

Introduced: 1/9/84
Referred: Health, Education &
Social Services and
Finance

1 IN THE HOUSE

BY MARTIN

2 HOUSE BILL NO. 477

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 THIRTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to repayment of state aid for hospi-
7 tal and health facility construction."

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

9 * Section 1. AS 29.90 is amended by adding a new section to read:

10 Sec. 29.90.040. REPAYMENT OF STATE AID. If, within 20 years
11 after receiving state aid under former AS 29.90.010 - 29.90.030, a
12 sponsor of a hospital or health facility sells, leases, or otherwise
13 transfers the hospital or health facility other than to a municipal-
14 ity, nonprofit corporation, or other nonprofit sponsor, the sponsor
15 that received the aid shall return to the state an amount equal to the
16 fair market value of the hospital or health facility at the time of
17 the sale, lease or transfer, multiplied by the amount of aid received
18 by the sponsor and divided by the total construction cost.

HOUSE JOURNAL

HOUSE FINANCE COMMITTEE
LETTER OF INTENT
FOR
HOUSE BILL 477

It is the intent of the Legislature that monies received by the state as a result of this legislation be returned to the community in which the hospital or health facility was sold, leased or otherwise transferred. The monies should then be used for expanding and increasing other health care services in the affected community.



Al Adams, Chairman
House Finance Committee

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: HB 477
 Title: "...relating to repayment of state aid hospital and health facility"
 Sponsor: Representative Martin
 Requestor: House Finance Committee
 Date of Request: 2/23/84

FISCAL DETAIL

Agency Affected: Community & Regional Affairs
 Program Category Affected: Community Development
 BRU, Program or Subprogram(s) Affected: Municipal Revenue Sharing

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING		-0-				
CAPITAL						
REVENUE		-0- *	-0- *	-0- *	-0- *	-0- *

FUNDING: (Thousands of Dollars)

* See Analysis

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
FULL-TIME						
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis

Prepared By: Doug Griffin Phone: 465-4750
 Division: Municipal & Regional Assistance Date: 2/27/84

Approved by Commissioner: *Amiel Root* Date: 2/27/84
 Agency: Community & Regional Affairs

Distribution (by Agency preparing fiscal note):
 Legislative Finance
 Legislative Sponsor
 Requestor
 Office of Management and Budget
 Impacted Agency(ies)

ANALYSIS

RE: HB 477 "An act relating to repayment of State Aid for hospital and health facility construction"

It is impossible to predict whether the repayment formula described in HB 477 will ever be involved and what the fair market value of the hospital or health facility in question may be. Therefore, a zero fiscal note has been prepared. However, the following background information showing the amount of State Hospital construction match funding over the last twelve years is provided. Should a sponsor who has received State construction aid transfer its hospital or health facility to a for profit sponsor, a portion of the State's funds could be repaid back to the State.

SUMMARY OF STATE HOSPITAL CONSTRUCTION AID

FY 72	\$	536,297
FY 73		523,372
FY 74		510,953
FY 75		674,212
FY 76		939,116
FY 77		842,494
FY 78		947,500
FY 79		2,219,370
FY 80		7,292,828
FY 81		8,072,599
FY 82		7,943,279
FY 83		4,048,087
FY 84		<u>1,901,216</u>
Total		\$36,451,323

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: HB 477
 Title: State Aid for Health Facility Construction
 Sponsor: Martin
 Requestor: _____
 Date of Request: _____

FISCAL DETAIL

Agency Affected: Health & Social Services
 Program Category Affected: _____
 BRU, Program or Subprogram(s) Affected: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

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

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis

Prepared By: Dave W. Williams Phone: 465-3037
 Division: Planning, Policy & Program Evaluation Date: _____

Approved by Commissioner: Robert L. Smith Ph.D. Date: 2/10/84
 Agency: Dept. of Health & Social Services

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

12/1/83



Official Business

text of letter of intent proposed by
Rep. Martin
Alaska State Legislature

House of Representatives

Pouch V
State Capitol
Juneau, Alaska 99811

HB 477

LETTER OF INTENT

It is the intent of the Legislature that monies received by the state as a result of this legislation be returned to the community in which the hospital or health facility was sold, leased or otherwise transferred. The monies should then be used for expanding and increasing other health care services in the affected community.

STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

February 27, 1984

SUBJECT: Repayment of state aid granted
under former AS 29.90

TO: Representative Al Adams
Chairman, House Finance Committee

FROM: Edward H. Hein *EH*
Legislative Counsel

You have asked three questions related to HB 477 and state aid granted under former AS 29.90, which was repealed last session. I will address the questions in the order asked.

1. Were for-profit hospital sponsors eligible for state aid under former AS 29.90? Former AS 29.90.010 (see attached) provided that state aid for construction could be granted to a "municipality or other hospital or health facility sponsor". Former AS 29.90.030(2) defined "hospital" to mean any licensed general hospital not owned or wholly supported by the state or federal government. Former AS 29.90.030(4) defined "health facility" to mean a facility that is licensed, if required, and that is owned or operated by a municipality or other nonprofit sponsor, except a facility operated or wholly supported by the state or federal government. Thus, a health facility sponsor had to be a nonprofit entity, but a hospital sponsor could be either nonprofit or for-profit. In fact, state aid under the program was granted only to nonprofit sponsors.

2. What is the effect of HB 477? The bill would require any hospital or health facility sponsor that received state aid under former AS 29.90 to repay to the state the amount of aid received and a proportionate amount of any profit made (or minus a proportionate amount of any loss incurred) on the sale, lease, or transfer of the hospital or facility to a for-profit entity within 20 years after receiving the aid. The repayment requirement would apply only to sales, leases, and transfers that occur after the effective date of the Act.

Representative Al Adams
Page 2
February 27, 1984

3. How would HB 477 affect hospital and health facility sponsors that are still entitled to receive aid under former AS 29.90 by virtue of the "grandfather clause" in sec. 9, ch. 95 SLA 1983? (See attached). A sponsor that had not yet received all the aid to which it is entitled under the grandfather clause, and that transfers a hospital or health facility to a for-profit entity within 20 years after receiving any aid under the program, would be required to repay only the state aid that had been granted plus or minus a proportionate share of the profit or loss from the transfer. The state would not be required to continue payments under the grandfather clause once the transfer is completed, since this would amount to a wash transaction. The state's portion of the profits on a sale, of course, would not be as high in such a case as it would be if the sponsor had already received all of the aid to which it was entitled.

If you have any questions or comments, feel free to contact me at your convenience.

