Committee Correspondence

Alaska State Legislature
Senate
Office of the Secretary

OFFICIAL BUSINESS

STATE CAPITOL
JUNEAU, ALASKA 99801-1182
(907) 465-3701
FAX: 465-2832

April 27, 1992

M E M O R A N D U M

TO: Senator Sturgulewski, Chair
Health, Education and Social Services Committee

FROM: Nancy Quinto
Secretary of the Senate

SUBJECT: SENATE CONCURRENT RESOLUTION NO. 110 from the Iowa General Assembly.

President Eliason referred the attached resolution to your committee for your information and consideration.

NQ/ps

Attachment

SECRETARY OF THE SENATE

Phone: 515/281-5307

The Senate
STATE OF IOWA
Statehouse
Des Moines, Iowa 50319

April 10, 1992

Richard Eliason
President of the Senate
Alaska State Capitol
Juneau, AK 99811

Dear President Eliason:

Enclosed is a copy of Senate Concurrent Resolution No. 110, adopted by the 74th Session of the Iowa General Assembly on March 26, 1992, urging the Congress of the United States to enact legislation to ensure adequate funds to find a cure and effective preventive measures for breast cancer.

Sincerely,

John F. Dwyer
Secretary of the Senate

JFD:an

GENERAL ASSEMBLY OF THE STATE OF IOWA

PR 2526

SENATE CONCURRENT RESOLUTION NO. 110
BY SZYMONIAK, LIND, KERSTEN, McLAREN, RITTMER, TINSMAN, DELUHERY, FUHRMAN, GETTINGS, PETERSON, MURPHY, ROSENBERG, KIBBIE, GRONSTAL, DIELEMAN, LLOYD-JONES, HEDGE, SLIFE, CONNOLLY, HANNON, BUHR, RIORDAN, HORN, HUSAK, and KINLEY

A Concurrent Resolution to support efforts to promote early detection of and effective treatment modalities for breast cancer and to urge the Congress of the United States to enact legislation to ensure adequate funds to find a cure and effective preventive measures for breast cancer.

WHEREAS, breast cancer strikes one in nine women in the United States today, and it is estimated that breast cancer has taken the lives of 44,500 women in 1991 alone; and

WHEREAS, in 1992, an estimated 2,300 women in Iowa will be diagnosed with breast cancer and 600 will die; and

WHEREAS, there has been a 3 percent increase in the incidence of breast cancer since 1980; and

WHEREAS, while the incidence of breast cancer is highest among older women, the incidence is rapidly increasing in women under 40, making breast cancer a concern for women of all ages; and

WHEREAS, while it is known what characteristics place some women at greater risk for developing breast cancer, experts still do not completely understand the cause of breast cancer or how to prevent its occurrence; and

WHEREAS, despite advancements in detection and treatment methods, the mortality rate from breast cancer has remained essentially unchanged; and

WHEREAS, screening mammography plays a vital role in early diagnosis when breast cancer is in the most curable state; and

WHEREAS, low income, minority status, and lack of health insurance affect the ability of many women to obtain screening services, making it more likely they will not be diagnosed until in the advanced stages of breast cancer, significantly reducing their chances of survival; NOW THEREFORE,

BE IT RESOLVED BY THE SENATE, THE HOUSE OF REPRESENTATIVES CONCURRING, That the General Assembly supports efforts to promote early detection of and effective treatment modalities for breast cancer in Iowa.

BE IT FURTHER RESOLVED, That the General Assembly urges the Congress of the United States to enact legislation to ensure adequate funds to advance efforts to find a cure and effective preventive measures for breast cancer.

BE IT FURTHER RESOLVED, That the Secretary of the Senate send copies of this Resolution to the Governor of the State of Iowa, to the President of the United States, to the President of the United States Senate, to the Speaker of the United States House of Representatives, to the Secretary of the United States Senate, to the Chief Clerk of the United States House of Representatives, to each member of the Iowa congressional delegation, and to the presiding officer of each house of the legislature in each state in the union.

MICHAEL E. GRONSTAL
President of the Senate

ROBERT C. ARNOULD
Speaker of the House

I hereby certify that this Resolution originated in the Senate and is known as Senate Concurrent Resolution 110, Seventy-fourth General Assembly.

JOHN F. DWYER
Secretary of the Senate

FAX COVER SHEET

Date: 24 April 1992

To: Alison Reardon
277-5206

From: Melissa Fouse

PLEASE GIVE TO ALISON RIGHT AWAY.

Senator Arliss Sturgulewski
State Capitol, Room 427
Juneau, Alaska 99801

(907) 465-3818
Fax (907) 465-3810

Cover Sheet Plus 2 Pages

24 April 1992

Alison Reardon
Business Agent
Alaska State Employees Association
AFSCME Local 52, AFL-CIO
3510 Spenard Road, Suite 110
Anchorage, Alaska 99503

Dear Alison:

Thank you for the opportunity to comment on Christian Ulmann's job performance as it relates to this office. The Senate Health, Education, and Social Services Committee is charged with oversight of issues relating to and legislation regarding the health and welfare and the education of Alaska's citizens.

During the committee's consideration of legislation having to do with the insurance industry, there were a number of technical questions raised that the committee felt appropriate to ask the division of insurance in the Department of Commerce and Economic Development.

As committee aide, I called the director of the division to request assistance with these bills and was told that because of the director's absence, Chris Ulmann would be sent from Anchorage to Juneau to work on the legislation with the committee and to answer technical questions.

Mr. Ulmann did come to Juneau and we discussed the two bills: Senate Bill 74 and Senate Bill 242. In doing so we discussed the legislation section by section where I had indicated that either staff or members of the committee had questions about the technical or regulatory aspects of the legislation. When the discussions veered into policy issues, Mr. Ulmann was very clear to say that he was not authorized to discuss policy issues and later when testifying before the committee he declined to answer policy questions from members of the committee.

The letter regarding suggestions for wording changes to Senate Bill 74 was considered by this office as an enumeration of discussion points and not as the official position of the department since those official positions come to the committee signed by the commissioner of the department.

Mr. Ulmann responded professionally during informal discussions and when testifying on the record during hearings on the legislation. Please feel free to contact me again if you have any further questions.

Sincerely yours,

Melissa Aber Fouse
Committee Aide

ALASKA STATE EMPLOYEES ASSOCIATION

AFSCME Local 52, AFL-CIO

VIA FAX
April 21, 1992

Melissa Fouse, Legislative Aid
Office of Senator Arliss Sturgulewski
State Capital Building, room 427
Juneau, Alaska 99811-1182

Dear Melissa:

Please find attached to this letter the documentation Christian Ulmann, Insurance Market Analyst has received from the Division Director David Walsh. As I explained to you on the telephone this morning Chris is on administrative leave pending investigation of the charges detailed in the April 15, 1992.

Chris is being represented by the Union in this matter, and we are requesting your assistance in clarifying his role with your office. Specifically, his April 10, 1992 letter to you regarding SB 74, see attached.

It is the Union's position that Chris has not exceeded his authority regarding the technical assistance he provided to your office, under the direction he received from his supervisors, see attached. We would appreciate your assistance in this matter. If you have any questions please do not hesitate to call me, in the Anchorage office.

Thank you again for your willingness to help Chris. As you can well imagine, Chris is extremely upset about the charges and Director Walsh's accusations of inappropriate communication with the Senator's office.

Sincerely,

Alison Reardon
Business Agent

cc: Ulmann

ANCHORAGE OFFICE
3510 Spenard Road, Suite 110
Anchorage, AK 99503
(907) 277-5300 FAX (907) 277-5206
TOLL free 800-478-ASEA

JUNEAU OFFICE
9041 West Willoughby, Suite 100
Juneau, AK 99801
(907) 463-4949 FAX (907) 463-4950
TOLL free 800-478-0249

FAIRBANKS OFFICE
515 Barnette Street, Suite 104
Fairbanks, AK 99701
(907) 452-2305 FAX (907) 452-2307
TOLL free 800-478-2305

M E M O R A N D U M

TO: David J. Walsh, Director
Division of Insurance

DATE: April 17, 1992

RE: Response to April 15, 1992 Memo

FROM: Christian Ulman

In response to your memo requesting information regarding:

1. My projects are too numerous to remember. Due to not having access to my workplace, I can only mention a very few:

   a. Aetna: Closing the report, including finalizing the modification procedure;
   b. Blue Cross: By this summer, to establish new regulation regarding permissible loss ratios and finalizing rate action on the traditional programs;
   c. HMOs: Create new regulation regarding open ended HMOs;
   d. AMS: Starting regulatory actions after the claims have been paid.

   This list is not complete as explained previously.

2. My function was the Joint Committee as described in Section 4, Subsection B2 of the General Government Unit Bargaining Agreement, "The joint committee shall have access to analysis of current plan administration, claim payment administration, benefits plan design and utilization conducted by or for the Division of Retirement and Benefits."

   As a result of various inquiries by the Union to the Division of Retirement and Benefits, Aetna provided to them statistical analysis and reports the Union was seeking. This information was provided to the Union by the Division of Retirement and Benefits according to the above paragraph. No Division of Insurance equipment, time nor documentation was ever part of such analysis. The Union action was to read and discuss such matters. Therefore, the Division of Insurance was not involved in these matters.

