible. (§ 1 ch  
120 SLA 1966)

Sec. 21.42.140. Standard provisions. (a) Insurance contracts  
shall contain the standard or uniform provisions which are re-  
quired by the applicable provisions of this title pertaining to con-  
tracts of particular kinds of insurance. The director may waive  
the required use of a particular provision in a particular insur-  
ance policy form if

(1) he finds the provision unnecessary for the protection of  
the insured and inconsistent with the purposes of the policy; and

(2) the policy is otherwise approved by him.

(b) No policy may contain a provision inconsistent with a  
standard or uniform provision used or required to be used, but  
the director may approve a substitute provision which is, in his  
opinion, not less favorable in any particular to the insured or  
beneficiary than the provisions otherwise required.

(c) In lieu of the provisions required by this title for con-  
tracts for particular kinds of insurance, substantially similar pro-  
visions required by the law of the domicile of a foreign or alien  
insurer may be used when approved by the director.

(d) A provision required by this title to be contained in a policy  
cannot be waived by agreement between the insurer and another  
person. (§ 1 ch 120 SLA 1966)

Am. Jur., ALR and C.J.S. refer- affecting enforceability of policy pro-  
ences.—29 Am. Jur., Insurance, §§ vision against insurer, 113 ALR 773,  
153 to 188. 44 C.J.S. Insurance §§ 249 to 261.

Departure from standard policy as

Sec. 21.42.150. Policy must contain entire contract. The policy,  
when issued, shall contain the entire contract between the parties,  
and neither the insurer nor its agent or representative, nor a per-  
son insured by the policy, may make an agreement as to the in-  
surance which is not expressed in the policy. This section does  
not prohibit the modification of a policy, after issuance, by writ-  
ten rider or endorsement issued by the insurer. (§ 1 ch 120 SLA  
1966)

Sec. 21.42.160. Contents of policies in general. (a) Each policy  
shall specify

- (1) the names of the parties of the contract;
- (2) the subject of the insurance;
- (3) the risks insured against;

(4) the time w  
the period during w

(5) the premium

(6) the condition

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Sec. 21.42.190. I  
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(4) the society has a board of directors charged with the responsibility for managing its affairs in the interim between meetings of its supreme legislative or governing body, subject to control by the body and having powers and duties delegated to it in the constitution or laws of the society;

(5) the board of directors is elected by the supreme legislative or governing body, except in case of filling a vacancy in the interim between meetings of the body;

(6) the officers are elected either by the supreme legislative or governing body or by the board of directors; and

(7) the members, officers, representatives or delegates may not vote by proxy. (§ 1 ch 120 SLA 1966)

Sec. 21.84.590. Other provisions applicable. In addition to the provisions contained in this chapter, other chapters and provisions of this title shall apply to fraternal benefit societies, to the extent applicable and not in conflict with the express provisions of this chapter and the reasonable implications thereof, as follows:

- (1) AS 21.03
- (2) AS 21.06, with the exception of AS 21.06.250
- (3) The following sections of AS 21.09:
  - (A) AS 21.09.050
  - (B) AS 21.09.100
- (4) AS 21.33.010
- (5) AS 21.36
- (6) AS 21.42.290
- (7) AS 21.69.370
- (8) AS 21.69.640
- (9) AS 21.78. (§ 1 ch 120 SLA 1966)

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

Section	Section
10. Scope of chapter	120. Services and benefits which may be provided, medical service corporations
20. Purpose and interpretation	
30. Provisions exclusive	
40. Incorporation—Certificate of authority required	130. Services and benefits which may be provided, hospital service corporations
50. Same—Law applicable; approval of articles of incorporation; amendment	140. Medical service agreements
60. Name of corporation	150. Hospital service agreements
70. Qualifications for certificate of authority	160. Subscriber's contracts
80. Application for certificate of authority	170. Service agreements and subscriber's contracts must provide substantial service benefits
90. Issuance or refusal of certificate of authority	180. Filing and approval of agreements and contracts
100. Continuance or expiration of certificate of authority	190. Charges and rates
110. Suspension or revocation of certificate of authority	200. Reserves
	210. Surplus fund
	220. Investments

- Section
- 230. Records and accounts
- 240. Annual statements
- 250. Examination
- 260. Taxation
- 270. Joint operations
- 280. Combined corporations
- 290. Contracts covering compensation

Sec. 21.87.010. S every individual, organization of any age in the provisions defined in § 330 of the periodic prepayment scribers.

