

H B

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HOUSE COMMITTEE REPORT

(11)

Date referred: 4/21/88

FURTHER REFERRALS:

DATE: 4/26/88

The Finance Committee has considered HB 368

"An Act exempting certain persons from the requirement to be licensed as an occupational therapist or occupational therapy assistant; and providing for an effective date."

RECOMMENDS:

replace with CS HB 368 (HESS) the same title
 attached amendment(s) a new title

do pass
 do not pass
 no recommendation
 individual recommendations
 additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(S):

fiscal impact same as previous fiscal note published _____
 zero fiscal note same as previous zero fiscal note published 4/21/88
 zero with analysis

SIGNING DO PASS:

ADAMS [Signature]
BOURCHARD [Signature]
LARSON [Signature]
GOLL [Signature]
BOYER [Signature]
PLEGER [Signature]

SIGNING OTHER RECOMMENDATIONS:

SWACK [Signature] No Rec
BROWN [Signature] No Rec
DANIS [Signature]

[Signature]
Chairman's signature

370

STATE OF ALASKA
1988 LEGISLATIVE SESSION

BILL VERSION: CSHB 368 (HESS)
PUBLISH DATE: HOUSE 4/21/88

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: "An Act exempting certain persons
. . . occupational therapist . . ."
Sponsor: Rules
Requestor: Governor

Agency Affected: Health & Social Services
BRU: Institutions and Administration
Components: API, Harborview

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
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REVENUE	-0-	-0-	-0-	-0-	-0-	-0-
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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	-0-	-0-	-0-	-0-	-0-	-0-
TEMPORARY	-0-	-0-	-0-	-0-	-0-	-0-

ANALYSIS : (Attach a separate page if necessary)

The enactment of HB 368 would have no direct fiscal impact on the Department of Health and Social Services.

Prepared by: Mel Henry, Director
Division: Mental Health & Developmental Disabilities

Phone: 465-3370
Date: 1/21/88

Approved by Commissioner: Myra M. Munson
Agency: Health & Social Services

Date: 2-9-88

Distribution (by preparer):

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

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POSITION PAPER
HOUSE BILL NO. 368

"An Act exempting certain persons from the requirement to be licensed as an occupational therapist or occupational therapy assistant; and providing for an effective date."

EFFECT OF BILL


This bill would exempt government employees and educational institution employees who provide occupational therapy services from the licensing requirement in Chapter 2, FSSLA 1987.

DISCUSSION

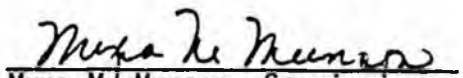
Such an exemption is necessary because many activities falling under the overly broad definition of "occupational therapy" in Chapter 2 are performed by personnel who have no formal occupational therapy training. If licensed personnel were required for these activities, many of the services would not be performed. Occupational therapists with formal training are in short supply. The most efficient way to provide the services is to use other personnel for provision of the less complex activities falling under the definition of "occupational therapy" in Chapter 2, FSSLA 1987. Without the exemption contained in this bill, that would not be possible.

RECOMMENDATION

The Department of Health and Social Services supports the passage of HB 368.

Recommended by: 
Mel Henry, Director

Date: 20th January, 1988

Approved by: 
Myra M. Munson, Commissioner

Date: Feb 9, 1988

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: Occupational Therapist
Sponsor: Rules Committee
Requestor: Governor

Agency Affected: Education
BRU: _____
Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

The bill has no fiscal impact on the department. It will, however, save school districts a significant amount of money.

Prepared by: Steve Hole Phone: 465-2800
Division: Commissioner's Office Date: 01-04-88
Approved by Commissioner: [Signature] Date: 01-04-88
Agency: Education

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

STEVE COWPER
GOVERNOR

ce



JMB 368

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

January 18, 1988

The Honorable Ben Grussendorf
Speaker of the House
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

Dear Representative Grussendorf:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to the licensing of occupational therapists and occupational therapy assistants. It would exempt certain persons from the new occupational therapist licensing requirements of AS 08.84.150. It would also exempt those same persons from the penalties applicable to those "holding out" as occupational therapists or occupational therapy assistants.