3. In January when Gordon Laing, Corporate Actuary, contacted me

regarding a potential meeting with Blue Cross in Seattle, he indicated it would be cheaper for Blue Cross if I went to Seattle. I informed my supervisor of the potential trip.

When Mr. Laing reported that the project was completed, he wanted to get together as fast as possible because he was operating under a time constraint.

When Blue Cross asked me which airline to be booked on, I responded "Mark Air" knowing the two for one ticket cost the same as a single ticket on Alaska Airlines. Both tickets had to be used at once, on the same flight. The price was identical to Alaska Airlines single fare. It did not cost Blue Cross any money for the extra ticket.

This instance of a companion ticket is the equivalent of accruing free air mileage while on State business. Therefore, I considered choosing Mark Air appropriate.

4. In this instance, I had been instructed to work with the Legislators in regard to the bills. This letter to Ms. Fouse was only to confirm our discussions and not intended to present a position held by the Division. I did not submit the letter for your review because it was a confirmation and reminder of our discussions, nothing more.

I have never disregarded your directives, not in this instance nor in any other.

The new items are merely an extension of an existing matter; and, namely under additional funding, example pull tabs and fund raisers, etc., and clarifying on the medicare eligibility that people on Medicare for reasons of disability not age would be eligible for coverage.

Again, all these matters were technical discussions and served no other purpose than stated.

11233

MEMORANDUM State of Alaska

TO: Chris Ulmann, Insurance Market Analyst
Division of Insurance, Anchorage
Department of Commerce and
Economic Development

DATE: April 15, 1992

FILE NO:

TELEPHONE NO:

SUBJECT:

FROM: Dave Walsh, Director
Division of Insurance
Department of Commerce and
Economic Development

As requested by Diane Hodges from ASEA you are hereby provided with a list of projects that you agreed to complete and submit to Thelma Walker, no later than April 17, 1992:

1. A list of current projects with a short status report, two or three sentences on each will suffice.

2. A full explanation of what research and statistics were provided to ASEA, detailing what State documents, equipment and State time were used. A statement as to whether this information was solicited by ASEA in the form of a public information request. Please provide a copy of the information request. A statement indicating whether the information existed or had to be generated.

3. Explain the events that led up to the two (2) for one (1) ticket and why you felt it was an appropriate thing to do.

4. Explain why you issued the April 10, 1992 letter to Melissa Foust, Sturgulewski's aide on behalf of the division in total disregard to directives from me. Explain why you told me there were no new items in the memorandum and later admitted there were new items.

Chris, if you need any more information call me or Thelma directly.

DW/DE/mm6112c
041592a
cc: Personnel File

April 14, 1992

Melissa Fouse, Staff Aid
Office of Senator Sturglewski
State Capitol
Juneau, AK 99801-1182

RE: Letter and Memo in regard to SB 74 and SB 242

Dear Ms. Fouse:

On April 10, 1992, I provided you with one letter in regard to SB 74 and a memo in regard to SB 242 which confirmed our discussions on these bills.

Due to my error, Director Dave Walsh did not review or approve those documents. Therefore, such documents should not be viewed to reflect the position of the Division of Insurance or the Administration.

Please accept my apologies for any inconveniences this situation may have caused you.

Sincerely,

Christian Ulman
1602 West 14th Avenue
Anchorage, AK 99501

CC: Senator Jalmar Kerttula
Senator Virginia Collins
Director David J. Walsh, Division of Insurance
Deputy Director Thelma Snow Walker, Division of Insurance

MEMORANDUM State of Alaska

TO: Chris Ulman, Insurance Market Analyst
Division of Insurance, Anchorage
Department of Commerce and
Economic Development

DATE: April 13, 1992

FILE NO:

TELEPHONE NO:

FROM: Dave Walsh, Director
Division of Insurance
Department of Commerce and
Economic Development

SUBJECT: Suspension

Our preliminary investigation indicates that you may have engaged in misconduct involving the use of your official position. Specifically, there is significant evidence of misconduct involving use and distribution of confidential and analytical information, potential violations of the state travel regulations, failure to follow supervisory directives and conflict of interest in the conduct of your official duties. If sustained, these allegations warrant discipline up to and including dismissal.

You will be required to submit to an interview regarding these allegations at the Anchorage Division of Insurance Office on April 27, 1992 at 1:00 p.m. You may have union representation if you so desire. You are directed to answer all questions fully and honestly. If you fail or refuse to answer all questions fully and honestly, you may be subject to discipline up to and including dismissal.

During the pendency of this investigation you are suspended from duty with pay. You are directed to turn in your office keys to Thelma Walker no later than 3:00 p.m. today and refrain from acting or representing yourself in any official capacity during this period of suspension. You are further directed to remain accessible by phone during normal working hours during this period of suspension.

DW/rs2841s
041392a
cc: ASEA
Personnel File

WALTER J. HICKEL, GOVERNOR

DEPARTMENT OF COMMERCE AND
ECONOMIC DEVELOPMENT

DIVISION OF INSURANCE

P.O. BOX 110805
JUNEAU, ALASKA 99811-0805
PHONE (907) 465-2515

April 10, 1992

MS MELISSA FOUSE, STAFF AID
OFFICE OF SENATOR STURGULEWSKI
STATE CAPITOL
JUNEAU AK 99801-1182

Dear Ms. Fouse:

Re: Testimony for HSS Health
Committee on April 8, 1992

The Division of Insurance suggests the following changes in regard to SB 74.

1. Sec. 21.55.040. Plan of Operation. We suggest that language be added stating:

   (a) Provide for and employ cost containment measures and requirements including, but not limited to, preadmission screening, second surgical opinion, concurrent utilization review, and individual case management for the purpose of making the benefit plan more cost effective.

   (b) Design, utilize, contract or otherwise arrange for the delivery of cost effective health care services, including establishing or contracting with preferred provider organizations, health maintenance organizations and other limited network provider arrangements.

   (c) The board shall make an annual report to the director of Insurance which shall also be filed with the legislature. The report shall summarize the activities of the plan in the preceding calendar year, including the net written and earned premiums, plan enrollment, the expense of administration, and the paid and incurred losses.

2. Sec. 21.55.100. Types of Insurance Plans

   Amend section (b) to read: The association shall make available to residents who are high risk and are obtaining Medicare, a Medicare supplement plan that meets the minimum policy standards and minimum benefit standards established by regulations adopted by the director under AS 21.89.060.

3. Sec. 21.55.130(1). Preexisting Condition

Line 19 and line 23, increase to six months.

4. Sec. 21.55.150. State Plan Premiums

Line 17, amended to read: The premium for a state plan may not exceed 150 percent of the average of those five estimates.

5. Sec. 21.55.220. Operation of Plan. Subsection (f) is added.

The association has the right to generate additional funds in the form of fundraisers, pull-tabs and to obtain private and public donations, etc.

6. Sec. 21.55.300. Eligibility for State Health Insurance. By extending subsection (b).

(b) The board shall promulgate a list of medical or health conditions for which a person shall be eligible for plan coverage without applying for health insurance pursuant to subsection (a). Persons who can demonstrate the existence or history of any medical or health conditions on the list promulgated by the board shall not be required to provide the evidence specified in subsection (a). The list shall be effective on the first day of the operation of the plan and may be amended from time-to-time as may be appropriate.

(c) Each resident dependent of a person who is eligible for plan coverage shall also be eligible for plan coverage.

(d) A person shall not be eligible for coverage under the plan if:

(1) the person has or obtains health insurance coverage substantially similar to or more comprehensive than a plan policy, or would be eligible to have coverage if the person elected to obtain it except that:

(A) A person may maintain other coverage while satisfying any preexisting condition waiting period under a plan policy; or

(B) A person may maintain plan coverage while satisfying a preexisting condition waiting period under another health insurance policy.

(2) the person is determined to be eligible for health care benefits under [reference state Medicaid law];

(3) the person has previously terminated plan coverage unless twelve (12) months have lapsed since such termination;

(4) the plan has paid out $ (Lifetime maximum) in benefits on behalf of the person;

(5) the person is an inmate or resident of a public institution;

(6) the person's premiums are paid for or reimbursed under any government sponsored program or by any government agency or health care provider, except as an otherwise qualifying full-time employee, or dependent thereof, of a government agency or health care provider.

(e) coverage shall cease:

(1) on the date a person is no longer a resident of this state:

(2) on the date a person requests coverage to end;

(3) upon the death of the covered person;

(4) on the date state law requires cancellation of the policy; or

(5) at the option of the plan, thirty (30) days after the plan makes any inquiry concerning the person's eligibility or place of residence to which the person does not reply.

(f) Except under the circumstances described in subsection (d), a person who ceases to meet the eligibility requirements of this section may be terminated at the end of the policy period for which the necessary premiums have been paid.

Sincerely,

Chris Ulmann
Insurance Market Analyst

CU/ems6333W
041092c

MEMORANDUM State of Alaska

TO: Thelma Snow Walker
Deputy Director
Division of Insurance

DATE: August 16, 1991

FILE NO:

TELEPHONE NO:

THRU:

SUBJECT: Position With the Statewide Union Health Insurance Committee

FROM: Christian Ulmann
Insurance Market Analyst
Life, Health & Disability
Division of Insurance

This serves as a clarification regarding my activity with the statewide Union Health Insurance Commitee. After a discussion with the Business Manager office of our Union, I learned, that the enclosed document was only delivered in Anchorage and that after the date, that Mr. Sykes made his comments. But to satisfy your inquiry I can report the following:

This committee is established according to the Collective Bargaining Agreement, Article 19, Section 4. Such committee consists of members of the union and members of the administration. According to Section 4 of the Bargaining Agreement, Subsection B3, "The Joint Committee may review and make recommendations to the Commissioner of the Department of Administration covering provision of efficient, effective health care benefits within the level of employer contribution, including, but not limited to: utilization review, hospital pre-certification, cost containment measures, etc." The term "representative" is issued as representing the union to such joint commitee.