EHH:ojb
J4/007

J

vice. The department may require a municipality or other recipient to submit a performance report adequate to demonstrate to the department that a service for which payment is requested under AS 29.89.010 — 29.89.100 was performed by the municipality or other recipient and meets minimum standards of service prescribed by regulation. (§ 3 ch 155 SLA 1980)

Sec. 29.89.100. Definitions. In AS 29.89.010 — 29.89.100

(1) "department" means the Department of Community and Regional Affairs;

(2) "health facility"

(A) means a facility which is licensed, when required, by the state under AS 18.20.010 — 18.20.130 and which is owned or operated or both by a municipality or by a nonprofit corporation or other nonprofit sponsor;

(B) includes a public health center, maternity home, community mental health center, facility for the mentally or physically handicapped, nursing home or convalescent center;

(C) excludes a facility operated or wholly supported by the state or the federal government;

(3) "hospital" means a licensed hospital determined by the Department of Health and Social Services to be a general hospital; the term excludes a facility operated or wholly supported by the state or the federal government. (§ 3 ch 155 SLA 1980)

Chapter 90. State Aid for Hospital and Health Facility Construction.

Section

- 10. State aid for hospital and health facility construction
- 20. Hospital and health facility construction assistance account
- 30. Definitions

Cross references. — As to state aid to municipalities and other eligible recipients for health facilities and hospitals, see AS 29.89.030.

Effective date of chapter. — Section 17, ch. 155, SLA 1980, provides that §§ 1 — 12 of the act take effect on the first day of the fiscal year for which \$33,400,000 or more is appropriated and allowed by the governor for distribution to municipalities and other recipients under the provisions of §§ 1 — 12 of this act or on July 1, 1983, whichever is earlier. A total of \$33,500,000 was appropriated for the programs for the fiscal year beginning July 1,

1980. The appropriations were made in §§ 51 and 52, ch. 120, SLA 1980, and § 6, ch. 165, SLA 1980.

Editor's notes. — Section 12, ch. 155, SLA 1980, effective on the same day as this chapter, provides: "(a) Notwithstanding other provisions of secs. 1 — 11 of this act, (1) a municipality may not receive less than \$25,000 plus an area cost-of-living differential during the first fiscal year in which this act is effective; and (2) a municipality which would receive under AS 29.88 [AS 29.88.010 — 29.88.045], added by sec. 2 of this act, less than 125 percent of the amount which it

§ 29.89.100

recipient to the department. AS 29.89.010 recipient and tion. (§ 3 ch

100 unity and

by the state operated or nonprofit

community ally handi-

the state or

the Department; the term ate or the

health

made in 0, and § 6,

2. ch. 155, me day as Notwit' - s. 1 — 11 of not receive an area g the first s effective; ld receive 3.010 — s act, less t which it

§ 29.90.010

MUNICIPAL GOVERNMENT

§ 29.90.020

received for the last fiscal year under AS 43.18.010 — 43.18.045, repealed by sec. 11 of this act, is, for each of the first five fiscal years during which secs. 1 — 10 of this act are effective, entitled to receive an amount equal to 125 percent of the amount which it received for the last fiscal year under the former provisions of AS 43.18.010 — 43.18.045 in accordance with those provisions. (b) For the first five fiscal years during which secs. 1 — 10 of this act are effective, in order to pay the amounts required by (a) of this section, the allocations made by the Department of Community and Regional Affairs to the accounts established in AS 29.88.035, AS 29.89.080, and AS 29.90.020 shall be prorated by an amount which reduces the allocation to each account in equal proportion, and the

prorated amounts shall be allocated to these accounts. (c) For the first five fiscal years during which secs. 1 — 10 of this act are effective, payment of an entitlement to a borough under AS 29.88 [AS 29.88.010 — 29.88.045] may be made to a borough only if the borough assembly agrees to allocate to each borough service area in the borough at least the amount of money that the service area received during the last fiscal year under the former provisions of AS 43.18.010 — 43.18.045, in accordance with those provisions."

As to reports by Department of Health and Social Services and Department of Community and Regional Affairs and commissioner of health and social services, see § 14, ch. 155, SLA 1980, in the 1980 Temporary and Special Acts and Resolves.

Sec. 29.90.010. State aid for hospital and health facility construction. If construction of a hospital began after January 1, 1968, or if construction of a health facility began after January 1, 1968, and before July 1, 1980, and state matching aid for construction approved for payment to the municipality or other hospital or health facility sponsor constitutes less than 25 percent of the total project cost, the department shall pay to the municipality or other hospital or health facility sponsor each fiscal year \$2,500 a bed for the maximum number of beds provided for in the construction design of the hospital or health facility or five percent of the total project cost, whichever is greater. State aid provided for in this section shall continue until the municipality or other hospital or health facility sponsor has received an amount which, combined with state matching money for construction of the hospital or health facility, equals 25 percent of the total project cost. Money received for construction may not be used for any other purpose. (§ 4 ch 155 SLA 1980; am § 3 ch 103 SLA 1981; am § 65 ch 59 SLA 1982)

Effect of amendments. — The 1981 amendment added "or if construction of a health facility began after January 1, and before July 1, 1980" preceding "and state matching aid," added "or health facility" following "hospital" in four places and

added "hospital or health" preceding "facility or five percent."

The 1982 amendment, effective May 28, 1982, inserted "1968" preceding "and before July 1, 1980" in the first sentence.

Sec. 29.90.020. Hospital and health facility construction assistance account. The hospital and health facility construction assistance account is established. Money to carry out the provisions of AS 29.90.010 — 29.90.030 shall be allocated by the department to the account in accordance with AS 29.95.010. If amounts in the account are insufficient to pay each recipient's share authorized under this chapter,

the amounts which are available shall be distributed pro rata among eligible recipients. (§ 4 ch 155 SLA 1980; am § 4 ch 103 SLA 1981)

Effect of amendments. — The 1981 amendment added "and health facility" preceding "construction assistance account" in the first sentence.

Sec. 29.90.030. Definitions. In AS 29.90.010 — 29.90.030

(1) "department" means the Department of Community and Regional Affairs;

(2) "hospital" means a licensed hospital determined by the Department of Health and Social Services to be a general hospital; the term excludes a facility operated or wholly supported by the state or the federal government;

(3) "total project cost" means

(A) costs directly related to the project; and

(B) the total of all costs of financing and carrying out the project, including but not limited to,

(i) the costs of all necessary studies, surveys, plans and specifications, architectural, engineering or other special services, acquisition of real property, site preparation and development, purchase, construction, reconstruction and improvement of real property, and the acquisition of machinery and equipment as may be necessary in connection with the project;

(ii) an allocable portion of the administrative and operating expenses of the municipality or other hospital sponsor;

(iii) the cost of financing the project, including interest on bonds issued to finance the project; and

(iv) the cost of other items, including any indemnity and surety bonds and premiums on insurance, legal fees, fees and expenses of trustees, depositaries, financial advisors, and paying agents for the bonds issued as the issuer considers necessary;

(4) "health facility"

(A) means a facility that is licensed, when required, by the state under AS 18.20.010 — 18.20.130 and that is owned or operated or both by a municipality or by a nonprofit corporation or other nonprofit sponsor;

(B) includes a public health center, maternity home, community mental health center, facility for the mentally or physically handicapped, nursing home, or convalescent center;

(C) excludes a facility operated or wholly supported by the state or the federal government. (§ 4 ch 155 SLA 1980; am § 5 ch 103 SLA 1981)

Effect of amendments. — The 1981 amendment added paragraph (4).

ch. 95 SLA 1983

Chapter 95

* Sec. 9. The sponsor of a hospital or health facility construction project who is receiving or entitled to receive state aid under AS 29.90 on the day preceding the effective date of this Act shall continue to receive state aid until the sponsor has received an amount which, combined with state matching money for construction of the hospital or health facility, equals 25 percent of the total project cost. Money received for construction may not be used for any other purpose.

