

**HB**

**124**

SFIN

FILE

# SENATE FINANCE COMMITTEE REPORT

DATE: 4/7/95

FURTHER:

DATE TURNED INTO OFFICE: 4-25-95

The Finance Committee considered CS FOR HOUSE BILL NO. 124(FIN)

transferring the regulation of nursing home administrators to the Department of Commerce and Economic Development; abolishing the Board of Nursing Home Administrators; efd.

and recommends:

- be replaced with S CS CSH B124 (FIN)
- adopt previous CS
- attached amendment(s)
- adopt Letter of Intent by \_\_\_\_\_ Committee
- further referral to the \_\_\_\_\_ Committee

Senate Bill  
 same title  
 new title  
 House Bill  
 same title  
 technical change  
 new Section

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	NR	DNF	AM
<i>Steve Rein</i>	✓	<i>Keep E Cell</i>	✓		
<i>Deborah Wiley</i>	✓	<i>John G. Humphrey</i>	✓		
<i>Bob Adams</i>					
<i>Co-Chair: Rick Halford</i>	✓				
<i>Co-Chair: [Signature]</i>	✓				

**NEW FISCAL NOTE(S):**

Department	Date	Zero	Fiscal

**PREVIOUS FISCAL NOTE(S):\***

Department	Date	Zero	Fiscal
<i>DC + ED</i>	<i>3/1/95</i>	<i>82</i>	

APPROPRIATION -- no fiscal note

\*include fiscal notes accompanying Governor's bill

# FISCAL NOTE

No. 1  
 Bill Version: CSHB 124  
 (H) Publish Date: 3/6/95

**STATE OF ALASKA  
 1995 LEGISLATIVE SESSION**

Revision Date: February 22, 1995 Department: Commerce and Economic Development  
 Title: Extending the termination date of the BRU: Occupational Licensing  
 Board of Nursing Home Administrators:.... Component: Operations  
 Sponsor: Representative Toohy  
 Requestor: Representative Toohy COMPONENT SERIAL #: 1844

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES	5.7	5.7	5.7	5.7	5.7	5.7
TRAVEL	0.0	0.0	0.0	0.0	0.0	0.0
CONTRACTUAL	2.5	2.5	2.5	2.5	2.5	2.5
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>8.2</b>	<b>8.2</b>	<b>8.2</b>	<b>8.2</b>	<b>8.2</b>	<b>8.2</b>

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES	1.9	14.5	1.9	14.5	1.9	14.5
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 General Fund						
1005 GF/Program Receipts	8.2	8.2	8.2	8.2	8.2	8.2
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	<b>8.2</b>	<b>8.2</b>	<b>8.2</b>	<b>8.2</b>	<b>8.2</b>	<b>8.2</b>

Estimate of any current year (FY 95) cost: \$ 0.0

**POSITIONS**

FULL-TIME						
PART-TIME						
TEMPORARY						

**ANALYSIS:** (Attach a separate page if necessary)

CSHB 124 proposes to eliminate the Board of Nursing Home Administrators and continue licensing by the department. Travel funds which allowed the board to meet have been eliminated. Licenses are presently due to expire on December 31, 1996; therefore, the revenue identified in the fiscal note assume that fees will be adjusted in FY 97 to equal costs.

Prepared by: Jennifer Strickler, Admin. Officer Phone: 465-2144  
 Division: Occupational Licensing Date: 2/22/95  
 Approved by Commissioner: William L. Hensley Date: 3/3/95  
 Agency: Commerce and Economic Development

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*Lueterbae*

9-LS1105C ✓

**SENATE CONCURRENT RESOLUTION NO.  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
NINETEENTH LEGISLATURE - FIRST SESSION**

**BY THE SENATE FINANCE COMMITTEE**

**Introduced:**

**Referred:**

**A RESOLUTION**

1 **Suspending Uniform Rules 24(c), 35, 41(b), and 42(e) of the Alaska State**  
2 **Legislature concerning House Bill No. 124, relating to nursing home administrators.**

3 **BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4       That under Rule 54 of the Uniform Rules of the Alaska State Legislature, the  
5 provisions of Rules 24(c), 35, 41(b), and 42(e) of the Uniform Rules, regarding changes to the  
6 title of a bill, are suspended in consideration of House Bill No. 124, relating to nursing home  
7 administrators.