My function is according to Section 4, Subsection B2, which states: "The Joint Commitee shall have access to analyses of current plan administration, claims payment administration, benefit plan design and utilization conducted by or for the Division of Retirement and Benefits. A representive of the Insurance carrier shall be available to the Committee."

Again, the representation consists of representing the union to the Joint Task Force. My part in this is to review and analyze information provided by the Division of Retirement and Benefits to the Joint Committee. This is addressed in the Newsletter.

Nothing in the focus of the Joint Commitee on Health Benefits discusses negotiations with the state or choosing provider for services. The negotiation of Benefits between the Union and the State Administration occurred prior the the inception of the Bargaining Agreement, and I was never part of such.

Closing Statement

Mr Sykes made a distinctive comment to the Assistant Attorney General, Alexis Gabay, stating that I was a member of the negotiation team and assisted in choosing VSP as a provider and the therefore he stated. I would have a conflict of interest by dealing with VSP. He went as far as saying that he had seen my name on a List of Union negotiators.

Again I would like to repeat my demands:

I request, that Mr. Sykes, as instructed by the Director,

1) Admit what he said (he made those accusations even in front of the Director).

2) Explain what led him to make such an allegation, with an explanation of the source of such faulty information.

3) Apologize in writing as instructed by the Director.

Sykes' failure to write a memo in this matter could, for all intents and purposes, be viewed as a matter of insubordination. He did not comply with a clear order by the Director to send a written apology. Further, it amazes me that Mr. Sykes, after committing a serious imprudent and unethical act, believes he can BS himself out of this situation.

Your immediate attention to this matter is highly appreciated.

Thank you.

0303k

MEMORANDUM 19 March 1992

TO: Senator Jim Duncan
Senator Jay Kerttula
Senator Virginia Collins

FROM: Senator Arliss Sturgulewski
Chairman, Senate HESS Committee

It is the intent of the Senate HESS Committee to have an overview of the work of the Health Resources and Access Task Force and it's recommendations on Wednesday, March 25 th.

The committee will then be reviewing legislation currently in the committee congruent with the recommendations of the Task Force. In the process of our committee work, we will be examining the legislation for consistency with those recommendations. We will also look for consistency among the different bills as well.

On Monday, March 30, 1992 at 3:30 pm in the Butrovich room, we will have a public hearing on Senate Bills 74, 83, 242, and 290. It is my intention at that time to hear from the sponsors of the bills scheduled to be heard. We would appreciate having back-up information as complete as possible by that hearing.

Any assistance you can offer in accomplishing these goals will be greatly appreciated. Please call Melissa Fouse of my staff if you have any questions.

Indiana / SW HSS

① Must be comply by 1/1/93 ?

② Penalties for not complying

③ Other Bd type requirements for Medicaid

④ V+ Bd action current Bds ?

A Few Policy Issues of DUR to be Addressed in 1992

Key Issues:

1) State medical associations must address numerous policy issues in 1992 session to ensure that DUR remains a *state* issue and that policy areas are enacted properly in state statute/regulation.

   Examples:

   - DUR *Board* controls DUR, not HCFA, and not Medicaid departments.
   - Criteria and standards are established at *state* level with professional input (consensus) in an ongoing and public fashion.
   - How will DUR Board be selected? What will be the specific duties and powers?
   - Definitions need to be clear and concise.
   - Where does SURS/DUR begin and end?
   - How will the DUR Board "interact" with boards of pharmacy or medicine? What are the lines of jurisdiction?
   - Will pharmacists need to be protected under professional liability statutes?
   - Will DUR Boards be protected from civil liability under peer review statutes?
   - Will pharmacy records and information collected from patients be protected under health records statutes?
   - How will pharmacists "counseling" of patients be defined in statute?

2. Medical societies must take the lead on the issue. This does not *negate* a consensus building approach among the key players in the development of DUR.

3) The initial focus should be on "policy" points (the skeleton).

   The details of DUR such as defining outliers, how an intervention is conducted, etc., (the guts and organs) can be filled in after the policy "skeleton" has been built.

Summary of Federal Medicaid Drug Utilization Review Law (OBRA '90)

Intent

-- To establish a retrospective and a prospective (point of sale) drug utilization review program for covered outpatient drugs in the state Medicaid program.

Effective Date

-- The program is to be in place by January 1, 1993.

Scope:

The DUR program must be designed to:

a) Ensure that prescriptions are
   - -- Appropriate
   - -- Medically necessary
   - -- Not likely to result in adverse medical outcomes

b) Educate physicians and pharmacists on
   - -- Identifying and reducing the frequency of patterns of fraud, abuse, gross overuse, or inappropriate or medically unnecessary care among physicians, pharmacists, and patients
   - -- Potential or actual severe/adverse reactions to drugs
   - -- Therapeutic appropriateness
   - -- Over utilization and under utilization
   - -- Appropriate use of generics
   - -- Therapeutic duplication
   - -- Drug - disease contraindications
   - -- Drug - drug interactions
   - -- Incorrect drug dosage/duration of drug treatment
   - -- Drug allergy interactions
   - -- Clinical abuse/misuse

Sources for Development of Predetermined Standards on Drug Use

Compendia consisting of:

- American Hospital Formulary Services Drug Information
- U.S. Pharmacopeia - Drug Information
- AMA Drug Evaluations
- Peer-Reviewed Medical Literature

Retrospective DUR

Must use the mechanized drug claims processing and information retrieval system to analyze claims data to:

-- Identify patterns of fraud, abuse, gross overuse, or inappropriate or medically-unnecessary care.

-- Assess data on drug use against EXPLICIT PREDETERMINED STANDARDS (using compendia identified previously as the SOURCE OF STANDARDS) to monitor the following:

- Therapeutic appropriateness
- Over utilization and under utilization
- Therapeutic duplication
- Drug - disease contraindications
- Drug - drug interactions
- Incorrect drug dosage or duration of drug treatment
- Clinical abuse/misuse.

-- Must implement remedial strategies to improve the quality of care and to conserve program funds or personal expenditures.

Prospective Drug Review
(point-of-sale or distribution)

1) Prior to the prescription being filled or delivered, a review will be conducted at the point of sale to:

-- Screen for potential drug therapy problems resulting from:
  - Therapeutic duplication
  - Drug - drug interactions
  - Incorrect dosage/duration of treatment
  - Drug - allergy interactions
  - Clinical abuse/misuse

-- States must use the compendia previously listed as SOURCE OF STANDARDS.

-- Provide under state law standards for pharmacists to counsel individuals receiving outpatient drugs under the Medicaid program. The pharmacist MUST OFFER TO DISCUSS matters which the pharmacist deems significant, including:
  - The name and description of the medication
  - Administration, form, duration of therapy
  - Special directions/precautions for use
  - Common severe side effects or interactions and therapeutic interactions, and how to avoid such occurrences

- Techniques for self-monitoring drug therapy
- Proper storage
- Prescription refill information
- Action to be taken in the event of a missed dose.

2) Pharmacists must make a reasonable effort to record information on the individual including:
   - Name
   - Address
   - Age
   - Gender
   - Individual history where significant, including disease state, known allergies/drug reactions, and comprehensive list of medications and relevant devices
   - Pharmacist's comments on the individual's drug therapy.

3) The patient may refuse the consultation.

DUR Board

-- State must provide a DUR Board either directly or through private contract

Membership of DUR Board

-- At least one-third, but no more than 51 percent licensed and actively practicing physicians

-- At least one-third licensed and actively practicing pharmacists

-- Must have knowledge and expertise in one or more of:

a. Clinically appropriate prescribing of outpatient drugs
b. Clinically appropriate dispensing and monitoring of outpatient drugs
c. Drug use review, evaluation, and intervention

Activities of DUR Board

Include, but not limited to:

a. Retrospective DUR
b. Application of predetermined standards to be used in DUR
c. Ongoing interventions for physicians and pharmacists that include:
   - Information dissemination to ensure the availability to physicians and pharmacists on the Board's duties and powers
   - Written, oral, or electronic reminders of patient-specific or drug-specific information, and suggested changes in prescribing or dispensing practices designed to ensure patient confidentiality
   - Use of face-to-face discussions between experts in drug therapy and the prescriber/pharmacist who has been targeted for educational intervention
   - Intensified reviews or monitoring of selected prescribers or dispensers
d. Educational program
e. Evaluation of interventions to determine if interventions improved quality of care

Educational Program of DUR Board

The DUR Board shall (either directly or through contract with health care educational institutions, professional societies, etc):

-- Use data provided through DUR to provide for active and ongoing educational outreach programs to improve prescribing and dispensing practices

Electronic Claims Management

1) Each state will be encouraged to establish as its principal means of processing claims a point-of-sale electronic claims management system for performing on-line eligibility verifications, claims data capture, and claims payments.

2) During FY91 and FY92, the claims management systems developed by the states shall be paid for by the federal government at a rate of 90 percent.