* Sec. 10. AS 29.90 and AS 47.07.080(1) are repealed.

* Sec. 11. This Act takes effect immediately in accordance with AS 01.10.070(c).

at a chair from among its members.

MEETINGS AND QUORUM. The commission shall meet to conduct its business. Three members of the commission shall constitute a quorum.

REVIEW OF PROPOSALS. The commission shall review proposed construction of health facilities and establish payment schedules for health facilities under this chapter and AS 47.25.120.

EMPLOYMENT OF PERSONNEL. The commission shall determine the salary of an executive director. With the approval of the commission, the executive director may select and appoint personnel.

ASSISTANCE. The commission shall be assisted by the department as the commissioner of health. The executive director of the department shall direct. The executive director of the department may provide service under AS 39.25.

REPEALED BY ADDING A NEW SECTION TO READ:

PAYMENT TO HEALTH FACILITIES FOR TREATMENT. The department may make payments to a health facility for the treatment of a needy person.

ELIGIBILITY. A health facility receiving a payment under this chapter shall be subject to the provisions of AS 47.07.070 - 47.07.075.

DEFINITIONS. For purposes of this section, "health facility" includes a health facility, intermediate care facility, institution for the mentally retarded, rehabilitation facility, health care facility, home health agency, rural health center, or surgical clinic.

PROSPECTIVE PAYMENT SYSTEM. The department shall establish a system of prospective payments for health facilities effective July 1, 1983, to June 30, 1984.

POSITION PAPER

on

House Bill No. 477

For an Act entitled: "An Act relating to repayment of state aid for hospital and health facility construction."

Financial assistance for hospital and health facility construction has until recently been available from the Department of Community and Regional Affairs under AS 29.90. Numerous hospitals and health facilities have received funding for construction under this program. The program has recently been amended to limit reimbursement to those facilities constructed prior to July 1, 1980.

This bill proposes a means for recovery of state funds for non-profit or community owned hospital or health facility construction in the event that the facility constructed becomes controlled by a for-profit institution within 20 years following receipt of the state funds. The Department of Health and Social Services supports this bill as consistent with the objectives of the department. However, the department questions the usefulness of the bill in that the statute has been revised to limit payment to facilities constructed prior to July 1, 1980. Facilities now receiving funding or those which have received funding in the past may have unspecified "grandfather" rights under the present statute that prevent recovery of funds already granted.

One example of the purpose of this bill is evidenced by the recent sale of the Alaska Hospital and Medical Center (AHMC) to Humana, Inc. AHMC was constructed to operate as a non-profit community hospital. The state provided approximately \$16,200,000 under AS 29.90 to offset approximately 25% of the total project cost for construction. Upon notice of the proposed sale of AHMC to Humana, Inc. (a for-profit corporation) the Department of Law researched the possibility of recovery of state funding. The Department of Law, in two separate opinions indicated that there did not exist a statutory basis for recovery of the funding upon sale of the constructed facility to a for-profit institution. (Ref. May 4, 1982 memorandum to Commissioner Lee McAnerney, file no. 366-629-82 and November 12, 1981 response letter to Senator Arliss Sturgulewski.)

Passage of H.B. 477 will provide a statutory basis for recovery of grants for hospital and health facility construction provided under AS 29.90; however, the recovery of funds may be limited to a time when and if the statute is revised to provide funds for new construction.

Position Paper
H.B. 477

-2-

Recommended by:

Daniel J. Meddleton, Jr.
Daniel J. Meddleton, Director
Division of Planning, Policy
& Program Evaluation

Date:

Feb. 7, 1984

Approved by:

Robert London Smith
Robert London Smith, Ph.D.
Commissioner
Department of Health and
Social Services

Date:

2/10/84



STATE OF ALASKA
OFFICE OF THE GOVERNOR

BILL ANALYSIS

Department Health and Social Services	Sponsor (Principal) Rep. Martin	Bill Number HE 477
Department Position Support -- This bill is consistent with the objectives of the Department of Health and Social Services and should be enacted.		
Division Director <i>Daniel M. Woodworth</i>	Date 1-17-84	Commissioner's Signature <i>Robert Gordon Smith</i>
		Date 2/10/84

GOVERNOR'S OFFICE USE

Comments:

Position Noted By _____ Date _____

SUMMARY

1. a) Related Bills (Similar or Conflicting)	1. b) Other Agencies Affected by Bill Community and Regional Affairs
2. a) Organizational Support for Bill	2. b) Organizational Opposition to Bill Alaska State Hospital Association and Alaska State Medical Association

3. Program Effects of Bill

This bill proposes a means for recovery of State funds for nonprofit or community owned hospital or health facility construction in the event that the hospital or health facility becomes a for-profit institution within 20 years of receipt of the State funds.

4. Fiscal Impact: None Fiscal Note Attached

5. Amendments Proposed:

6. Comments:

The bill affects a program of the Department of Community and Regional Affairs. C&RA should review the formula for recovery of funds to ascertain that all factors may be obtained.

STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

October 21, 1983

SUBJECT: Repayment of state aid for hospital and health facility construction (Work Order No. 13-1519)
TO: Representative Terry Martin
FROM: Edward H. Hein *EHH/10/83*
Legislative Counsel

Enclosed is the bill draft we discussed over the telephone regarding repayment of state aid given under former AS 29.-90.010 - 29.90.030. I have used the formula that appears in 19 AAC 30.061(b) for repayment of state aid if the hospital ceases to be a hospital within 20 years. This formula provides for repayment of the original amount granted, plus or minus the proportionate share of any profit made or loss incurred from the transfer of the hospital or health facility to a for-profit entity.