Sections 1 and 2 of the bill exclude those who are exempt from the occupational therapist licensing requirements under sec. 3 of the bill from the misdemeanor penalties otherwise applicable under AS 08.84.130(c) and (d) to persons holding themselves out or practicing as occupational therapists and occupational therapy assistants. These specific exclusions from the "holding out" penalty provisions of AS 08.84.130(c) and (d), are needed because those provisions are aimed at any unlicensed person who "directly or by implication" holds out as a licensee. A person practicing occupational therapy in a school setting could possibly be said to be "holding out by implication" as a licensed therapist or therapy assistant even though the person is exempted from the licensing requirement under sec. 3 of the bill. The exemptions are not broad enough, however, to exempt a person who "holds out" to the public as a licensed occupational therapist or therapy assistant for compensation in addition to the salary the person receives from his or her state or school district employer.

Section 3 of the bill adds to the list of those who are exempt from the licensing requirements of AS 08.84.150, a person employed by a governmental unit or an educational institution who is required to engage in some phase of occupational therapy work, so long as the person does not offer to render occupational therapy services to the public for compensation in addition to the salary received from his or her employer.

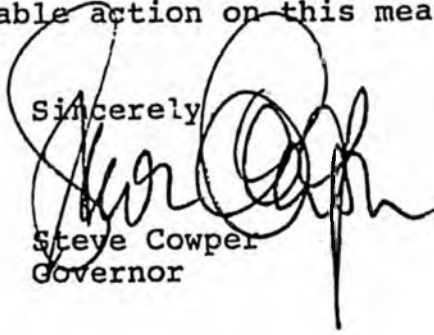
The Honorable Ben Grussendorf

Page 2

Section 4 of the bill provides for an immediate effective date in order to provide relief as soon as possible to school districts and others that are now required under ch. 2, FSSLA 1987, to hire licensed occupational therapists and therapy assistants to perform work that was formerly performed by unlicensed personnel.

I urge your prompt and favorable action on this measure.

Sincerely



Steve Cowper
Governor



NEA-ALASKA

AFFILIATED WITH THE NATIONAL EDUCATION ASSOCIATION

ANCHORAGE REGIONAL OFFICE

1411 W. 33RD AVENUE
ANCHORAGE, ALASKA 99503
(907) 274-0536

JUNEAU OFFICE

105 MUNICIPAL WAY, SUITE 302
JUNEAU, ALASKA 99801
(907) 586-3090

FAIRBANKS REGIONAL OFFICE

2118 CUSHMAN STREET
FAIRBANKS, ALASKA 99701
(907) 456-4435

April 22, 1988

To: Rep. Al Adams, Chair
Members, House Finance Committee

Re: CS for HB 368 (HESS)

"An Act exempting certain persons from the requirement to be licensed as an occupational therapist or occupational therapy assistant; and providing for an effective date."

NEA-Alaska supports this legislation and encourages that the Committee give it favorable and expeditious attention.

This bill provides that teachers and teachers' aides may provide occupational therapy services under the direct supervision of a licensed occupational therapist in a program approved by the school district.

This legislation is necessary because there are not enough occupational therapists available to meet the program needs of school districts.

The result is that essential student service needs are not being met. Further, when program requirements under statute such as Public Law 94-142 are not met as a result of the absence of necessary occupational therapist services, the potential for school district liability and litigation is increased significantly.

We urge your favorable consideration of this legislation.

Thank you for your consideration of our concerns.

Respectfully submitted,

Bob Manners
Executive Secretary

cc: Governor Cowper

POSITION PAPER
HOUSE BILL NO. 368

"An Act exempting certain persons from the requirement to be licensed as an occupational therapist or occupational therapy assistant; and providing for an effective date."

EFFECT OF BILL

This bill would exempt government employees and educational institution employees who provide occupational therapy services from the licensing requirement in Chapter 2, FSSLA 1987.

DISCUSSION

Such an exemption is necessary because many activities falling under the overly broad definition of "occupational therapy" in Chapter 2 are performed by personnel who have no formal occupational therapy training. If licensed personnel were required for these activities, many of the services would not be performed. Occupational therapists with formal training are in short supply. The most efficient way to provide the services is to use other personnel for provision of the less complex activities falling under the definition of "occupational therapy" in Chapter 2, FSSLA 1987. Without the exemption contained in this bill, that would not be possible.

RECOMMENDATION

The Department of Health and Social Services supports the passage of HB 368.