Federal Reimbursement to States

1) For electronic claims management at point of sale
   -- 90 percent (FY91-92)

2) For adoption of statewide DUR
   -- 75 percent (FY92-93)

3) For approved PILOT programs (on prospective DUR (with on-line claims management)
   -- 100 percent

Annual Report of DUR Board

Each DUR Board must prepare an Annual Report to HHS on:

- -- The activities of the Board
- -- An overview of the DUR programs
- -- A summary of interventions used
- -- An assessment of the impact of the educational interventions on quality of care
- -- An estimate of the cost savings

Other Reports

1) Annual May 1
Report from HHS to Congress on rebate program

2) Annual May 1
Report from Comptroller General on prices of drugs to Veterans Affairs, federal programs, retail and hospital pharmacies, and purchasing groups

3) May, 1991
Report from Comptroller General on drug purchasing and billing practices of hospitals, health facilities, and managed care plans

4) November, 1991
HHS study on availability and reimbursement for vaccines

5) November, 1991
Comptroller General study on discounting drugs under Medicaid

Other Reports

6) December, 1991
HHS and Comptroller General shall study prior approval procedures

7) December, 1991
HHS study on reimbursement rates to pharmacists under Medicaid

8) January, 1994
Report from HHS to Congress on the DUR pilots

9) January, 1995
Report from HHS to Congress on results of pilot studies on payment to pharmacists for cognitive services

Reprinted
February 6, 1992

ENGROSSED HOUSE BILL No. 1337

DIGEST OF INTRODUCED BILL

Citations Affected: IC 12-1-34.

Synopsis: Medicaid drug utilization review. Establishes the drug utilization review board. Requires the board to: (1) adopt rules; (2) implement a Medicaid retrospective and prospective drug utilization review (DUR) program; (3) develop predetermined criteria and standards for appropriate prescribing to be used in retrospective and prospective DUR programs; (4) develop, select, and assess interventions for physicians, pharmacists, and patients; and (5) publish an annual report. Requires information to be kept confidential.

Effective: Upon passage.

Brown, Turpin, Crawford, S. Wolf

(SENATE SPONSORS – RIEGSECKER, HUNT, K. SMITH)

January 7, 1992, read first time and referred to Committee on Public Health.
January 10, 1992, amended, reported – Do Pass.
January 16, 1992, read second time, ordered engrossed. Engrossed.
January 27, 1992, read third time, passed. Yeas 99, nays 0.

SENATE ACTION

January 28, 1992, read first time and referred to Committee on Health and Human Services.
January 31, 1992, amended, reported favorably – Do Pass.
February 5, 1992, read second time, amended, ordered engrossed.

Reprinted
February 6, 1992

Second Regular Session 107th General Assembly (1992)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in this style type, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in this style type. Also, the word NEW will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

ENGROSSED
HOUSE BILL No. 1337

A BILL FOR AN ACT to amend the Indiana Code concerning human services.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 12-1-34 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS:

Chapter 34. Drug Utilization Review

Sec. 1. As used in this chapter, "appropriate and medically necessary" means drug prescribing, drug dispensing, and patient medication usage in conformity with the criteria and standards developed under this chapter.

Sec. 2. As used in this chapter, "board" refers to the drug utilization review board created under this chapter.

Sec. 3. As used in this chapter, "compendia" means those resources widely accepted by the medical profession in the efficacious use of drugs, including the following sources:

(1) The American Hospital Formulary Services Drug

Information.

(2) The U.S. Pharmacopeia-Drug Information.

(3) The American Medical Association Drug Evaluations.

(4) The peer-reviewed medical literature.

Sec. 4. As used in this chapter, "counseling" means the activities conducted by a pharmacist to inform Medicaid recipients about the proper use of drugs as required by the board under this chapter.

Sec. 5. As used in this chapter, "criteria" means the predetermined and explicitly accepted elements that are used to measure drug use on an ongoing basis to determine if the use is appropriate, medically necessary, and not likely to result in adverse medical outcomes.

Sec. 6. As used in this chapter, "drug-disease contraindication" means an occurrence in which the therapeutic effect of a drug is adversely altered by the presence of another disease condition.

Sec. 7. As used in this chapter, "drug-drug interaction" means an occurrence in which at least two (2) drugs taken by a recipient leads to clinically significant toxicity that:

(1) is characteristic of one (1) or any of the drugs present; or

(2) leads to the interference with the effectiveness of one (1) or any of the drugs.

Sec. 8. As used in this chapter, "drug utilization review" or "DUR" means the program designed to measure and assess on a retrospective and a prospective basis the proper use of outpatient drugs in the Medicaid program.

Sec. 9. As used in this chapter, "intervention" means an action taken by the board with a prescriber or pharmacist to inform about or to influence prescribing or dispensing practices or utilization of drugs.

Sec. 10. As used in this chapter, "overutilization or underutilization" means the use of a drug in such quantities where the desired therapeutic goal is not achieved.

Sec. 11. As used in this chapter, "person" means an individual, an association, a partnership, a governmental unit, or a corporation.

Sec. 12. As used in this chapter, "pharmacist" means an individual who is licensed as a pharmacist in Indiana under IC 25-26.

Sec. 13. As used in this chapter, "physician" means an individual who is licensed to practice medicine in Indiana

under IC 25-22.5.

Sec. 14. As used in this chapter, "prospective DUR" means the part of the drug utilization review program that:

(1) is to occur before the drug is dispensed;

(2) is designed to screen for potential drug therapy problems based on explicit and predetermined criteria and standards that are developed on an ongoing basis with professional input; and

(3) is to provide for the counseling of recipients about the proper use of drugs.

Sec. 15. As used in this chapter, "retrospective DUR" means the part of the drug utilization review program that assesses or measures drug use based on an historical review of drug use data against predetermined and explicit criteria and standards that are developed on an ongoing basis with professional input.

Sec. 16. As used in this chapter, "standards" means the acceptable range of deviation from the criteria that reflects local medical practice and that is tested on the Medicaid recipient database.

Sec. 17. As used in this chapter, "SURS" refers to the surveillance utilization review system of the Medicaid program.

Sec. 18. As used in this chapter, "therapeutic appropriateness" means drug prescribing based on rational drug therapy that is consistent with the criteria and standards developed under this chapter.

Sec. 19. As used in this chapter, "therapeutic duplication" means the prescribing and dispensing of:

(1) the same drug; or

(2) at least two (2) drugs from the same therapeutic class;

where overlapping periods of drug administration are involved and where such prescribing or dispensing is not medically indicated.

Sec. 20. The drug utilization review board is established.

Sec. 21. The board is composed of the following:

(1) Four (4) individuals licensed and actively engaged in the practice of medicine or osteopathic medicine in Indiana under IC 25-22.5.

(2) Four (4) individuals licensed under IC 25-26 and actively engaged in the practice of pharmacy in Indiana.

(3) One (1) individual with expertise in therapeutic pharmacology who is neither a physician or a pharmacist.

(4) A representative of the office of Medicaid policy and planning who shall serve as an ex-officio nonvoting member of the board.

Sec. 22. (a) The members of the board shall be appointed by the governor and serve a term of three (3) years.

(b) The governor shall fill a vacancy on the board by appointing a new member to serve the remainder of the unexpired term.

(c) The governor may remove a member for cause.

Sec. 23. Board members must have expertise in one (1) or more of the following:

(1) Clinically appropriate prescribing of outpatient drugs.

(2) Clinically appropriate dispensing and monitoring of outpatient drugs.

(3) Drug utilization review, evaluation, and intervention.

(4) Medical quality assurance.

Sec. 24. In making the physician appointments, the governor shall provide for geographic balance.

Sec. 25. An individual appointed to the board may be reappointed upon the completion of the individual's term.

Sec. 26. (a) The board shall annually elect a chairman from the members of the board.

(b) The chairman may be re-elected to serve consecutive terms as chairman.

(c) A member of the board who is not a state employee is entitled to the minimum salary per diem as provided by IC 4-10-11-2.1(b). Each member of the board is entitled to reimbursement for traveling expenses and other expenses actually incurred in connection with the member's duties as provided in the state travel policies and procedures established by the Indiana department of administration and the budget agency.

(d) Each member of the board who is a state employee is entitled to reimbursement for traveling expenses actually incurred in connection with the member's duties, as provided in the state travel policies and procedures established by the Indiana department of administration and approved by the budget agency.

Sec. 27. The secretary of the family and social services

administration shall provide staff to the board.

Sec. 28. The board is responsible for the oversight of the retrospective and prospective DUR program.

Sec. 29. The board has the following duties:

(1) The adoption of rules to carry out this chapter, in accordance with the provisions of IC 4-22-2 and subject to any Office of Medicaid Policy and Planning approval that is required by the federal Omnibus Reconciliation Act of 1990 under Public Law 101-508 and its implementing regulations adopted under the Act.

(2) The implementation of a Medicaid retrospective and prospective DUR program as outlined in this chapter, including the approval of software programs to be used by the pharmacist for prospective DUR and recommendations concerning the provisions of the contractual agreement between the state and any other entity that will be processing and reviewing Medicaid drug claims and profiles for the DUR program under this chapter.

(3) The development and application of the predetermined criteria and standards for appropriate prescribing to be used in retrospective and prospective DUR to ensure that such criteria and standards for appropriate prescribing are based on the compendia and developed with professional input with provisions for timely revisions and assessments as necessary.