You should be aware that the bill is not immune from legal challenge, although a court in that event is likely to uphold it. A for-profit corporation that wished to buy a hospital subject to the terms of the bill could raise the argument that it (the for-profit corporation) was eligible for direct aid under the terms of former AS 29.90.030(2) and, therefore, a penalty cannot now be attached to transferring the aid to it indirectly through a sale or lease of the hospital. Under the state aid program, a hospital sponsor did not have to be a municipality or other nonprofit entity, as did the sponsor of a health facility. Compare AS 29.90.030(2) with AS 29.90.030(4). In fact, state aid under the program was granted only to nonprofit sponsors, in part because of the Department of Community and Regional Affairs' possibly erroneous interpretation of the law.

It is our opinion that such a challenge is not likely to cause the bill, should it become law, to be overturned in court. However, the argument might receive serious consideration by the court if raised.

Representative Terry Martin
Page 2
October 21, 1983

If you have any questions or comments, feel free to contact me at your convenience.

EHH:ljb

Enclosure
30/002

project; an allocable portion of the administrative and operating expenses of the grantee; the cost of financing the project, including interest on bonds issued to finance the project; and the cost of other items, including any indemnity and surety bonds and premiums on insurance, legal fees, fees and expenses of trustees, depositaries, financial advisors, and paying agents for the bonds issued as the issuer considers necessary; it does not include the cost of feasibility studies. (§ 1 ch 114 SLA 1971; am § 44 ch 71 SLA 1972; am § 26 ch 168 SLA 1978)

Revisor's notes. — Formerly AS 43.18.300. Renumbered in 1983.

Cross references. — As to bond issues to pay the cost of capital improvements for civic, convention and community recreation centers, which were rejected by the

voters, see ch. 150, SLA 1972 and ch. 2, SLA 1973, Temporary and Special Acts and Resolutions 1972 and 1973.

Legislative history reports. — For report on ch. 71, SLA 1972 (HCSSB 203 am H), see 1972 House Journal, p. 864.

Chapter 90. State Aid for Hospital and Health Facility Construction.

[Repealed, § 10 ch 95 SLA 1983. For present provisions, see § 9, ch 95, SLA 1983, in the Temporary and Special Acts.]

Chapter 95. Administration of Municipal Financial Assistance Programs.

Section

- 10. Allocation and distribution
- 20. Qualification for minimum payment

Section

- 30. Proration of payments

See next page

Editor's notes. — Section 12, ch. 155, SLA 1980 provides: "(a) Notwithstanding other provisions of secs. 1 — 11 of this act, (1) a municipality may not receive less than \$25,000 plus an area cost-of-living differential during the first fiscal year in which this act is effective; and (2) a municipality which would receive under AS 29.88 [AS 29.88.010 — 29.88.045], added by sec. 2 of this act, less than 125 percent of the amount which it received for the last fiscal year under AS 43.18.010 — 43.18.045, repealed by sec. 11 of this act, is, for each of the first five fiscal years during which secs. 1 — 10 of this act are effective, entitled to receive an amount equal to 125 percent of the amount which it received for the last fiscal year under the former provisions of AS 43.18.010 — 43.18.045 in accordance with those provisions. (b) For the first five fiscal years during which secs. 1 — 10 of this act are

effective, in order to pay the amounts required by (a) of this section, the allocations made by the Department of Community and Regional Affairs to the accounts established in AS 29.88.035, AS 29.88.040, and AS 29.90.020 shall be prorated by an amount which reduces the allocation to each account in equal proportion, and the prorated amounts shall be allocated to these accounts. (c) For the first five fiscal years during which secs. 1 — 10 of this act are effective, payment of an entitlement to a borough under AS 29.88 [AS 29.88.010 — 29.88.045] may be made to a borough only if the borough assembly agrees to allocate to each borough service area in the borough at least the amount of money that the service area received during the last fiscal year under the former provisions of AS 43.18.010 — 43.18.045, in accordance with those provisions."

Regulations regarding st. aid for hospital construction that apply to AS 29.90.

patients as of July 1 of the entitlement year.

(c) An applicant which is a municipality must meet the following standards to qualify for a payment under AS 29.89.030 for a health facility:

(1) the applicant has and exercises the power to provide health services as of July 1 of the entitlement year;

(2) the applicant agrees to spend, by the end of the entitlement year, at least 20 percent of the amount the applicant receives under AS 29.89.030 for the health facility, including the cost-of-living differential allowed under AS 29.89.070, if any, on health services or the operation and maintenance of the health facility; and

(3) the applicant certifies that the money the applicant receives under AS 29.89.030 for the health facility, which the applicant does not spend by the end of the entitlement year in accordance with (2) of this subsection, is dedicated irrevocably for health facilities and services.

(d) An applicant which is a volunteer fire department serving an area not in an organized borough or city must meet the following standards to qualify for a payment under AS 29.89.040:

(1) the applicant is registered with the state fire marshal and provides fire protection services as of July 1 of the entitlement year, unless the applicant has not previously received state aid under AS 29.89;

(2) the applicant agrees to spend, by the end of the entitlement year, at least 20 percent of the amount the applicant receives under AS 29.89.040 on fire protection services; and

(3) the applicant certifies that the money the applicant receives under AS 29.89.040, which the applicant does not spend by the end of the entitlement year in accordance with (2) of this subsection, is dedicated irrevocably for the operation and maintenance of the fire protection services.

(e) An applicant which is a Native village

government must meet the following standards to qualify for a payment under AS 29.89.050:

(1) the applicant agrees to irrevocably dedicate the payment the applicant receives under AS 29.89.050 for a public purpose other than the general administration of the Native village government; and

(2) the applicant provides its residents with at least one of the public facilities and services listed in AS 29.48.030(1) - (6), (8) - (21) and (23) as of July 1 of the entitlement year.

(f) If, during an entitlement year, an applicant violates an agreement described in (a)(1), (c)(2), or (d)(2) of this section, the division will reduce the amount the applicant may receive under this chapter during the applicant's next entitlement year by the amount received by the applicant under this chapter in the entitlement year in which the violation occurs. (Eff. 8/20/81, Reg. 79)

Authority: AS 29.89.020 AS 29.89.050
AS 29.89.030 AS 29.89.090
AS 29.89.040

19 AAC 30.060. POPULATION DATA. Repealed 8/20/81.

19 AAC 30.061. STANDARDS FOR PAYMENT OF AID UNDER AS 29.90. (a) The department will not make a payment under AS 29.90 to an applicant unless

(1) if the hospital for the construction of which the applicant seeks aid under AS 29.90 is a private hospital, the commissioner of health and social services certifies to the department that the assets of the private hospital are dedicated irrevocably to a public purpose;

(2) the applicant is a municipality or non-profit corporation;

(3) the governing body of the applicant certifies that the total project cost, as estimated by the applicant, is correct; and

(4) the administrator or legal representative of the hospital for the construction of which the applicant seeks aid under AS 29.90 signs an agreement containing the following provisions:

(A) if money received by the hospital from an applicant under AS 29.90 for anticipated project costs exceeds the amount which the applicant is entitled to receive under (c) of this section, the hospital agrees to return to the state the difference between the amount received by the hospital and the amount the applicant is entitled to receive;

(B) if the hospital ceases to be a hospital as defined in AS 29.90.030(2) within 20 years after the completion of construction, the hospital agrees to return to the state an amount equal to the fair market value of the project at the time it ceases to be a hospital as defined in AS 29.90.030(2) multiplied by the amount of aid received by the hospital under AS 29.90 and divided by total project cost.