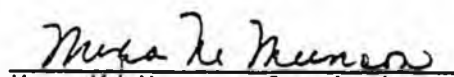
Recommended by:


Mel Henry, Director

Date:

20th January, 1988

Approved by:


Myra M. Munson, Commissioner

Date:

Feb 4, 1988

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: "An Act exempting certain persons
. . . occupational therapist . . ."
Sponsor: Rules
Requestor: Governor

Agency Affected: Health & Social Services
BRU: Institutions and Administration
Components: API, Harborview

EXPENDITURES/REVENUES: (Thousands of Dollars)

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PERSONAL SERVICES						
TRAVEL						
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EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
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REVENUE	-0-	-0-	-0-	-0-	-0-	-0-
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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	-0-	-0-	-0-	-0-	-0-	-0-
TEMPORARY	-0-	-0-	-0-	-0-	-0-	-0-

ANALYSIS : (Attach a separate page if necessary)

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Prepared by: Mel Henry, Director
Division: Mental Health & Developmental Disabilities

Phone: 465-3370
Date: 1/21/88

Approved by Commissioner: Myra M. Munson
Agency: Health & Social Services

Date: 2-9-88

Distribution (by preparer):

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

G

**PHYSICAL
THERAPY
CENTER**

Beth Hansen, LPT

Denice A.B. McPherson, LPT

789-4880

February 15, 1988

RECEIVED
FEB 22 1988

Rep. Dave Donley, Chairman
House Commerce Committee
P. O. Box 1
Juneau, Alaska 99801

Dear Representative Donley,

I would like to express my concern regarding HB 668. This bill proposes that occupational therapy done in the school system be done by a non-licensed person. The requirements of licensing are not at all exclusive; so there is no rational reason why any Occupational Therapist would avoid the process. Therefore, the intent of this legislation is to allow untrained persons to perform therapy skills. There is only one reason to explain this move: saving money by having therapy performed by nonqualified persons.

The duties required of the Physical Therapists and Occupational Therapists in the school system often involve severely handicapped children. The skills used in this type of treatment are now being recognized as a sub-speciality in both professions.

I am an orthopedically oriented Physical Therapist and have practiced therapy in the hospital and clinical setting for 12 years. To convert to the practice of neurologically involved pediatrics would involve at least a year of education to upgrade my skills in that area.

I would hate to think of these special children being given less than adequate treatment by an unskilled person. I am concerned for the parents who will think that their children are being treated by a professional.

I also recommend that the legislature be sure that this would not be a violation of the Federal government requirement in public law 94-142.

Sincerely,

Beth Hansen
Beth Hansen, LPT

BHS:W

6



AKOTA Alaska Occupational Therapy Association

3605 Arctic Blvd. #1616, Anchorage, Alaska 99503
(907) 345-0034

February 2, 1988

Representative Dave Donley, Chairman
Labor and Commerce Committee
House of Representatives
P.O. Box V
Juneau, Ak 99801

RECEIVED
FEB 9 1988

Dear Representative Donley:

The Alaska Occupational Therapy Association is strongly opposed to passage of HB 368. This bill would allow schools and governmental units, to employ persons to perform occupational therapy services without meeting qualifications for the practice of occupational therapy as defined in Alaska statutes.

Passage of this bill would allow consumers to receive treatment which is substandard and harmful. Consumers, including handicapped students, psychiatric patients, and developmentally disabled persons, in Alaska do not deserve less than qualified service providers.

To allow untrained, unqualified persons to say they are delivering occupational therapy services is certainly not in the best interest of the State of Alaska.

Please, consider the effect the passage of this bill would have on the health care consumers in Alaska.

The Alaska Occupational Therapy Association is eager to assist the Labor and Commerce Committee, the Department of Education or the Office of the Governor in understanding the potential effect of this bill. We are also willing to assist with any potential difficulties in the practice of occupational therapy. House Bill 368 must not be supported because it would allow unqualified persons to deliver occupational therapy services.

Sincerely,

Mary Melissa Robinson, OTR
President, Ak.O.T.A.

CAROL J. LAURION - - - - - 5632 E 40th #E301
Anchorage, AK 99504

February 9, 1988

RECEIVED
FEB 16 1988

Labor & Commerce Committee Members
PO Box V
Juneau, AK 99811

Dear Labor & Commerce Committee Members:

I am writing to you for my concerns of HB 368 introduced by Governor Cowper to exempt government units and educational institutions from occupational therapy licensure. Passage of this bill would mean occupational therapists and certified occupational therapy assistants working for school districts and state agencies would not have to be qualified or meet the qualifications for licensure.