(4) The development, selection, application, and assessment of interventions for physicians, pharmacists, and patients that are educational and not punitive in nature.

(5) The publication of an annual report that must be subject to public comment before issuance to the Federal Department of Health and Human Services by December 1 of each year.

(6) The development of a working agreement for the board to clarify the areas of responsibility with related boards or agencies, including the following:

(A) The Indiana Board of Pharmacy.

(B) The Medical Licensing Board of Indiana.

(C) The SURS staff.

(7) The establishment of a grievance and appeals process for physicians or pharmacists under this chapter.

(8) The publication and dissemination of educational information to physicians and pharmacists regarding the board and the DUR program, including information on the following:

(A) Identifying and reducing the frequency of patterns of fraud, abuse, gross overuse, or inappropriate or medically unnecessary care among physicians, pharmacists, and recipients.

(B) Potential or actual severe or adverse reactions to drugs.

(C) Therapeutic appropriateness.

(D) Overutilization or underutilization.

(E) Appropriate use of generic drugs.

(F) Therapeutic duplication.

(G) Drug-disease contraindications.

(H) Drug-drug interactions.

(I) Incorrect drug dosage and duration of drug treatment.

(J) Drug allergy interactions.

(K) Clinical abuse and misuse.

(9) The adoption and implementation of procedures designed to ensure the confidentiality of any information collected, stored, retrieved, assessed, or analyzed by the board, staff to the board, or contractors to the DUR program that identifies individual physicians, pharmacists, or recipients.

(10) The implementation of additional drug utilization review with respect to drugs dispensed to residents of nursing facilities shall not be required if the nursing facility is in compliance with the drug regimen procedures under 410 IAC 16.2-3-8 and 42 CFR 483.60.

Sec. 30. (a) A quorum consists of five (5) voting members of the board.

(b) DUR criteria and standards for appropriate prescribing may only be implemented with the approval of a majority of the quorum of the board. The majority vote must include at least three (3) of the four (4) physician members of the board and may allow the board to accept deviations from the standards on a case-by-case basis.

Sec. 31. The criteria and standards developed under section 29(3) of this chapter for appropriate prescribing that are implemented must reflect the local practices of physicians to monitor the following:

(1) Therapeutic appropriateness.
(2) Overutilization or underutilization.
(3) Therapeutic duplication.
(4) Drug-disease contraindications.
(5) Drug-drug interactions.
(6) Incorrect drug dosage or duration of drug treatment.
(7) Clinical abuse and misuse.

Sec. 32. (a) An intervention developed under section 29(4) of this chapter that involves a physician must be approved by at least three (3) of the four (4) physician members of the board before implementation.

(b) An intervention that involves a pharmacist must be approved by at least three (3) of the four (4) pharmacist members of the board before implementation.

(c) Interventions include the following:

(1) Information disseminated to physicians and pharmacists to ensure that physicians and pharmacists are aware of the board's duties and powers.
(2) Written, oral, or electronic reminders of recipient-specific or drug-specific information that are designed to ensure recipient, physician, and pharmacist confidentiality, and suggested changes in the prescribing or dispensing practices designed to improve the quality of care.
(3) Use of face-to-face discussions between experts in drug therapy and the prescriber or pharmacist who has been targeted for educational intervention.
(4) Intensified reviews or monitoring of selected prescribers or pharmacists.
(5) The creation of an educational program using data provided through DUR to provide for active and ongoing educational outreach programs to improve prescribing and dispensing practices.
(6) The timely evaluation of interventions to determine if the interventions have improved the quality of care.
(7) The review of case profiles before the conducting of an intervention.

Sec. 33. (a) The annual report under section 29 of this chapter shall:

(1) be submitted to the legislative council, the governor, and the secretary of family and social services; and

(2) be made available to the public before December 1 of each year.

(b) The annual report must include information on the following:

(1) An overview of the activities of the board and the DUR program.

(2) Interventions used and their effectiveness. However, the information may not disclose the identities of individual physicians, pharmacists, or recipients. Intervention information should specify if the intervention was as a result of underutilization or overutilization of drugs.

(3) The costs of administering the DUR program.

(4) Any fiscal impact resulting from the DUR program.

(5) An overview of the fiscal impact of the DUR program to other areas of the Medicaid program such as hospitalization or long term care costs.

(6) A quantifiable assessment of how DUR has improved the recipient's quality of care.

(7) A summary of the total number of prescriptions reviewed by drug therapeutic class.

(8) An assessment of the impact of the educational programs or interventions on the prescribing or dispensing practices.

Sec. 34. The board and the Office of Medicaid Policy and Planning shall provide to the General Assembly before January 1, 1993, a report on the federal regulations interpreting the drug utilization review requirements of the Omnibus Budget Reconciliation Act of 1990 under Public Law 101-508, and any recommendations for changes in this Act required by those regulations.

Sec. 35. (a) Information that identifies an individual collected under this chapter is confidential and may not be disclosed by the board.

(b) The board may have access to identifying information for purposes of carrying out intervention activities. The identifying information may not be released to anyone other than a member of the board.

(c) The board may release cumulative non-identifying information for purposes of legitimate research.

Sec. 36. Before the approval or implementation of a prior approval program for outpatient drugs, the program must meet the following conditions:

(1) A prior approval program may not be applied to

a single drug entity.

(2) An outpatient drug may not be placed on prior approval for other than medical reasons.

(3) Before a therapeutic drug class is placed on prior approval, the board must hold a public hearing at least ninety (90) days before taking the action.

(4) The board must provide evidence that placing a drug class on prior approval will not impede quality of patient care and that the drug class is subject to clinical abuse or misuse before the board recommends that the drug class be placed on prior approval.

(5) Any drug class placed on prior approval will be reconsidered for removal by the board from prior approval no later than six (6) months after the drug is placed on prior approval.

(6) Any prior approval program must provide either telephone or FAX approval or denial Monday through Friday, twenty-four (24) hours a day. The office of Medicaid policy and planning must provide the approval or denial within twenty-four (24) hours after receipt of a prior approval request. The program must provide for the dispensing of at least a seventy-two (72) hour supply of the drug in an emergency situation or on weekends.

(7) Any prior approval program may not be applied to prevent acceptable medical use for appropriate off-label indications.

Sec. 37. The board may establish advisory committees to assist the board in carrying out the board's duties under this chapter.

Sec. 38. The board shall, in cooperation with the secretary of family and social services, include in the Medicaid state plan the creation and implementation of a retrospective and prospective DUR program for Medicaid outpatient drugs to ensure that the prescriptions are appropriate, medically necessary, and not likely to result in adverse medical outcomes.

Sec. 39. The retrospective and prospective DUR program shall be operated under the guidelines and procedures established by the board under section 29 of this chapter.

Sec. 40. (a) Retrospective DUR must:

(1) be based on the guidelines established by the board; and

(2) use the mechanized drug claims processing and information retrieval system to analyze claims data to do the following:

(A) Identify patterns of fraud, abuse, gross overuse, and inappropriate or medically unnecessary care.

(B) Assess data on drug use against explicit predetermined standards that are based on the compendia and other sources to monitor the following:

(i) Therapeutic appropriateness.

(ii) Overutilization or underutilization.

(iii) Therapeutic duplication.

(iv) Drug-disease contraindications.

(v) Drug-drug interactions.

(vi) Incorrect drug dosage or duration of drug treatment.

(vii) Clinical abuse and misuse.

Sec. 41. Prospective DUR must be based on the guidelines established by the board and must provide that prior to the prescription being filled or delivered a review will be conducted by the pharmacist at the point of sale to screen for potential drug therapy problems resulting from the following:

(1) Therapeutic duplication.

(2) Drug-drug interactions.

(3) Incorrect dosage and duration of treatment.

(4) Drug-allergy interactions.

(5) Clinical abuse and misuse.

Sec. 42. The activities of the board in carrying out this chapter are covered under IC 34-4-12.6.

Sec. 43. (a) The board may meet in an executive session for purposes of reviewing DUR data or to conduct or to discuss activity as provided for in IC 5-14-1.5-6.1.

(b) The board shall also conduct regular public meetings to gather input from the public on the operation of the DUR program.

Sec. 44. Confidential data or information obtained by pharmacists as part of prospective DUR are confidential but may be released to prescribers or others according to procedures established by the board.

Sec. 45. A person who does not comply with the confidentiality provisions under section 34 of this chapter commits a Class A misdemeanor.

SECTION 2. IC 25-26-13-4 IS AMENDED TO READ AS

FOLLOWS: Sec. 4. (a) The board may:

(1) promulgate rules and regulations under IC 4-22-2 for implementing and enforcing this chapter;

(2) establish requirements and tests to determine the moral, physical, intellectual, educational, scientific, technical, and professional qualifications for applicants for pharmacists' licenses;

(3) refuse to issue, deny, suspend, or revoke a license or permit or place on probation or fine any licensee or permittee under this chapter;

(4) regulate the sale of drugs and devices in the state of Indiana;

(5) impound, embargo, confiscate, or otherwise prevent from disposition any drugs, medicines, chemicals, poisons, or devices which by inspection are deemed unfit for use or would be dangerous to the health and welfare of the citizens of the state of Indiana; the board shall follow those embargo procedures found in IC 16-1-28-22 through IC 16-1-28-35, and persons may not refuse to permit or otherwise prevent members of the board or their representatives from entering such places and making such inspections;

(6) prescribe minimum standards with respect to physical characteristics of pharmacies, as may be necessary to the maintenance of professional surroundings and to the protection of the safety and welfare of the public;

(7) subject to IC 25-1-7, investigate complaints, subpoena witnesses, schedule and conduct hearings on behalf of the public interest on any matter under the jurisdiction of the board;

(8) prescribe the time, place, method, manner, scope, and subjects of licensing examinations which shall be given at least twice annually; and

(9) perform such other duties and functions and exercise such other powers as may be necessary to implement and enforce this chapter.