(b) An applicant may include a cost as part of the total project cost for the purposes of AS 29.90 only if

(1) the cost does not exceed the fair market value of the service or commodity provided to the project;

(2) payment of the cost is reasonable and necessary to complete the project;

(3) for land acquisition, the cost is limited to land specifically purchased for the location of the hospital, including adjacent land which is necessary and convenient for the use of the hospital;

(4) for site preparation and development, the cost is limited to site preparation and development of the land described in (3) of this subsection; and

(5) for machinery and equipment acquisition, the cost is limited to the machinery and equipment required for construction of the hospital and the initial equipment necessary for the hospital to begin its operation.

(c) An applicant is entitled to receive under AS 29.90 up to 25 percent of the total project cost for the construction of a hospital. However, if the federal government pays 75 percent or more of the total project cost, the applicant is entitled to receive the difference between the

amount paid by the federal government and the total project cost.

(d) A hospital which is located outside the corporate limits of a municipality may apply for aid under AS 29.90 directly to the department. A municipality must apply on behalf of a hospital located within its corporate limits. (Eff. 8/20/81, Reg. 79)

Authority: AS 29.90.010	AS 44.47.050
AS 29.90.020	AS 44.47.980
AS 29.90.030	

19 AAC 30.070. FINANCIAL REPORTS.
Repealed 8/20/81.

19 AAC 30.071. STANDARDS FOR MINIMUM PAYMENTS UNDER AS 29.95.020. An applicant which applies for a minimum payment under AS 29.95.020 must certify to the department that the applicant has fulfilled the eligibility requirements of AS 29.95.020 and must submit to the department the supporting evidence the department may require. (Eff. 8/20/81, Reg. 79)

Authority: AS 29.88.040
AS 29.89.090
AS 29.95.020

19 AAC 30.080. PREPAYMENT AND BUDGETS. Repealed 8/20/81.

19 AAC 30.081. PAYMENTS UNDER SEC. 12, CH. 155, SLA 1980. (a) Notwithstanding the other provisions of this chapter, until June 30, 1985, a municipality is entitled to receive under this chapter an amount equal to 125 percent of the amount it received under AS 43.18.010 - 43.18.045 for the fiscal year ending June 30, 1980. To receive a payment under this section, the municipality must submit an application to the department in accordance with 19 AAC 30.011 and comply with the provisions of 19 AAC 30.021.

(b) In accordance with sec. 12(b), ch. 155, SLA 1980, during each state fiscal year until June 30, 1985, the division will reduce the amount allocated under AS 29.95.010 to the accounts established in AS 29.88.035, AS 29.89.080, and AS 29.90.020 by the amount necessary to make the payments described in (a) of this section.

MEMORANDUM

State of Alaska

TO: Hon. Lee McAnerney, Commissioner
Department of Community & Regional
Affairs

DATE: May 4, 1982

FILE NO: 366-629-82

TELEPHONE NO: 465-3600

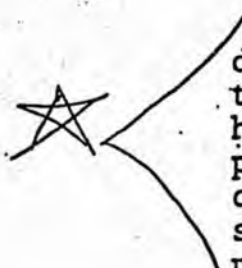
FROM: WILSON L. CONDON
ATTORNEY GENERAL

SUBJECT: Humana purchase of
Alaska Hospital

By: 
Kenneth E. Vassar
Assistant Attorney General

You have requested our opinion concerning your responsibilities relating to the recovery of money paid under AS 29.90 and AS 43.18 to a nonprofit corporation to aid in the construction of the Alaska Hospital if the nonprofit corporation sells the hospital to a profit-seeking corporation. These payments have been made to the nonprofit corporation for at least six years. We conclude that under the provisions of existing law as applied to the circumstances of the sale of the Alaska Hospital, you may not obtain or attempt to obtain recovery of this money and, thus, may enter into an agreement providing that the state will not seek recovery of the money.

The provisions of AS 29.90 and the regulations which implement it (19 AAC 30.061) authorize the payment of a grant to a nonprofit hospital sponsor to defray part of the cost of constructing the sponsor's hospital. Under AS 29.90.010, money received by a hospital sponsor for construction of the hospital may not be used for any other purpose. You have not suggested that the nonprofit corporation in this instance has used the money it received other than as required by AS 29.90.010.

 Nothing in AS 29.90 or in the regulations adopted under AS 29.90 requires or even authorizes the state to attempt to recover money paid to a nonprofit corporation acting as a hospital sponsor for the purposes of AS 29.90 should the nonprofit corporation, after completion of the construction, decide to sell the hospital to a profit-seeking corporation. Assuming a similar silence in the grant contract itself, there is no contractual, statutory, or regulatory basis for an action to recover this money. Moreover, the nonprofit corporation would have had no real notice that such recovery could be sought in the event of a sale of the hospital to a profit-seeking corporation or to any other entity.

This conclusion is not prevented by article IX, section 6, of the state constitution, which prohibits the use of public money except for a public purpose. The purpose of AS 29.90 is to encourage and assist in the construction of hospi-

tals for the benefit of the residents of the state. This is plainly a legitimate public purpose. The provision of AS 29.90.010 referred to above assures that the money granted to a hospital sponsor will be used for this public purpose by prohibiting any other use. The underlying purpose of AS 29.90 is to assure that hospitals constructed with assistance from a grant made under AS 29.90 will be available to serve the Alaska public. Again, this is a legitimate public purpose, and it is adequately protected by the provisions of 19 AAC 30.061(a)(4)-(B), which require repayment of an amount, determined in part by the amount of the grant, if the hospital ceases to be used as a hospital within 20 years after the completion of construction.

In the documents by which the sale of the Alaska Hospital is accomplished, there should be provisions relating to the requirements of 19 AAC 30.061(a)(4)(B). In addition, the sale documents should require that the hospital be used for a public purpose. While this would probably be an inherent requirement of the grant contract issued under AS 29.90, we understand that the Alaska Hospital has also received aid under AS 29.89. Under AS 29.89.040(d), any accumulation of assets by a nonprofit corporation or other recipient under that section must be dedicated irrevocably to a public purpose. The public purpose requirement is satisfied if the hospital continues to be operated as a hospital and is available to all members of the public equally. "Assets," for the purposes of AS 29.89.040(d); would include the buildings, land, equipment, accounts, and other property of the hospital.