(b) This chapter (1) insurers or act the kind of insurance title;

(2) fraternal associations of this title;

(3) health care employees and their dependents and their costs thereof by the companies owned, employees

(4) infrequent injuries direct to the physician rendered to the patient SLA 1966)

Am. Jur., ALR and Annot. — 29 Am. Jur. 1758 et seq.; 41 Am. Jur. and Surgeons, § 25.

Sec. 21.87.020. Purpose of this chapter and operation of order that the service and equitable contributions meeting reasonable and financial soundness

(b) This chapter purpose declared in

Sec. 21.87.030. Purpose may apply to a health or referred to in this

Sec. 21.87.040. No person otherwise

§ 21.87.330

§ 21.87.340

INSURANCE

§ 21.89.010

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

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

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

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

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

- (1) AS 21.03
- (2) AS 21.06
- (3) AS 21.09
- (4) AS 21.18.010
- (5) AS 21.18.030
- (6) AS 21.18.040
- (7) AS 21.18.120
- (8) AS 21.21.321
- (9) AS 21.36
- (10) AS 21.69.100
- (11) AS 21.69.520
- (12) AS 21.69.600, AS 21.69.620, and AS 21.69.630
- (13) AS 21.78
- (14) AS 21.90. (§ 1 ch 120 SLA 1966)

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

### Chapter 89. Miscellaneous Provisions.

#### Section 10. Settlements

Sec. 21.89.010. Settlements. A settlement made under a motor vehicle liability insurance policy of a claim against an insured arising under that policy from an accident or other event insured against for damage to or destruction of property owned by another person shall not be construed as an admission of liability by the

§ 21.89.030

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AS 28.20.440(b)(3)

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F. Supp. 712 (D. Alas.

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5), see House Journal

§ 21.89.040

INSURANCE

§ 21.89.050

**Sec. 21.89.040. Eye care under health and accident insurance.** All policies, contracts, or prepaid plans for individual or group accident or health insurance issued or delivered in the state on or after May 27, 1976 which provide reimbursement for any service within the lawful scope of practice of an optometrist licensed under AS 08.72, shall provide for reimbursement to persons covered under the policy, contract, or plan who had the service performed by an optometrist. (§ 1 ch 84 SLA 1976)

**Sec. 21.89.050. Arson information.** (a) When an insurer has reason to believe that a fire loss in which it has an interest may have been caused by other than accidental means, it shall immediately supply a written report of that fact to the Department of Public Safety.

(b) When requested in writing by an authorized agency, an insurer shall supply all available information relating to a particular fire loss to the agency. The information requested may include

(1) insurance policy information pertaining to a fire loss under investigation and any application for the policy;

(2) policy premium payment records;

(3) a history of previous claims made by the insured; and

(4) material relating to the investigation of the loss, including statements of a person who may have information about the loss and any proof of the loss.

(c) Notification to the Department of Public Safety under (a) of this section does not relieve the insurer of the duty to respond to a request for information from an authorized agency under (b) of this section.

(d) An authorized agency provided with information under (a) or (b) of this section may release the information to another authorized agency.

(e) An authorized agency shall share with the insurer all relevant information relating to an instance of suspected arson when

(1) the Department of Law has determined that release of the information would not jeopardize the success of an ongoing investigation and that there are adequate safeguards to insure the confidentiality of the information;

(2) the agency has completed its investigation and a decision not to prosecute has been made; or

(3) criminal prosecution has been brought and the defendant has pled guilty, or the jury or other trier of fact has returned a verdict, and no appeal has been taken.

(f) As used in (a) — (d) of this section "authorized agency" means a fire department, a local or federal law enforcement agency responsible for the investigation of fires, the Department of Law, the state fire marshal, the United States attorney's office, and the Department of Public Safety. As used in (e) of this section "authorized agency" means a fire department, a local law enforcement agency responsible for the investigation of fires, the Department of Law, the state fire marshal, and the Department of Public Safety.

CALL LIST FOR (5843) (HCL)  
FRIDAY, 1:30 PM BUTROVICK  
MARCH 20, 1981

- 586-1931 WES COYNER BLUE CROSS - ~~WILL~~  
586-3340 F.O. EASTAUGH AM. COUNCIL LIFE INSURANCE  
586-3210 NORM GORSECH INDEPENDENT INSURANCE AGENT  
586-3340 { ~~J.F. TANGENT~~ → AMERICAN COUNCIL ON LIFE INSURANCE  
MICK THOMAS - ~~WILL CALL 3:50~~

577 DAN KOCH (CORE) DIV. OF INSURANCE

→ VZ CONTACTS

One loan  
me loan  
(commiss)  
w/...