April 25, 1995

Val -

RE: Fiscal Notes for SCS CSHB 124 (Fin)

Elmer Lindstrom, Special Assistant, Dept. of Health and Social Services, advises that the department will be delivering new fiscal notes for our Senate Finance Committee Substitute. He said one note would indicate an indeterminate amount for Medicaid and the other would show \$30.0 (\$15.0 in general funds and \$15.0 in federal moneys) for Administrative Services, Facilities and Planning. He said the department earlier advised Sen. Halford's office of the fact that the Finance Committee Substitute would generate new notes. The bill was moved from committee with accompanying fiscal notes this morning and read across into Rules. I asked that the Senate Secretary hold onto the bill until we are clear on the fiscal notes.

Kathy

*Given to Val 1:30pm.*

*4/26/95 -*

*These fiscal notes were offered by DHSS for our SCS CSHB 124 (Fin) after bill was reported out of committee. I understand Sen. Halford did not want to return the bill to Finance or attach the notes in Rules. He indicated to Elmer that they should again be brought on for consideration by Conference Committee.*

# FISCAL NOTE

STATE OF ALASKA  
1995 LEGISLATIVE SESSION

BILL NO. SCS CSHB 124 Fin

Revision Date: \_\_\_\_\_ Dept. Affected: Health and Social Services  
 Title: Transfer of nursing home administrator BRU: Administrative Services  
regulation and prohibition of new nursing home beds Component: Health Planning and Facilities Mgmt  
 Sponsor: Representative Cynthia Toohey COMPONENT SERIAL NO. 2020  
 Requestor: Senate Finance See also (SN#): 230

**Expenditures/Revenues:**

(Thousands of Dollars)

OPERATING	FY96	FY97	FY98	FY99	FY00	FY01
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL	30.0	30.0	0.0	0.0	0.0	0.0
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>30.0</b>	<b>30.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
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CHANGES IN REVENUES ( )						
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**FUND SOURCE**

(Thousands of Dollars)

FUND SOURCE	FY96	FY97	FY98	FY99	FY00	FY01
1002 Federal Receipts	15.0	15.0	0.0	0.0	0.0	0.0
1003 GF Match	15.0	15.0	0.0	0.0	0.0	0.0
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other (please specify)						
<b>TOTAL</b>	<b>30.0</b>	<b>30.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

**POSITIONS:**

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of any current year (FY95) cost: \$0.0

**ANALYSIS:** (Attach a separate page if necessary)

\$30,000 in contractual funds is needed for the Division of Administrative Services, Section of Facilities and Planning to study the senior services system and develop a facilities plan. The current facilities plan was last published in 1984 and is outdated. Since that time a new tier of community-based services for seniors has developed, some of which reduce the need for long-term care beds. The plan will be developed in cooperation with the Department of Administration, Division of Senior Services and the Governor's Council on Developmental Disabilities and Special Education. Consultants will develop 10-year projections on the number of residential and long-term care beds needed in each service area; an Alaska specific methodology for determining bed need; estimates of the financial costs of increased services; an analysis of the current distribution of beds and senior population, an analysis of the acuity levels of seniors in Alaska, and a comprehensive facilities development plan.

Prepared by: Janet Clarke, Director *J Clarke*  
 Division: Administrative Services

Phone: 465-3015  
 Date: 04/25/95

Approved by Commissioner: Karen Perdue, Commissioner *K Perdue*  
 Agency: Department of Health & Social Services

Date: 4/25/95

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# FISCAL NOTE

STATE OF ALASKA  
1995 LEGISLATIVE SESSION

BILL NO. SCS CSHB 124 Fin

Revision Date: \_\_\_\_\_ Dept. Affected: Health and Social Services  
 Title: Transfer of nursing home administrator BRU: Medical Assistance  
regulation and prohibition of new nursing home beds Component: Medicaid-Facilities  
 Sponsor: Representative Cynthia Toohy COMPONENT SERIAL NO. 230  
 Requestor: Senate Finance See also (SN#): 2020