The conclusions we have reached in this memorandum apply to money paid under AS 29.90 and the predecessor provisions in AS 43.18 and are based upon the particular circumstances of the Alaska Hospital. Those circumstances involve a nonprofit corporation which in good faith applied for and accepted assistance under AS 29.90 at least as early as six years before the proposed sale of the hospital and which now seeks to sell the hospital to a profit-seeking corporation with which it has no affiliation. The conclusions reached in this memorandum confirm the advice provided by Thomas H. Robertson of this office in a letter dated November 12, 1981 to Senator Sturgelewski. We do not express an opinion at this time concerning the recovery of payments made under AS 29.90 to a nonprofit corporation under circumstances which would suggest an attempt to circumvent the eligibility requirement of 19 AAC 30.061(a)(2).

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

POUCH K - STATE CAPITOL
JUNEAU, ALASKA 99811
PHONE: (907) 465-3600
465-3603

November 12, 1981

The Honorable Arliss Sturgulewski
Alaska State Legislature
2957 Sheldon Jackson Street
Anchorage, AK 99504

Re: Financial Assistance for
Hospital Construction
Our File: J-66-228-82

Dear Senator Sturgulewski:

You have asked whether financial assistance provided a non-profit corporation for hospital construction must be refunded if the hospital is sold to a profit-making corporation.

The answer to your question is not clear. Our conclusions are set forth at the end of this letter.

Financial assistance for hospital construction has until recently been available from the Department of Community and Regional Affairs under AS 43.18.010(j). ^{1/} Since the

^{1/} Until it was repealed by ch. 155, SLA 1980, AS 43.18.010(j) provided:

(j) If construction of a facility began after January 1, 1968 and state matching aid for construction approved for payment to the local government or other facility sponsor constitutes less than 25 per cent of the total project cost, the state shall pay to the local government or other facility sponsor each fiscal year a sum equal to \$2,500 a bed for the maximum number of beds provided for in the construction design of the facility. State aid provided for in this subsection shall continue until the local government or other facility sponsor has received an amount which, combined with state matching money for construction of the facility, equals 25 per cent of the total project cost. No funds received for construction shall be used for any other purpose.

adoption of ch. 155, SLA 1980, it has been available under AS 29.90.010. 2/ The operative language of each statute is largely identical. 3/

The issue that you have raised is not specifically addressed by either AS 43.18.010(j) or AS 29.90.010. 4/ Administrative regulations adopted under AS 43.18.010(j) did not focus on the use of the facility to be constructed. 5/ Admin-

2/ AS 29.90.010 provides:

State Aid for Hospital Construction. If construction of a hospital began after January 1, 1968, and state matching aid for construction approved for payment to the municipality or other hospital sponsor constitutes less than 25 percent of the total project cost, the department shall pay to the municipality or other hospital sponsor each fiscal year \$2,500 a bed for the maximum number of beds provided for in the construction design of the facility or five percent of the total project cost, whichever is greater. State aid provided for in this section shall continue until the municipality or other hospital sponsor has received an amount which, combined with state matching money for construction of the hospital, equals 25 percent of the total project cost. Money received for construction may not be used for any other purpose.

3/ Several differences do exist. Among them is the fact that financial assistance for construction of other health facilities is no longer available. See Memorandum of Advice from Rodger W. Pegues to the Hon. Lee McAnerney dated August 29, 1980. The statutory exclusion of profit-making corporations, which could be found in the definition of "health facilities" at AS 43.18.010(i)(2), was eliminated by this change. The exclusion is now embodied in 19 AAC 30.061(a)(2) which, presumably, was adopted by the Department of Community and Regional Affairs to assure that administration of AS 29.-90 accords with legislative expectations, furthers a public purpose, or both.

4/ We assume that all funds "received for construction" were in fact used for that purpose.

5/ See 19 AAC 30.020(9), as repealed August 20, 1981.

istrative regulations adopted under AS 29.90.010 focus on this question but are not tailored to the circumstances at issue here.

Pursuant to 19 AAC 30.061(a)(4), an applicant for financial assistance under AS 29.90.010 must sign an agreement which contains the following provision:

[I]f the hospital ceases to be a hospital as defined in AS 29.90.030(2) within 20 years after the completion of construction, the hospital agrees to return to the state an amount equal to the fair market value of the project at the time it ceases to be a hospital as defined in AS 29.90.030(2) multiplied by the amount of aid received by the hospital under AS 29.90 and divided by total project cost.

It seems apparent that this language could not be invoked to require repayment upon sale of a hospital if the nature of that institution is not changed as a result of the sale. 6/

It is noteworthy that both AS 3.18.010(j) and AS 29.90.010 refer to "matching" funds for hospital construction. We have been informed by the Departments of Community and Regional Affairs and Health and Social Services that the only program in which this terminology is used is the now defunct Hill-Burton Program. Under 42 U.S.C. § 291, federal Hill-Burton funds must be returned if the recipient institution is "sold or transferred to any person, agency, or organization" that is not qualified to receive them in the first place. One might argue that this restriction was within the contemplation of the legislature when it adopted the corresponding state statutes and, consequently, should also govern the use of state funds. This argument, however, was rejected by the Superior

6/ AS 29.90.030(2), which is referred to in 19 AAC 30.061(a)-(4), focuses on the institution rather than its owner. It provides:

"hospital" means a licensed hospital determined by the Department of Health and Social Services to be a general hospital; the term excludes a facility operated or wholly supported by the state or the federal government;

Court in State of Alaska v. Lake Otis Clinic, Inc., C.A. No. 77-1041 Consolidated. 7/ In that case the Department of Community and Regional Affairs attempted to apply Hill-Burton guidelines and was chided by the court for having failed to adopt them as administrative regulations. See also, Kenai Peninsula Fishermans Co-op Ass'n, Inc. v. State, 628 P.2d 897 (Alaska 1981). The Lake Otis Clinic case is on appeal on other grounds and, since it concerns the obligations of a recipient of assistance under AS 43.18.010(j), may ultimately have additional relevance to your inquiry.

We believe, in light of the foregoing, that neither the Alaska Legislature nor the Department of Community and Regional Affairs has provided a clear answer to your question. If the Department of Community and Regional Affairs undertook to require repayment under existing authority, 8/ it would probably be unsuccessful. The result, which is of marginal validity under art. IX, sec. 6, 9/ is that any funds generated by the sale would be dissipated in pursuit of charitable or

7/ See Memorandum of Decision and Order dated May 22, 1979.

8/ The amendment of existing regulations may be of significant value if, despite the demise of the Hill-Burton Program, additional funds are to be distributed under AS 29.90.010. Regulations may have retroactive application under the limited circumstances set out in AS 44.62.240.