I work at Alaska Psychiatric Institute with many chronic and acutely ill schizophrenic patients. These patients don't usually have the abilities to distinguish whether a therapist is qualified or not. Even if they did several are committed and they don't usually have a choice of leaving API to seek a more qualified therapist.

Before API, I worked at Hope Cottages with the same children who receive occupational therapy in the schools. I was often called upon to consult and teach caregivers on how to feed a profoundly retarded, multiply handicapped child who couldn't swallow properly and choked on each bite of food that was given him. I ask you - can this child distinguish between a qualified and unqualified occupational therapist? Can he choose who will give advice on how he's to be fed? Passage of HB 368 would allow consumers of governmental and educational units to receive substandard service. Is this the pride we take in our State services?

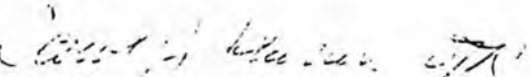
The Department of Education has voiced many concerns that the occupational therapy licensure law prohibits any person who may be involved in any aspect of the occupational therapy definition from performing their work. The Alaska Occupational Therapy Association believes the purpose of the law is not to limit qualified professionals from practicing what they are qualified to practice as long as it is not represented as occupational therapy. Any clarification of this law could have been appropriately handled with regulations. There are several alternatives that could have handled the Department of Education's concerns. Yet, Governor Cowper chose to introduce HB 368 and attach governmental units to the Educational Department's concerns for no apparent reason. I ask you who must know him better than I... I ask you - Why? Why would he choose to introduce a bill that would be so detrimental to the needy people of this State? Why?

The Alaska Occupational Therapy Association has chosen to take a stance of proposing alternative language to HB 368 that will allow teachers and teacher aides to develop daily living, play, leisure, social, and developmental skills as long as such a person does not represent themselves as an occupational therapist.

Page 2
Carol J. Laurion
HB 368

I ask you to send a message to the needy people of this State and send a message to Governor Cowper by adopting the Alaska Occupational Therapy Association's language to HB 368 and encouraging your colleagues to do the same.

Sincerely,



Carol J. Laurion, OTR
Occupational Therapist Registered

cc: Alaska Occupational Therapy Association
ASK
Mental Health Consumers of Alaska
Alliance for the Mentally Ill



AKOTA Alaska Occupational Therapy Association

3605 Arctic Blvd. #1616, Anchorage, Alaska 99503
(907) 345-0034

March 24, 1988

Labor & Commerce Committee
Dave Donley, Chair
House of Representatives
Room 17, Capitol
Juneau, Alaska 99811

Members of the Labor & Commerce Committee:

The Alaska Occupational Therapy Association will favor passage of CS HB 368 only if there is an amendment to page 2 lines 9 and 10. The amendment would be practice occupational therapy (provide independent or unsupervised occupational therapy services.)

It is essential that the statute be clear and that the public not be misled about services which are called occupational therapy.

The Association believes that if CS HB 368 is amended as indicated, the two areas of concern about the occupational therapy licensing act will be covered. It will clarify that schools can continue to utilize programs written by licensed occupational therapists and carried out by teachers and aides; it will clarify the use of activities within the definition of occupational therapy when carried out by other professionals as within the law; and it will continue to protect the Alaskan public by identifying those qualified to practice occupational therapy.

Thank you for your concern and interest in providing Alaskans with services by qualified occupational therapists.

A handwritten signature in cursive script that reads "Mary Melissa Robinson".

Mary Melissa Robinson, OTR/L
President, Ak.O.T.A.

STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

STEVE COWPER, GOVERNOR

P.O. BOX K—STATE CAPITOL
JUNEAU, ALASKA 99811-0300
PHONE: (907) 465-3600

June 16, 1987

Honorable Steve Cowper
Governor
State of Alaska
P.O. Box A
Juneau, AK 99811

Re: CSHB 205(HESS) am -- occupational
therapists and naturopaths
Our file: 883-87-0080

Dear Governor Cowper:

At Bob Evans' request on your behalf, we have reviewed this bill, which establishes two new licensed occupations in AS 08.54, "occupational therapists" and "occupational therapy assistants," and requires insurance companies to pay for the services of not only the newly licensed occupational therapists but also physical therapists, who have been licensed under AS 08.54 since 1957, and naturopaths, who have been licensed under AS 08.-45 only since 1986.