(b) The board shall adopt rules under IC 4-22-2 for the following:

(1) ~~establishing~~ **Establishing** standards for the competent practice of pharmacy.

(2) Establishing the standards for a pharmacist to counsel individuals regarding the proper use of drugs.

SECTION 3. (a) The drug utilization review board

established by IC 12-1-34, as added by this act, shall adopt the rules required by IC 12-1-34-29 before January 1, 1993.

(b) This SECTION expires January 2, 1993.

SECTION 4. (a) Notwithstanding IC 12-1-34-22, as added by this act, the governor shall appoint the initial members of the drug utilization review board established by this act for terms expiring as follows:

(1) Two (2) members for terms expiring June 30, 1995.

(2) Four (4) members for terms expiring June 30, 1996.

(3) Four (4) members for terms expiring June 30, 1997.

(b) This SECTION expires July 1, 1997.

SECTION 5. (a) The state may not approve a contract for services to implement the retrospective drug utilization review program under IC 12-1-34 before July 1, 1993.

(b) This SECTION expires July 1, 1993.

SECTION 6. (a) Notwithstanding IC 12-1-34-26, as added by this act, the governor shall appoint the initial chairperson of the drug utilization review board.

(b) This SECTION expires January 1, 1993.

SECTION 7. Because an emergency exists, this act takes effect upon passage.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Health, to which was referred House Bill 1337, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 3, line 30, after "ex-officio" insert in bold "nonvoting".

Page 3, line 32, after "Sec. 22." insert in bold "(a)".

Page 3, between lines 33 and 34, begin a new paragraph insert in bold the following:

"(b) The governor shall fill a vacancy on the board by appointing a new member to serve the remainder of the unexpired term.

(c) The governor may remove a member for cause.".

Page 4, line 3, delete "if" and insert in bold "of".

Page 4, between lines 5 and 6, begin a new paragraph insert in bold the following:

"(c) A member of the board who is not a state employee is entitled to the minimum salary per diem as provided by IC 4-10-11-2.1(b). Each member of the board is entitled to reimbursement for traveling expenses and other expenses actually incurred in connection with the member's duties as provided in the state travel policies and procedures established by the Indiana department of administration and the budget agency.

(d) Each member of the board who is a state employee is entitled to reimbursement for traveling expenses actually incurred in connection with the member's duties, as provided in the state travel policies and procedures established by the Indiana department of administration and approved by the budget agency.".

Page 8, line 34, after "include" insert in bold "in".

Page 10, between lines 15 and 16, begin a new paragraph and insert the following:

"SECTION 4. (a) **The drug utilization board established by IC 12-1-34, as added by this act, may not enter into a contract for services to implement the retroactive drug utilization review program under IC 12-1-34.**

(b) This SECTION expires July 1, 1993.".

Page 10, line 16, renumber SECTION 4 as SECTION 5.

and when so amended that said bill do pass.

(Reference is to House Bill 1337 as introduced.)

BROWN, Chair

Committee Vote: yeas 10, nays 0.

COMMITTEE REPORT

Mr. President: Your Committee on Health and Human Services, to which was referred Senate Bill 1337, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be amended as follows:

Page 3, line 2, delete "and".

Page 3, line 6, delete "." and insert in bold "; and

(3) is to provide for the counseling of recipients about the proper use of drugs.".

Page 4, line 45, delete "to carry out" and insert in bold "required by".

Page 5, line 1, delete "this chapter" and insert in bold "the federal Omnibus Reconciliation Act of 1990 under Public Law 101-508 and any regulations adopted under the Act".

Page 5, line 6, delete "approval of" and insert in bold "recommendations concerning".

Page 6, line 17, delete "The approval or disapproval of the" and insert in bold "The implementation of additional drug utilization review with respect to drugs dispensed to residents of nursing facilities may not be required if the nursing facility is in compliance with the drug regimen procedures under 410 IAC 16.2-3-8 and 42 CFR 433.60.".

Page 6, delete lines 18 through 21.

Page 8, between lines 14 and 15, begin a new line block indented and insert in bold the following:

"(9) A report on the federal regulations interpreting the drug utilization review requirements of the federal Omnibus Reconciliation Act of 1990 under Public Law 101-508 and any recommendations for changes in this chapter required under the Act.".

Page 8, line 24, delete "(a) The office of Medicaid policy and planning".

Page 8, delete lines 25 through 27.

Page 8, line 28, delete "(b)".

Page 8, run in lines 24 and 28.

Page 8, line 41, after "the" insert in bold "board recommends that the".

Page 8, line 41, delete "is" and insert in bold "be".

Page 9, delete lines 14 through 17.

Page 9, delete lines 21 through 22.

Page 9, line 23, delete "38." and insert in bold "37.".

Page 9, line 30, delete "39." and insert in bold "38.".

Page 9, line 34, delete "40." and insert in bold "39.".

Page 10, line 10, delete "41." and insert in bold "40.".

Page 10, line 21, delete "42." and insert in bold "41.".

Page 10, line 23, delete "43." and insert in bold "42.".

Page 10, line 29, delete "44." and insert in bold "43.".

Page 10, line 33, delete "45." and insert in bold "44.".

Page 10, between lines 35 and 36, begin a new paragraph and insert the following:

"SECTION 2. IC 25-26-13-4 IS AMENDED TO READ AS FOLLOWS: Sec. 4. (a) The board may:

(1) promulgate rules and regulations under IC 4-22-2 for implementing and enforcin ; this chapter;

(2) establish requirements and tests to determine the moral, physical, intellectual, educational, scientific, technical, and professional qualifications for applicants for pharmacists' licenses;

(3) refuse to issue, deny, suspend, or revoke a license or permit or place on probation or fine any licensee or permittee under this chapter;

(4) regulate the sale of drugs and devices in the state of Indiana;

(5) impound, embargo, confiscate, or otherwise prevent from disposition any drugs, medicines, chemicals, poisons, or devices which by inspection are deemed unfit for use or would be dangerous to the health and welfare of the citizens of the state of Indiana; the board shall follow those embargo procedures found in IC 16-1-28-22 through IC 16-1-28-35, and persons may not refuse to permit or otherwise prevent members of the board or their representatives from entering such places and making such inspections;

(6) prescribe minimum standards with respect to physical characteristics of pharmacies, as may be necessary to the maintenance of professional surroundings and to the protection of the safety and welfare of the public;

(7) subject to IC 25-1-7, investigate complaints, subpoena witnesses, schedule and conduct hearings on behalf of the public interest on any matter under the jurisdiction of the board;

(8) prescribe the time, place, method, manner, scope, and subjects of licensing examinations which shall be given at least twice annually; and

(9) perform such other duties and functions and exercise such other powers as may be necessary to implement and enforce this chapter.

(b) The board shall adopt rules under IC 4-22-2 for the

following:

(1) ~~establishing~~ **Establishing** standards for the competent practice of pharmacy.

(2) Establishing the standards for a pharmacist to counsel individuals regarding the proper use of drugs.".

Beginning on page 10, line 36, renumber SECTIONS 2 through 4 as SECTIONS 3 through 5.

Page 11, line 6, delete "drug utilization board established" and insert in bold "state".

Page 11, line 7, delete "by IC 12-1-34, as added by this act,".

Page 11, line 7, delete "enter into" and insert in bold "approve".

Page 11, line 8, delete "retroactive" and insert in bold "retrospective".

Page 11, line 9, after "IC 12-1-34" insert in bold "before July 1, 1993".

Page 11, between lines 10 and 11, begin a new paragraph and insert the following:

"SECTION 6. **(a) Notwithstanding IC 12-1-34-26, as added by this act, the governor shall appoint the initial chairperson of the drug utilization review board.**

(b) This SECTION expires January 1, 1993.".

Page 11, line 11, renumber SECTION 5 as SECTION 7.

and when so amended that said bill do pass.

(Reference is to House Bill 1337 as printed January 13, 1992.)

BLANKENBAKER, Chairman

Committee Vote: Yeas 8, Nays 0.

SENATE MOTION

Mr. President: I move that Engrossed House Bill 1337 be amended as follows:

Page 5, line 4, delete "under IC 4-22-2" and insert in bold "to carry out this chapter, in accordance with the provisions of IC 4-22-2 and subject to any Office of Medicaid Policy and Planning approval that is".

Page 5, line 5, after "Omnibus" and insert in bold "Budget".

Page 5, line 6, delete "any" and insert in bold "its implementing".

Page 5, delete line 7,

Page 6, line 25, delete "may" and insert in bold "shall".

Page 8, delete lines 22 through 26.

Page 8, between lines 26 and 27, begin a new paragraph and insert in bold the following:

"**Sec. 34. The board and the Office of Medicaid Policy and Planning shall provide to the General Assembly before January 1, 1993, a report on the federal regulations interpreting the drug utilization review requirements of the Omnibus Budget Reconciliation Act of 1990 under Public Law 101-508, and any recommendations for changes in this Act required by those regulations.**".