9/ "This provision of the Alaska Constitution provides that "[n]o tax shall be levied, or appropriation of public money made, or public property transferred, nor shall the public credit be used, except for a public purpose."

The Hon. Arliss Sturgulewski

November 12, 1981
Page Five

other purposes under restrictions generally applicable to non-profit corporations. 10/

Please do not hesitate to contact this office if you have further questions in this regard.

Very truly yours,

WILSON L. CONDON
ATTORNEY GENERAL

the Alaska Legislature nor the Dept.

By:


Thomas H. Robertson

Assistant Attorney General

THR/jal

cc: Lee McAnerney
Commissioner
Department of Community
& Regional Affairs

Helen D. Beirne
Commissioner
Department of Health &
Social Services

10/ See generally AS 10.20.005 - 725. A non-profit corporation may be organized for any purpose, including charitable, religious, benevolent, eleemosynary, educational, civic, cemetery, patriotic, political, social, fraternal, literary, cultural, athletic, scientific, agricultural, horticultural, animal husbandry, professional, commercial, trade association, trade union, and industrial purposes. Upon dissolution, an attempt could be made to compel the transfer of any proceeds of the sale to a non-profit corporation with substantially similar purposes under AS 10.20.295(3).

Private corporations buying up public hospitals

By WILLIAM C. REMPEL and ALAN GOLDSTEIN The Los Angeles Times

CRAWFORDSVILLE, Ind. — Culver Memorial, a 1920-vintage public hospital, is antiquated and crowded. Patients are prepared for surgery in hallways outside the operating rooms. Expectant fathers share a common waiting room with families of dying patients, and visitors and patients often have to share the same elevators.

A chronic plumbing problem periodically causes sewage to drain into a basement corridor, and for years the hospital has lived with potentially hazardous fire code violations. When an engineering survey detailed many structural deficiencies, administrators began searching for money to make major improvements.

But Montgomery County officials would not subsidize replacement of the tax-supported hospital or major renovations. Advised that the hospital was a poor credit risk, they also refused to underwrite a bond issue.

Out of financial desperation, Culver Memorial did what an increasing number of hospitals are doing — it turned to private industry. The county sold its hospital to a profit-making medical chain, American Medical International, based in Beverly Hills, Calif.

The sale was another example of a strategy for survival that critics warn will impair poor persons' access to health care and raise the cost of medical treatment for everyone.

"The public hospital is the closest thing to national health insurance we have," said Deborah L. Bauer, administrator of the National Association of Public Hospitals. "There's a tremendous need for it, especially in this economy. We're seeing the greatest increases in public hospital use today in areas of high unemployment. The care of indigents isn't just for the wins of the streets. It's for the guy next door who's been laid off, too."

But public hospitals — particularly small ones — are in trouble. A generation of public hospitals built and expanded with federal funds in the years after World War II has reached old age with outdated equipment, crumbling bricks and little or no cash, credit or operating surpluses for repair and replacement. Repeatedly, voters have rejected bond issues aimed at improving the situation.

At the same time, economic pressures on hospitals in general are increasing. Government funding and charitable contributions have declined, and hospitals everywhere are competing for paying patients — increasing the pressure to affiliate with private, money-rich chains.

For example, at York General, a 216-bed public hospital in Rock Hill, S.C., two bond issues that would have financed improvements failed when submitted to voters. Meanwhile, rain occasionally leaked into labs, heavily used X-ray equipment frequently

“Socialized medicine is dead and buried. Public access to health care is very desirable, but it can't be achieved without economically viable hospitals.”

— Walter Weisman, president, American Medical International

broke down and the maternity ward had no private labor rooms. For a time, the physician staff dwindled, and a survey showed that half those in the rural area using treatment checked out hospitals outside the county — until the hospital sold out to American Medical.

The same chain bought Collin Memorial, a 168-bed public hospital in McKinney, Texas, after voters rejected a bond issue to raise taxes. Collin was chronically short of everything from intravenous equipment to thermometers. The hospital had to ask its staff to bring in pens and staplers from home.

Public hospitals are "flirting on borrowed time," said Gary Rowe, executive director at Culver Memorial for nearly 10 years. "This country is in for a serious shock. Public hospitals have been operating out of a shoestring box, setting nothing aside for a rainy day. They are going to be closing like files."

Some — such as 750-bed Philadelphia General Hospital, which closed in 1979 — in renovation costs seven years ago — already have closed. Others have put out "For Sale" signs when funding for vital improvements was not available.

Riding to the rescue with healthy bank accounts and robust credit ratings, the chains of for-profit hospitals are increasingly eager to purchase struggling public facilities. They have the financial strength to build new, state-of-the-art medical centers, buy expensive high-tech equipment and attract some of the best-qualified physicians.

To critics, some of whom object to the very presence of the profit motive in health care, the trend could turn hospitals into cash registers.

"My health care has become a potential profit opportunity," complained Doug Cassel, an attorney with the Health and Medicine Policy Research Group in Chicago. "Before long, patients' kidneys may be listed on the commodities exchange."

But the acquisition trend that began slowly through the Sun Belt in the late 1960s has increased most rapidly during the last two years, industry sources say. The investor-owned chains now control about 50 former public health facilities. This industry generates more than \$16 billion in annual revenue from more than 900 for-profit hospitals in the United States and abroad.

"Our principal advantage is capital — we can find the financing while local hospitals, in the main, cannot," said Charles Martin, a senior vice president with Hospital Corp. of America, the leading buyer of public hospitals among the investor-owned hospital chains. "Charity is

no longer a major source of funding for hospitals, and bond issues aren't popular." Executives at American Medical International see the trend as part of the move away from government-provided health care.

"What we're seeing now is deregulation and an entrusting of that field to private health care firms," said Walter Weisman, president of American Medical International. "Socialized medicine is dead and buried. Public access to health care is very desirable, but it can't be achieved without economically viable hospitals."

What worries public interest groups is that "economically viable hospitals" will be achieved by raising fees and denying quality treatment to persons unable to pay for it.

"Profit-making hospitals might not be as motivated to care for people who can't pay for treatment," warned Quentin Young, former administrator of the public Cook County Hospital in Illinois. "Some for-profit hospitals

have even been accused of threatening or refusing to treat those who cannot afford to pay."

In Somerset, Ky., for instance, a 27-year-old woman signed an affidavit alleging that an official of the Humana Hospital — another large for-profit chain — said she could not take her newborn baby home until an \$8,000 bill was paid. The same hospital was accused of pressuring a 30-year-old man, admitted for neurological testing, to sign a check for \$1,100 even though it exceeded his bank balance. He was told that he should apply for a loan to cover the check, according to an affidavit.