Primarily because of the serious overbreadth of one of the central provisions of the bill, the definition of "occupational therapy" itself, we must urge to you to veto this bill. We believe that the extremely broad definition makes the new licensing systems created by this bill not only inappropriate but also practically unenforceable. If the bill becomes law it would be likely to create new costs for school districts, the Department of Education, the Department of Health and Social Services, and indirectly, for this department. It would also create the possibility of higher disability and workers' compensation insurance premiums.

This bill is an example of much that is wrong with the worst of our occupational licensing statutes. It was for the most part drafted by, and was introduced at the request of, the private association of the only people who stand to benefit for certain from its enactment -- the occupational therapists themselves. There was no outcry from consumers for protection against incompetent or unscrupulous practitioners. The bill is simply a self-serving solution without a problem.

Most of the bill (13 of its 17 pages and 25 of its 31

sections subject to codification) makes additions or changes to AS 08.84 that are mostly parallel to existing provisions on licensure of physical therapists. The best we can say about this part of the bill is that it does not create a new licensing board, even though it creates two new licensed occupations. Rather, it simply adds to the duties, membership, and name of the existing Physical Therapy Board.

The biggest problem with the occupational licensing part of the bill involves secs. 20 and 24 of the bill. Section 20 would add new AS 08.84.150(b), which prohibits a person from practicing occupational therapy without being licensed unless the person is a supervised student or foreign graduate, a federal employee, or the holder of a 120-day limited permit under new AS 08.84.075 that would be added by sec. 13 of this bill. Violations of this prohibition could result in issuance of a citation under new AS 08.01.102 -- 08.01.104, added this year by sec. 11 of CSHB 222(Fin) am S (our file no. 883-87-0082).

The root of the problem created by this new prohibition is that the definition of "occupational therapy" in new AS 08.-84.190(6) that would be added by sec. 24 of this bill is so extremely broad that it includes almost anything that anyone does for someone else who, for whatever reason, needs help to cope with daily life. This definition, which is almost a full page in the bill, is so sweeping that we set out just the first part of it for emphasis:

(6) "occupational therapy" means the use of purposeful activity, evaluation, treatment, and consultation with human beings whose ability to cope with the tasks of daily living are [sic] threatened with, or impaired by developmental deficits, learning disabilities, aging, poverty, cultural differences, physical injury or illness, or psychological and social disabilities to maximize independence, prevent disability, and maintain health; "occupational therapy" includes

(A) developing daily living, play, leisure, social, and developmental skills;

* * * *

(F)

The further examples listed in (B) -- (F), unfortunately, do little to help narrow the scope of the practice of occupational

Hon. Steve Cowper, Governor
Our file: 883-87-0080

June 16, 1987
Page 3

therapy. Curiously, the definition does not seem to specifically include anything directly related to helping people learn an occupation or how to earn their own living.

The result of the blanket prohibition against practicing occupational therapy without a license combined with the extremely overbroad definition of occupational therapy itself is that a license would be required under this bill for much of what teachers, teacher-aides, licensed health care practitioners, and even parents, various public employees, and volunteers do for people, old or young, who, for whatever reason, need help "to cope with the tasks of daily living." Because they are not included in the list of exemptions in new AS 08.54.150(b)(1) -- (4) added by sec. 20 of the bill, these people will be subject to citation for continuing their productive activities.

This obviously unacceptable result was apparently incorrectly explained away by proponents of the bill during House committee hearings by the allegation that this bill was only a "title bill" not a "practice bill." An occupational licensing "title bill" prohibits unlicensed people only from using the title of a licensee, but a "practice bill" also prohibits unlicensed people from doing anything included in the definition of the licensed occupation. This bill has a title use prohibition in sec. 18, adding new AS 08.84.130(c) and (d), but it unfortunately also has the above-mentioned unlicensed practice prohibition in sec. 20, adding new AS 08.84.150(b). We have discussed this problem with the Washington, D.C. attorney for the American Occupational Therapy Association and he agrees with our interpretation of the bill, but expresses vague confidence that "any problems can be worked out" after the bill becomes law.

However, this severe overbreadth problem should, in our view, be fatal to this bill. The problem could have been avoided in any of several ways, but it was not. Section 20 could have been omitted, leaving the bill a true title bill as we understand its proponents claimed. The definition of occupational therapy could have been narrower and more precise, or the short list of exemptions from the license requirement could have been expanded to include volunteers and school and other public employees. Because not one of these steps was taken, we believe that your veto is advisable.