**Expenditures/Revenues:** (Thousands of Dollars)

OPERATING	FY96	FY97	FY98	FY99	FY00	FY01
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS	**	**	**	**	**	**
MISCELLANECUS						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
<b>CAPITAL EXPENDITURES</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
<b>CHANGES IN REVENUES ( )</b>						

**FUND SOURCE** (Thousands of Dollars)

	FY96	FY97	FY98	FY99	FY100	FY01
1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match	0.0	0.0	0.0	0.0	0.0	0.0
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other (please specify)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

**POSITIONS:**

	FY96	FY97	FY98	FY99	FY100	FY01
FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of any current year (FY95) cost: \$0.0

**ANALYSIS:** (Attach a separate page if necessary)

Although this bill does not directly reduce the Division of Medicaid Assistance budget, it is aimed at avoiding expensive future costs which will be incurred by the Division if the industry is allowed to build planned projects. Letters of intent or strategic plans were received from 9 facilities interested in adding a total of 178 new beds and 63 replacement beds in the next 5 years.

\*\* Costs Avoided by this legislation:

	FY96	FY97	FY98	FY99	FY100	FY01
Medical Assistance	3,300.0	9,100.0	10,600.0	10,700.0	13,400.0	13,400.0

Half of the costs for these projects are paid for by federal funds and the other half by a general funds match. Operating costs could continue to increase substantially after the first two years. These costs could have a deleterious effect upon home and community-based services which enable elderly Alaskans to avoid entirely, or postpone nursing home placement. In 1993, the average annual Medicaid amount for a nursing home bed was \$80,926. Typical costs for community based care were significantly lower from \$19,770 to \$52,389 per client.

Prepared by: Janet Clarke, Director  
 Division: Administrative Services

Phone: 465-3015  
 Date: 04/25/95

Approved by Commissioner: Karen Perdue, Commissioner  
 Agency: Department of Health & Social Services

Date: 4/25/95

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**ANALYSIS (cont.):**

The growth and maintenance of community-based care will be threatened if unplanned and unnecessary nursing home beds are built. Alaska seniors prefer to stay at home as long as possible and avoid nursing home placement.

Construction of some of the nursing home beds may be prevented by the Certificate of Need program. However, a significant number of beds (35 or 28%) could be built without a Certificate of Need review because of loopholes in the law. A two year moratorium on long-term care beds would allow time for the community based services programs to more fully develop. Also, it would allow the Department of Health and Social Services and the Division of Senior Services time to develop a plan for the orderly development and proper mix of community-based services and long-term care beds.

Letter of Intent/Plans Received From:	Number of Beds Planned	Estimated Construction Cost	Estimated Completion Date	Annual Medicaid Costs
Herrage Place	15 new beds	\$ 920,000	1/96	\$ 784,378
St. Ann's Care Center	20 new/45 replaced	\$ 13 to 20 Million	12/96-8/97	\$ 1.9 - \$2.1 million
Valley Hospital	60 new beds	\$ 5,000,000	9/96-4/97	\$ 3,645,623
So. Peninsula Hospital	8 new	\$ 150,000	1996	\$ 644,637
<b>Conversions:</b>				
AK Regional Hospital	16 beds	\$ 488,000	5/15/95	\$ 938,353
Fairbanks Memorial	8 to 12 beds	\$ 230,000 to \$1.3 M	1995	\$ 469K - \$511,416
Plumfield House	8 beds	\$ 6,000	June-July, 1995	\$ 459,656
<b>Totals:</b>	178 new, 63 replaced	\$19.7 to \$27.8 Million		\$8.7 to \$9.1 Million

Over \$12 million in long-term care capital projects are planned for completion after 1997.