Although Humana insisted that the allegations were "fiction," it settled litigation

with its former patients by signing a consent decree, agreeing never to engage in the alleged conduct.

More alarming to critics is the prospect of needy patients being denied access to former public hospitals — or being "dumped" on distant public hospitals — because of their inability to pay.

In rural Georgia, for instance, several women complained to an Atlanta newspaper that they were denied admission for maternity care at a former public hospital because they could not afford to pay a deposit. Each delivered a child at the public hospital in a neighboring county.

Damon King, administrator of the Medical Center of Central Georgia, a public hospital outside Macon, said his hospital is resisting patient transfers from the for-profit hospitals.

"Their capability for handling a patient does not decrease simply because that patient cannot pay," King said. "We don't have a policy of not accepting patients because they cannot pay."

But Rowe of Culver Memorial countered, "No one says food stores shouldn't make a profit — and they're more important than health care. Society seems to be saying that government has a responsibility to provide health care. I don't believe that."

Furthermore, Weisman of American Medical International added, "Private hospitals have to generate profit — and so do public hospitals. We call it profit. They call it surplus. But it's the same animal." In its last year as a public hospital, Rowe said, Culver Memorial realized an operating surplus of \$300,000 — equivalent to about \$2,500 per bed. By contrast, Weisman's firm, the new owners of Culver Memorial, showed a sys-

temwide profit of \$17,200 per bed.

"It costs money to deliver health care," Weisman said. "If no money is reinvested in the plant, equipment and personnel, you can charge lower fees, but you also deliver much less service. That alternative is clearly unacceptable."

And the cost of health care is higher at investor-owned, for-profit medical centers than at public hospitals. According to a survey published in August by the New England Journal of Medicine, investor-owned facilities also charge more than nonprofit hospitals such as church-run medical centers.

Indiana Health Commissioner Ronald G. Blankenbaker predicted that hospital costs probably will double within a year after the new Crawfordsville hospital opens, perhaps in 1984.

Culver Memorial's Rowe acknowledged that rates at for-profit hospitals "are always going to be higher" because the private chain "is heavily in the acquisition and replacement of the old facilities."

For example, American Medical International is building a new \$17 million hospital here. Hospital Corp. of America is spending \$20 million to replace the public hospital in Tarboro, N.C. Humana Inc. moved into Somerset, Ky., in 1976 and built a

replacement for the old city hospital, which was converted to a nursing home as soon as the new investor-owned facility opened.

Executives at the hospital chains contend that taxpayers benefit from converting public hospitals to private ownership, partly because the new corporate owners pay property taxes.

"When a private company buys a public hospital, it creates a taxpaying entity where a tax drain used to be," Weisman said.

Sales of public hospitals are often accompanied by assurances that indigent care will not be a burden to taxpayers because its cost will be offset by new tax revenues. But, in addition, American Medical has recently negotiated with county officials to provide an indigent-care trust fund. In Crawfordsville, for instance, they agreed to set aside \$3.8 million from the proceeds of the sale.

Robert Irvine, a spokesman for Humana Inc. — the Kentucky-based chain that recently took over Louisville's new \$73 million public hospital — said a community suffers if its public hospital is forced to close.

"We still need public hospitals," he said. "We've just got to figure out how these public hospitals can be run more efficiently, so they can stay open and stay viable."

Humana seeks expansion sites

by Cary Virtue
Times Writer

Humana Inc., the second largest hospital chain in the country, is interested in seeing if there are other communities in Alaska where it may operate a new hospital, the company's chairman said Monday.

Anchorage residents also can expect health care competition to stiffen as Humana steps up efforts to woo patients away from Providence Hospital, partly by providing people with special care they can't find elsewhere.

"Our pattern is that once we have a foothold in a state we start looking around (for other acquisitions)," said Dave Jones, co-founder, chairman and chief executive officer of Humana Inc. "We'd like to expand."

But any decision to expand into other Alaskan communities will depend on market studies, said Jones. He was in town to tour Humana Alaska Hospital and speak to the chamber of commerce noon luncheon Monday.

Meanwhile, Jones said the company is busy establishing itself in Anchorage. He was referring to its plans to build a \$21.5 million five-story addition at Humana Alaska Hospital by 1985. The expansion would add another 93 licensed beds, for a total of 292 licensed beds at the hospital.

Providence Hospital also will build a five-story, 186,000-square-foot hospital tower by 1986, boosting its total bed capacity from 250 licensed beds to 410 licensed beds.

Anchorage, Jones said, is

large enough to support two major private hospitals, but he said Humana's mission is to provide the best health care in town.

"We made a big commitment to Anchorage to put ourselves in a position of being a competitor to Providence," Jones said. "Our concept is to have the best hospital in town. (And) I think that in the long run we will become the hospital of choice."

Jones said he welcomes more competition in the health field, saying it would help reduce overall costs by forcing a hospital to "trim its own fat."

Humana, a chain with 93 hospitals, last year was able to provide health care services that averaged about 17 percent lower than its competitors, Jones said. He said he's trying to lower Humana's overall operating costs by another three percent this year.

National policies that attempt to shield the consumer by artificially keeping a lid on health care costs also should be repealed, Jones said. And, he said there should be more public debate on health care issues.

In other areas, Jones said he supported:

- Diagnostic related groupings, a new federal approach to establishing standard health care prices for more than 498 medical procedures based on a community's cost of living index. The new law starts going into effect this fall.

- Allowing hospitals to bid to provide all government-funded health care for a region. This experiment already is being tested



Alice Poster of The Times

Humana's Dave Jones pledges to woo patients away from the competition

in California:

- Public discussion about how private health care organizations can provide health care to those people who can't afford the care and who do not have medical insurance.

- Repealing the certificate of need process that forces hospitals to win state approval before expanding or purchasing expensive new equipment. The state legislature is reviewing a repeal bill currently.

Introduced: 1/9/84
Referred: Health, Education &
Social Services and
Finance

1 IN THE HOUSE

BY MARTIN

2

HOUSE BILL NO. 477

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

THIRTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

6 For an Act entitled: "An Act relating to repayment of state aid for hospi-

7

tal and health facility construction."

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

9

* Section 1. AS 29.90 is amended by adding a new section to read:

10

Sec. 29.90.040. REPAYMENT OF STATE AID. If, within 20 years

11

after receiving state aid under former AS 29.90.010 - 29.90.030, a

12

sponsor of a hospital or health facility sells, leases, or otherwise

13

transfers the hospital or health facility other than to a municipal-

14

ity, nonprofit corporation, or other nonprofit sponsor, the sponsor

15

that received the aid shall return to the state an amount equal to the

16

fair market value of the hospital or health facility at the time of

17

the sale, lease or transfer, multiplied by the amount of aid received

18

by the sponsor and divided by the total construction cost.