There are several reasons why this bill passed the legislature despite all of its defects. These reasons have little to do with the substance of the bill, but you should be aware of them as you consider whether to veto it. The bill was not introduced until the end of March, and it was referred to three

House committees, so it seemed likely that the most that could happen was that the bill could be pushed through the House by its sponsor, House Rules Committee Chairman Navarre. This estimation seemed to be reinforced, albeit in retrospect mistakenly, when the bill did not reach the House floor until the last week of the session, and then was further burdened by a floor amendment offered by Representative Walt Furnace. The floor amendment added sec. 28 of the bill which prohibits insurance companies from discriminating against (i.e., refusing to cover services provided by) occupational therapists and physical therapists and naturopaths. Although we have not had time to fully evaluate the likely effect of this floor amendment, we believe it could cause an increase in insurance premiums and a decrease in availability of insurance, especially in the areas of disability and workers' compensation coverage. It appears that this amendment may have resulted in added support for the bill, especially from naturopaths, to help it through the Senate so quickly.

The substance of the House floor amendment has never had the benefit of any public hearing, just as the entire bill has never had the benefit of a Senate committee hearing. The bill, as amended on the House floor made it through four Senate committee referrals in six days without a public hearing and ended up being passed by the Senate late in the evening of Tuesday, May 19 -- the last day of the session. Two of the committee referrals were ultimately waived by the committee chairs.

.. . This leaves those who have problems with this bill in the somewhat embarrassing position of having now to express the concerns being saved for Senate committee hearings next year. It also leaves some serious question whether the Senate committees that so quickly considered this bill complied with the reasonable notice requirement of AS 44.62.310(e). Of course, the applicability of that provision, along with our entire "Open Meeting Act," to the legislature and its committees currently is at issue in Adams v. League of Women Voters, Alaska Supreme Court No. S-1831 (1986).

No one is currently being injured or victimized under the status quo without the new licensing systems for occupational therapists and their assistants that this bill would create. So, there is really no one to be protected by the bill. It would do nothing whatsoever to improve the quality of service provided by our currently unlicensed occupational therapists because, under sec. 33 of the bill, they would all be automatically licensed without examination regardless of education or experience, if they belong to the American Occupational Therapist Association.

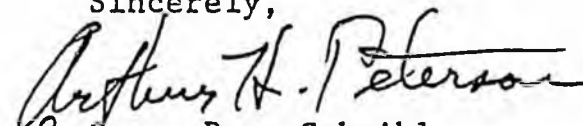
Hon. Steve Cowper, Governor
Our file: 883-87-0080

June 16, 1987
Page 5

A veto would deprive the Department of Commerce and Economic Development of the estimated \$13,000 in license fees that would be generated by the new licensing system, but it would more importantly avoid the burden of implementing an unenforceable system on that agency, on the Departments of Education, Health and Social Services, and Law, and on our school systems. Most of the bill would not take effect until January 1, 1988 so little real time would be lost if it were somehow determined during the interim and next session that there really is a problem with occupational therapy in Alaska that our state government should address by imposing more new licensing systems. If such a determination is made, any new licensing system should maximize public, not occupational, protection and minimize disruption to schools, governmental and private service delivery programs, and insurance rates.

A draft veto letter is attached for your convenience.

Sincerely,


for Grace Berg Schaible
Attorney General

GBS:PBF:md



ALASKA ASSOCIATION OF ELEMENTARY SCHOOL PRINCIPALS
ALASKA ASSOCIATION OF SECONDARY SCHOOL PRINCIPALS
ALASKA ASSOCIATION OF SCHOOL ADMINISTRATORS

• ALASKA COUNCIL OF SCHOOL ADMINISTRATORS •
326 Fourth St., Suite #211 Juneau, Alaska 99801 586-9702

MEMORANDUM

TO: Representative Al Adams, Chairman
& Members of House Finance Committee
FROM: Stephen T. McPhetres, Executive Director *Stephen T. McPhetres*
DATE: April 22, 1988
SUBJECT: HB 368 - ACT EXEMPTING CERTAIN PERSONS FROM THE REQUIREMENT
TO BE LICENSED AS AN OCCUPATIONAL THERAPIST

We urge your speedy passage of this bill. There exists in rural Alaska the need to provide ongoing and consistent therapy for handicapped children. The fact is there are not enough therapists available to service these children on a regular basis. Therefore, to address an urgent need and meet the requirement of PL 94-142 which requires special ed service to all children in the least restrictive environment, we must have the authority to use school personnel conduct limited therapy as outlined under the language of this bill.