<b>Projects Planned to Open After 1997:</b>				
YK Health Corp.	34 new beds	\$ 6,923,720	Unknown	\$ 2,717,599
So. Peninsula Hospital	25 beds replaced	\$ 3,000,000	1998-2000	\$120,000
Sitka Community	14 beds	\$ 3.0 to \$3.5 Million	1997-1999?	\$ 1.3 to \$1.5 Million
Plumfield House	30 beds?	Unknown	Unknown	Unknown

SENATE FINANCE  
 COMMITTEE  
 Amendment Number: CS-1  
 Bill Number: HB 124  
 Sponsor: \_\_\_\_\_ Date: \_\_\_\_\_  
 Logged In By: \_\_\_\_\_

9-LS0491NG  
 Lauterbach  
 4/22/95

SENATE CS FOR CS FOR HOUSE BILL NO. 124(FIN)  
 IN THE LEGISLATURE OF THE STATE OF ALASKA  
 NINETEENTH LEGISLATURE - FIRST SESSION

BY THE SENATE FINANCE COMMITTEE

Offered:  
 Referred:

Sponsor(s): REPRESENTATIVE TOOHEY

A BILL

FOR AN ACT ENTITLED

1 "An Act transferring the regulation of nursing home administrators to the  
 2 Department of Commerce and Economic Development; abolishing the Board of  
 3 Nursing Home Administrators; clarifying the conditions under which a nursing  
 4 home administrator license may be denied; relating to applications for certificates  
 5 of need; prohibiting the issuance of a certificate of need or a license for  
 6 additional nursing home capacity in the state until July 1, 1997; and providing  
 7 for an effective date."

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

9 \* Section 1. AS 08.01.010 is amended by adding a new paragraph to read:  
 10 (36) regulation of nursing home administrators under AS 08.70.

11 \* Sec. 2. AS 08.01.050(a) is amended to read:  
 12 (a) The department shall perform the following administrative and budgetary  
 13 services when appropriate:

- 1 (1) collect and record fees;
- 2 (2) maintain records and files;
- 3 (3) issue and receive application forms;
- 4 (4) notify applicants of acceptance or rejection as determined by the
- 5 board or as determined by the department under AS 08.06 for acupuncturists, under
- 6 AS 08.11 for audiologists, under AS 08.18 for contractors, under AS 08.40 for
- 7 electrical and mechanical administrators, under AS 08.45 for naturopaths, [OR] under
- 8 AS 08.55 for hearing aid dealers, or under AS 08.70 for nursing home
- 9 administrators;
- 10 (5) designate dates examinations are to be held and notify applicants;
- 11 (6) publish notice of examinations and proceedings;
- 12 (7) arrange space for holding examinations and proceedings;
- 13 (8) notify applicants of results of examinations;
- 14 (9) issue licenses or temporary licenses as authorized by the board or
- 15 as authorized by the department under AS 08.06 for acupuncturists, under AS 08.11
- 16 for audiologists, under AS 08.18 for contractors, under AS 08.40 for electrical and
- 17 mechanical administrators, under AS 08.45 for naturopaths, [OR] under AS 08.55 for
- 18 hearing aid dealers, or under AS 08.70 for nursing home administrators;
- 19 (10) issue duplicate licenses upon submission of a written request by
- 20 the licensee attesting to loss of or the failure to receive the original and payment by
- 21 the licensee of a fee established by regulation adopted by the department;
- 22 (11) notify licensees of renewal dates at least 30 days before the
- 23 expiration date of their licenses;
- 24 (12) compile and maintain a current register of licensees;
- 25 (13) answer routine inquiries;
- 26 (14) maintain files relating to individual licensees;
- 27 (15) arrange for printing and advertising;
- 28 (16) purchase supplies;
- 29 (17) employ additional help when needed;
- 30 (18) perform other services that may be requested by the board;
- 31 (19) provide inspection, enforcement, and investigative services to the

1 boards and for the occupations listed in AS 08.01.010, regarding all licenses issued by  
2 or through the department;

3 (20) retain and safeguard the official seal of a board and prepare, sign,  
4 and affix a board seal, as appropriate, for licenses approved by a board;

5 (21) issue business licenses under AS 43.70.