Beginning on page 8, line 26, renumber "Sec. 34" through "Sec. 44" as "Sec. 35" through "Sec. 45".

(Reference is made to bill printed February 1, 1992.)

RIEGSECKER

Principles of Drug Use Review (DUR)

Adopted by

American Medical Association
American Pharmaceutical Association
Pharmaceutical Manufacturers Association

Pharmaceutical Manufacturers Association

Summer 1991

PRINCIPLE 1

The primary emphasis of a DUR program must be to enhance quality of care for patients by assuring appropriate drug therapy.

CHARACTERISTICS:

a) While a desired therapeutic outcome should be cost-effective, the cost of drug therapy should be considered only after clinical and patient considerations are addressed.

b) Sufficient professional prerogatives should exist for individualized patient drug therapy.

PRINCIPLE 3

Criteria and standards for DUR must be non-proprietary and must be developed and revised through an open professional consensus process.

CHARACTERISTICS:

a) The criteria and standards development and revision process should allow for and consider public comment in a timely manner before the criteria and standards are adopted.

b) The criteria and standards development and revision process should include broad-based involvement of physicians and pharmacists from a variety of practice settings.

c) The criteria and standards should be reviewed and revised in a timely manner.

d) If a nationally developed set of criteria and standards are to be used, there should be a provision at the state level for appropriate modification.

PRINCIPLE 5

Confidentiality of the relationship between patients and practitioners must be protected.

CHARACTERISTICS:

a) The DUR program must assure the security of its database.

PRINCIPLE 7

DUR program operations must be structured to achieve the principles of DUR.

CHARACTERISTICS:

a) DUR programs should maximize physician and pharmacist involvement in program development, operation and evaluation.

b) DUR programs should have an explicit process for system evaluation (e.g. total program costs, validation).

c) DUR programs should have a positive impact on improving therapeutic outcomes and controlling overall health care costs.

d) DUR programs should minimize administrative burdens to patients and practitioners.

DEFINITIONS

DRUG UTILIZATION REVIEW (DUR: DRUG USE REVIEW)

FORMAL PROGRAM FOR ASSESSING DATA ON DRUG USE AGAINST EXPLICIT, PROSPECTIVE STANDARDS AND, AS NECESSARY, INTRODUCING REMEDIAL STRATEGIES TO ACHIEVE SOME DESIRED END.

RETROSPECTIVE DUR

REVIEW OCCURS AFTER THE DRUG HAS BEEN DISPENSED; DOES NOT ALLOW OPPORTUNITY TO MODIFY INDIVIDUAL PATIENT'S DRUG THERAPY.

PROSPECTIVE DUR

REVIEW OCCURS BEFORE PESCRIPTION IS DISPENSED TO PATIENT; ALLOWS OPPORTUNITY TO MODIFY INDIVIDUAL PATIENT'S PRESCRIPTION.

- PHARMACIST DISPENSING LEVEL VS. PHYSICIAN PRESCRIBING LEVEL
- LOCAL REVIEW ONLY VS. ONLINE ELECTRONIC REVIEW

DEFINITIONS (CONTD)

CRITERIA

PREDETERMINED ELEMENTS OF DRUG USE AGAINST WHICH ASPECTS OF QUALITY, MEDICAL NECESSITY, AND APPROPRIATENESS OF DRUG USE MAY BE COMPARED.

- IMPLICIT (UNSTRUCTURED; UNWRITTEN; SUBJECTIVE) VS. EXPLICIT (WRITTEN; OBJECTIVELY DERIVED; AGREED TO BY ALL [EG, DOSE OF DRUG X IS 25 MG]).

NORMS

NUMERICAL OR STATISTICAL DESCRIPTIONS OF OBSERVED PERFORMANCE (EG, AVERAGE DOSE OF DRUG X USED WAS 25 MG).

STANDARDS

PROFESSIONALLY DEVELOPED EXPRESSIONS OF THE RANGE OF ACCEPTABLE VARIATION FROM A CRITERION OR NORM (EG, NO MORE THAN 5% OF PATIENTS ON DRUG X AT GREATER THAN 25 MG DOSE).

GOALS OF DUR

CORRECT INAPPROPRIATE PRESCRIBING, DISPENSING, AND PATIENT MEDICATION USE TO:

- IMPROVE QUALITY OF CARE
- DECREASE COST
- DECREASE FRAUD AND ABUSE

DUR PROCESS

SETTING CRITERIA AND STANDARDS

DATA CAPTURE AND ANALYSIS

- CRITERIA-BASED VS NORMATIVE

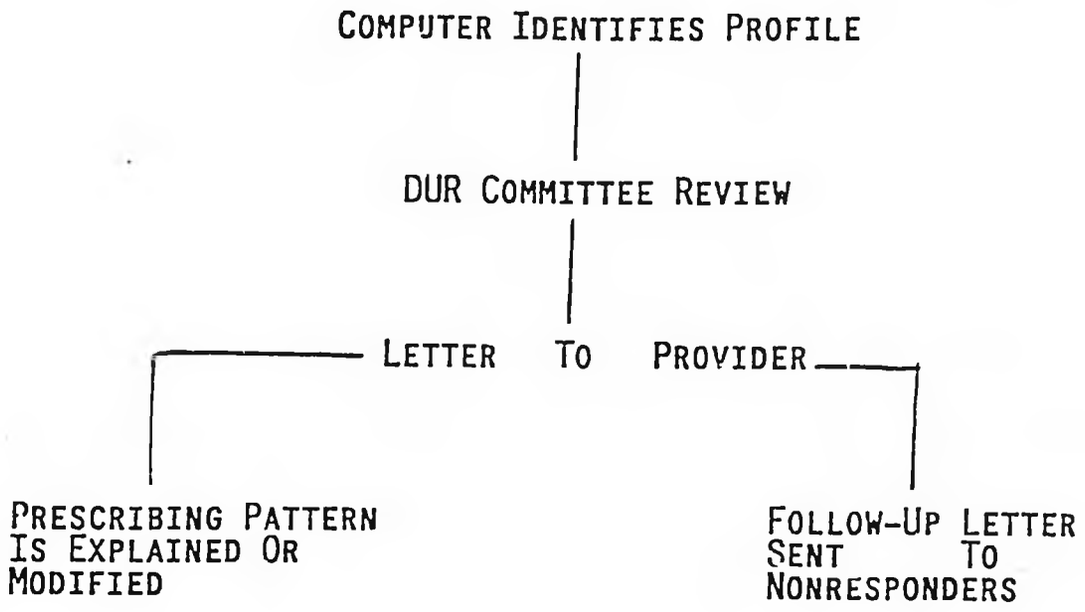
INTERVENTION AND EDUCATION

- LETTERS
- FACE-TO-FACE PEER COUNSELING ("COUNTER DETAILING")
- FOCUSED CME

MEASURE EFFECTIVENESS

- OF INTERVENTIONS (EG, IMPROVED PRESCRIBING)
- OF DUR PROGRAM (EG, HEALTH OUTCOMES; COST-EFFECTIVENESS)

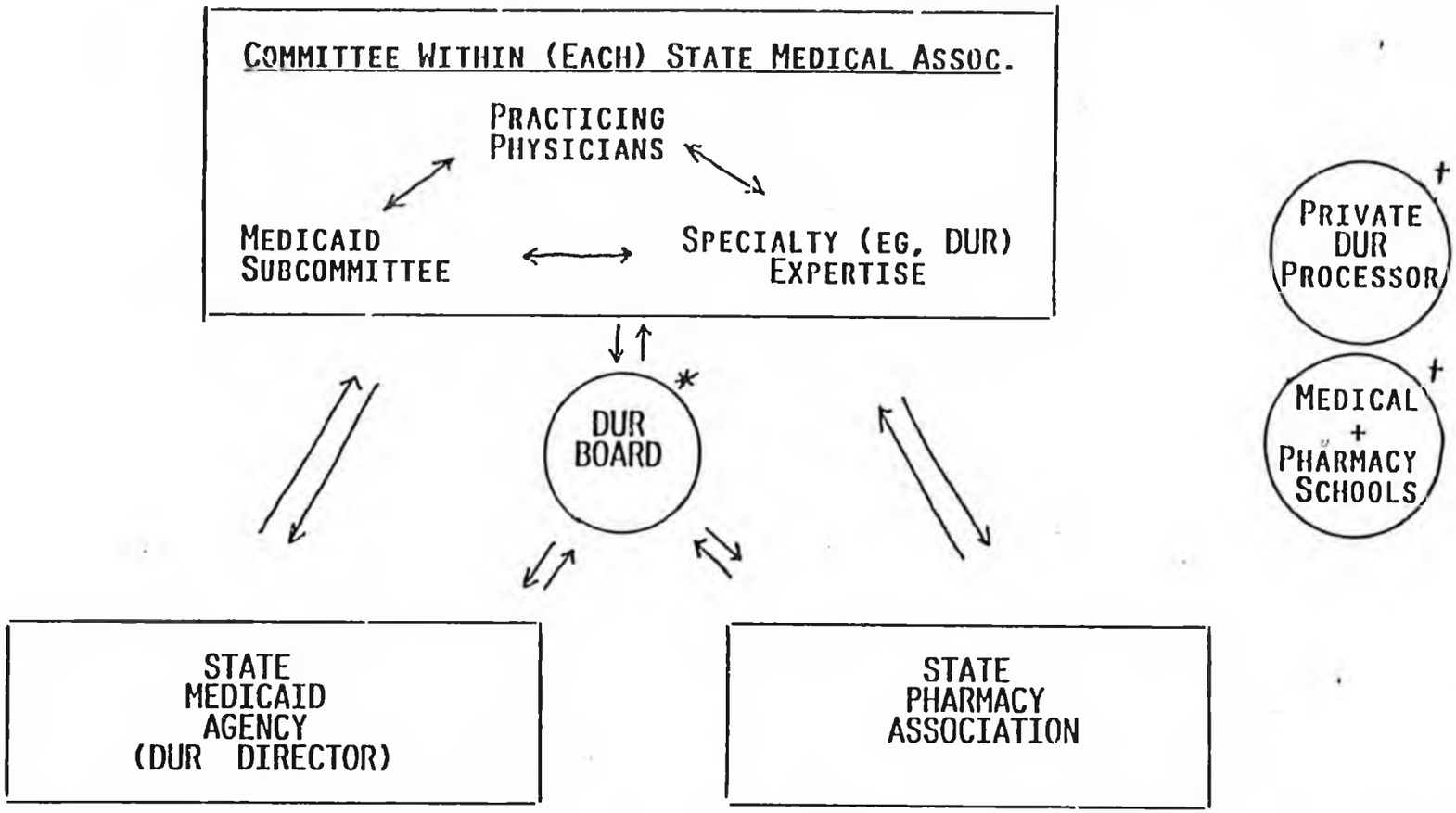
TYPICAL MEDICAID RETROSPECTIVE DUR PROCEDURE (NPC STUDY)