Again, we urge you to pass this bill immediately to insure its total passage by the legislation this session. Handicapped children will be better served.

Original sponsor: Rules/Governor

1 IN THE HOUSE

BY THE HEALTH, EDUCATION AND
SOCIAL SERVICES COMMITTEE

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CS FOR HOUSE BILL NO. 368 (HESS)

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IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FIFTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

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For an Act entitled: "An Act exempting certain persons from the require-
ment to be licensed as an occupational therapist or
occupational therapy assistant; and providing for an
effective date."

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

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* Section 1. AS 08.84.150(b) is amended to read:

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(b) A person may not provide services that the person describes
as [PRACTICE] occupational therapy without being licensed unless the
person is

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(1) a student in an accredited occupational therapy program
or in a supervised field work program;

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(2) a graduate of a foreign school of occupational therapy
fulfilling the internship requirement of AS 08.84.032, and then only
unless under the continuous direction and immediate supervision of an
occupational therapist;

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(3) an occupational therapist or occupational therapy
assistant employed by the United States Government while in the dis-
charge of official duties; [OR]

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(4) granted a limited permit under AS 08.84.075;

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(5) licensed under this title and uses occupational therapy
skills in the practice of the profession for which the license is
issued; or

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(6) employed as a teacher or teacher's aide by an educa-
tional institution and is required to use occupational therapy skills

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1 during the course of employment, if

2 (A) the occupational therapy skills are used under a
3 program implemented by the employer and developed by a licensed
4 occupational therapist;

5 (B) the employer maintains direct supervision of the
6 person's use of occupational therapy skills; and

7 (C) the person does not represent to

8 (i) be an occupational therapist or occupational
9 therapy assistant; and

10 (ii) practice occupational therapy.

11 * Sec. 2. AS 08.84.190(3) is amended to read:

12 (3) "occupational therapy" means, for compensation, the use
13 of purposeful activity, evaluation, treatment, and consultation with
14 human beings whose ability to cope with the tasks of daily living are
15 threatened with, or impaired by developmental deficits, learning
16 disabilities, aging, poverty, cultural differences, physical injury or
17 illness, or psychological and social disabilities to maximize indepen-
18 dence, prevent disability, and maintain health; "occupational therapy"
19 includes

20 (A) developing daily living, play, leisure, social,
21 and developmental skills;

22 (B) facilitating perceptual-motor and sensory inte-
23 grative functioning;

24 (C) enhancing functional performance, prevocational
25 skills, and work capabilities using specifically designed exer-
26 cises, therapeutic activities and measure, manual intervention,
27 and appliances;

28 (D) design, fabrication, and application of splints or
29 selective adaptive equipment;

1 (E) administering and interpreting standardized and
2 nonstandardized assessments, including sensory, manual muscle,
3 and range of motion assessments, necessary for planning effective
4 treatment; and

5 (F) adapting environments for the disabled;

6 * Sec. 3. This Act takes effect immediately under AS 01.10.070(c).

Original sponsor: Rules /Governor

1 IN THE HOUSE BY THE LASOR AND
COMMERCE COMMITTEE
2 CS FOR HOUSE BILL NO. 368 (L&C)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 FIFTEENTH LEGISLATURE - SECOND SESSION
5 A BILL
6 For an Act entitled: "An Act exempting certain persons from the require-
7 ment to be licensed as an occupational therapist or
8 occupational therapy assistant; and providing for an
9 effective date."
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:
11 * Section 1. AS 08.84.150(b) is amended to read:
12 (b) A person may not practice occupational therapy without being
13 licensed unless the person is
14 (1) a student in an accredited occupational therapy program
15 or in a supervised field work program;
16 (2) a graduate of a foreign school of occupational therapy
17 fulfilling the internship requirement of AS 08.84.032, and then only
18 unless under the continuous direction and immediate supervision of an
19 occupational therapist;
20 (3) an occupational therapist or occupational therapy
21 assistant employed by the United States Government while in the dis-
22 charge of official duties; [OR]
23 (4) granted a limited permit under AS 08.84.075;
24 (5) licensed under this title and uses occupational therapy
25 skills in the practice of the profession for which the license is
26 issued; or
27 (6) employed as a teacher or teacher's aide by an educa-
28 tional institution and is required to use occupational therapy skills
29 during the course of employment, if

1 (A) the occupational therapy skills are used under a
2 program implemented by the employer and developed by a licensed
3 occupational therapist;

4 (B) the employer maintains direct supervision of the
5 person's use of occupational therapy skills; and

6 (C) the person does not represent to
7 (i) be an occupational therapist or occupational
8 therapy assistant; and

9 (ii) practice occupational therapy.