DUR UNDER OBRA '90

- REQUIRED IN EVERY STATE BY 1/1/93
- ADDRESS QUALITY OF CARE; COST; FRAUD AND ABUSE
- CRITERIA AND STANDARDS FROM THREE COMPENDIA AND PEER REVIEWED LITERATURE (STATUTORY LANGUAGE)
- PROSPECTIVE DUR
  - ELECTRONIC NOT MANDATED
  - BY PHARMACIST AT POS -- MANDATES PHARMACIST COUNSELING OF PATIENT
  - 10 DEMONSTRATION PROJECTS FOR ELECTRONIC ONLINE, REAL-TIME PROSPECTIVE DUR
- RETROSPECTIVE DUR -- WILL ADDRESS INAPPROPRIATE PRESCRIBING!
- INTERVENTION -- EDUCATION (EG, LETTERS, FACE-TO-FACE) PREFERRED; BUT PUNITIVE SANCTIONS PROBABLY WILL BE ALLOWED
- DUR BOARD
  - MANDATED IN EACH STATE
  - RUNS RETROSPECTIVE DUR AND EDUCATION (NOTE: RUN PROSPECTIVE DUR IF TECHNICAL CORRECTION-SCHULKE?)
  - COMPOSITION IS 33% TO 51% PRACTICING PHYSICIANS AND 33% TO 66% PRACTICING PHARMACISTS
  - MAY BE CONTRACTED OUT
  - APPROVE CRITERIA AND STANDARDS (HCFA CONCEPT PAPER)

DUR MODEL



*DUR BOARD CAN BE RUN BY STATE OR BE CONTRACTED OUT; HOWEVER, MEMBERSHIP MUST BE 1/3 PHYSICIAN AND 1/3 PHARMACIST (THESE ARE MINIMUMS).

+IF PRIVATE DUR PROCESSOR USED, THEY COULD WORK DIRECTLY BY CONTRACT WITH STATE OR THROUGH ANOTHER BODY (EG. PROFESSIONAL ASSOCIATION) THAT HOLDS CONTRACT WITH STATE. THE SAME HOLDS FOR ANY SCHOOL INVOLVEMENT.

Alaska State Legislature

SENATE

Official Business

State Capitol
Juneau, Alaska 99801-1182
(907) 465-3701

February 24, 1992

MEMORANDUM

TO: Senator Sturgulewski, Chair
Health, Education and Social Services Committee

FROM: Nancy Quinto NQ
Secretary of the Senate

SUBJECT: Senate Concurrent Resolution No. 9
from West Virginia State Senate

President Eliason referred the attached resolution to your committee for consideration:

> Committee Substitute for Senate Concurrent Resolution No. 9,
>
> Urging the Congress of the United States to enact the provisions of S. 1989 and H.R. 4013 to ensure continued health care benefits for retired coal miners.

NQ/ps

Attachment

State of West Virginia

CERTIFICATE

I, Darrell E. Holmes, Clerk of the Senate of West Virginia do hereby certify that the following and hereto attached instrument is a true and perfect copy of Committee Substitute for

Senate Concurrent Resolution No. 9,

Urging the Congress of the United States to enact the provisions of S. 1989 and H.R. 4013 to ensure continued health care benefits for retired coal miners.

Given under my hand and the Seal of the Senate this seventh day of February 19 92

Darrell E. Holmes

Clerk of the Senate

SCR9 SUB1

COMMITTEE SUBSTITUTE FOR

SENATE CONCURRENT RESOLUTION NO. 9

(By Senators Claypole, Craigo, M. Manchin, Heck, Humphreys, Burdette, Mr. President, Tomblin, Wehrle, Wagner, Blatnik, Holliday, Wiedebusch, Jones, Lucht, Hawse, Withers, Chafin, Pritt, Bailey, Mcnaughtan, Wooten, J. Manchin, Anderson, Whitlow, Chernenko, Dalton, Dittmar, Sharpe, Spears, Felton, Minard, Brackenrich and Helmick)

Urging the Congress of the United States to enact the provisions of S. 1989 and H.R. 4013 to ensure continued health care benefits for retired coal miners.

WHEREAS, A federal commission established by former U.S. Secretary of Labor, Elizabeth Dole, recommended that Congress adopt legislation to ensure the continued provision of health benefits to retired coal miners who receive such benefits from the united mine workers' of America health and retirement funds; and

WHEREAS, This legislation, introduced by Senator Jay Rockefeller of West Virginia (S. 1989) and Congressman John Murtha of Pennsylvania (H.R. 4013), would require all companies to pay a fair share of the cost of providing health benefits to their former employees and place an equitable fee on the entire coal industry to pay for the cost of "orphan" retirees who have no company to pay for benefits; and

WHEREAS, Thirty-three thousand seven hundred seventy-three citizens of this state receive their health care from the UMWA funds; and

WHEREAS, The UMWA funds currently are experiencing serious financial difficulties; and

WHEREAS, The Rockefeller/Murtha legislation has been endorsed by both labor and management in the coal industry; and

WHEREAS, among those in the United States Congress who are supporting the legislation are the following: Senators Byrd, Dixon, Riegle, Rockefeller, Simon, Spector, and Wofford: Congressmen Browder, Bruce, Callahan, Clay, Costello, Durbin, Erdreich, Evans, Wise, Gaydos, McCloskey, Mollohan, Mrazek, Murphy, Murtha, Owens, Rahall, Staggers, and Volkmer; therefore, be it

RESOLVED BY THE LEGISLATURE OF WEST VIRGINIA:

That the Legislature hereby expresses its support for and strongly urges the Congress of the United States to enact S. 1989 and H.R. 4013 into law; and, be it

FURTHER RESOLVED, That the Clerk of the Senate is hereby directed to forward a copy of this resolution to each member of the state congressional delegation, the governor and the legislative bodies of every coal-producing state with a recommendation that those Legislatures adopt similar resolutions of support for S. 1989 and H.R. 4013.

Committee
Correspondence

Patrick M. Rodey
Senator

Alaska State Legislature

Senate

3111 C. St., Suite 510
Anchorage, Alaska 99503
(907) 561-7618

During Session:
P.O. Box V
Juneau, Alaska 99811
(907) 465-3793

Dear Alice,

I spoke with our legal counsel Tam Cook regarding both the immunization and Amalgam bill. She said there is no requirement that a bill be read by the Senate Secretary, and that a chairman (or woman) can hold a bill. Should the chairwoman then request the Committee to reconsider passing the bill out that it would be entirely appropriate and proper under the Uniform Rules. I respectfully ask that you not have the bill read and ask the committee to reconsider passage.

Pat Rodey

Alaska State Legislature

Official Business

P.O. BOX V
State Capitol
Juneau, Alaska 99811

Senate Health, Education, & Social Services Committee

MEMORANDUM January 29, 1991

TO: Senator Dick Eliason
Senate President

FROM: Senator Arliss Sturgulewski, Chairman
Senate Health, Education, & Social Services Committee

RE: Assignment of bills

I would appreciate having the following bills receive an additional referral to the Senate Health, Education, and Social Services Committee (HESS):

SB73 "An act relating to health insurance; and providing for an effective date."

SB74 "An act relating to pooled health insurance for individuals who are uninsured or denied adequate coverage; and providing for an effective date."

SB76 "An act relating to Medicare supplement insurance."

SB83 "An Act relating to the Alaska State Health Resources Authority; relating to the delivery, quality, and financing of health care for residents of the state, and to the issuance of certificates of need; and providing for an effective date."

All of these bills relate to the provision of availability of health services within the state and I feel they should be subject to review by the Senate HESS Committee. I would appreciate your additional referral of these bills to the Committee.