10 * Sec. 2. AS 08.84.190(3) is amended to read:

11 (3) "occupational therapy" means, for compensation, the use
12 of purposeful activity, evaluation, treatment, and consultation with
13 human beings whose ability to cope with the tasks of daily living are
14 threatened with, or impaired by developmental deficits, learning
15 disabilities, aging, poverty, cultural differences, physical injury or
16 illness, or psychological and social disabilities to maximize indepen-
17 dence, prevent disability, and maintain health; "occupational therapy"
18 includes

19 (A) developing daily living, play, leisure, social,
20 and developmental skills;

21 (B) facilitating perceptual-motor and sensory inte-
22 grative functioning;

23 (C) enhancing functional performance, prevocational
24 skills, and work capabilities using specifically designed exer-
25 cises, therapeutic activities and measure, manual intervention,
26 and appliances;

27 (D) design, fabrication, and application of splints or
28 selective adaptive equipment;

29 (E) administering and interpreting standardized and

1 nonstandardized assessments, including sensory, manual muscle,
2 and range of motion assessments, necessary for planning effective
3 treatment; and

4 (F) adapting environments for the disabled;

5 * Sec. 3. This Act takes effect immediately under AS 01.10.070(c).

Introduced: 1/18/88
Referred: Labor & Commerce,
Health, Education & Social
Services and Finance

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1 IN THE HOUSE

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

2

HOUSE BILL NO. 368

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FIFTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

6 For an Act entitled: "An Act exempting certain persons from the require-
7 ment to be licensed as an occupational therapist or
8 occupational therapy assistant; and providing for an
9 effective date."

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

11 * Section 1. AS 08.84.130(c) is amended to read:

12 (c) A person not licensed as an occupational therapist, or whose
13 license is suspended or revoked, or whose license is lapsed, who uses
14 in connection with the person's name the words "Licensed Occupational
15 Therapist," or other letters, words, or insignia indicating or imply-
16 ing that the person is a licensed occupational therapist, or who
17 orally or in writing, directly or by implication, holds out as a
18 licensed occupational therapist is guilty of a class B misdemeanor.
19 This subsection does not apply to a person who is exempt from licen-
20 sure as an occupational therapist under AS 08.84.150(b)(5) and who is
21 acting within the scope of that exemption.

22 * Sec. 2. AS 08.84.130(d) is amended to read:

23 (d) A person not licensed as an occupational therapy assistant
24 or whose license is suspended or revoked, or whose license is lapsed,
25 who orally or in writing, directly or by implication, holds out as a
26 licensed occupational therapy assistant is guilty of a class B misde-
27 meanor. This subsection does not apply to a person who is exempt from
28 licensure as an occupational therapist under AS 08.84.150(b)(5) and
29 who is acting within the scope of that exemption.

1 * Sec. 3. AS 08.84.150(b) is amended to read:

2 (b) A person may not practice occupational therapy without being
3 licensed unless the person is

4 (1) a student in an accredited occupational therapy program
5 or in a supervised field work program;

6 (2) a graduate of a foreign school of occupational therapy
7 fulfilling the internship requirement of AS 08.84.032, and then only
8 unless under the continuous direction and immediate supervision of an
9 occupational therapist;

10 (3) an occupational therapist or occupational therapy
11 assistant employed by the United States Government while in the dis-
12 charge of official duties; [OR]

13 (4) granted a limited permit under AS 08.84.075; or

14 (5) employed by a governmental unit or an educational
15 institution and is required to engage in some phase of work of an
16 occupational therapy nature in the course of the person's employment,
17 and does not render or offer to render occupational therapy services
18 to the public for compensation in addition to the salary the person
19 receives from that employment.

20 * Sec. 4. This Act takes effect immediately under AS 01.10.070(c).