6 \* Sec. 3. AS 08.70.050 is amended to read:

7 Sec. 08.70.050. REGULATION BY DEPARTMENT [DUTIES AND  
8 POWERS OF THE BOARD]. (a) The department [BOARD] shall

9 (1) adopt standards for licensing nursing home administrators to ensure  
10 [INSURE] that licensees have knowledge and experience in health care and  
11 institutional administration necessary for competent administrators, and update the  
12 standards when necessary;

13 (2) examine, approve issuance of licenses to, and renewal of licenses  
14 of qualified persons;

15 (3) establish procedures to ensure that licensees continue to uphold the  
16 department's [BOARD'S] standards; impose disciplinary sanctions upon persons who  
17 fail to uphold the standards;

18 (4) adopt criteria for educational programs for persons preparing for the  
19 licensing examination and for the continuing education of licensees; review the  
20 educational programs available in the state and accredit the programs meeting the  
21 criteria;

22 [(5) KEEP A RECORD OF ITS PROCEEDINGS AND SUBMIT  
23 ANNUAL REPORTS TO THE GOVERNOR AND THE LEGISLATURE;

24 (6)] adopt regulations ensuring that renewal of a license is contingent  
25 upon proof of continued competency by the licensee.

26 (b) The department [BOARD] may adopt regulations necessary for the  
27 performance of its duties and to meet the requirements of Title 19 of the Social  
28 Security Act, the federal regulations adopted under it, and other federal requirements.

29 \* Sec. 4. AS 08.70.110 is amended to read:

30 Sec. 08.70.110. LICENSING. (a) The department [BOARD] shall license

31 (1) applicants who pass the written examination administered by the

1 department [BOARD] and meet the standards established by the department  
2 [BOARD] under AS 08.70.050;

3 (2) persons licensed under emergency regulations 7 AAC 12.045  
4 promulgated in Register 51, July 8, 1974, who have practiced as administrators since  
5 licensing.

6 (b) The department [BOARD] may issue a license without examination to a  
7 person holding a current license as a nursing home administrator from another  
8 jurisdiction, if the department [BOARD] finds that the standards for licensing in the  
9 other jurisdiction are substantially equivalent to those in this state, and the person is  
10 otherwise qualified.

11 \* Sec. 5. AS 08.70.110 is amended by adding a new subsection to read:

12 (c) Notwithstanding other provisions of this chapter, the department may refuse  
13 to issue a license to a person

14 (1) who attempts to secure the license through deceit, fraud, or  
15 intentional misrepresentation; or

16 (2) for a reason for which it may impose disciplinary sanctions under  
17 AS 08.70.155.

18 \* Sec. 6. AS 08.70.120 is amended to read:

19 Sec. 08.70.120. EXAMINATION. The purpose of the examination is to test  
20 the applicant's knowledge of the health and safety standards of the state and the  
21 applicant's experience in the practice of health care. The department shall determine  
22 [BOARD DETERMINES] the content, scope, format, and grading procedure.  
23 Examinations shall be given at least annually, at the time and place chosen by the  
24 department [BOARD].

25 \* Sec. 7. AS 08.70.130(a) is amended to read:

26 (a) A provisional license may be granted without examination to a person who  
27 meets the standards adopted by the department [BOARD] under AS 08.70.050 and  
28 who is needed to fill a vacancy in an administrative position.

29 \* Sec. 8. AS 08.70.155 is amended to read:

30 Sec. 08.70.155. GROUNDS FOR IMPOSITION OF DISCIPLINARY  
31 SANCTIONS. The department [AFTER A HEARING THE BOARD] may impose

1 the disciplinary sanctions authorized for boards under AS 08.01.075 or otherwise  
2 authorized for the department under AS 08.01 when it finds that a licensee

3 (1) secured a license through deceit, fraud, or intentional  
4 misrepresentation;

5 (2) engaged in deceit, fraud, or intentional misrepresentation in the  
6 course of providing professional services or engaging in professional activities;

7 (3) advertised professional services in a false or misleading manner;

8 (4) intentionally or negligently engaged in or permitted the performance  
9 of patient care by persons under the licensee's supervision that [WHICH] does not  
10 conform to minimum professional standards regardless of whether actual injury to the  
11 patient occurred;

12 (5) failed to comply with this chapter, with a regulation adopted under  
13 this chapter, or with an order of the department [BOARD];

14 (6) continued to practice after becoming unfit due to

15 (A) professional incompetence;

16 (B) addiction or severe dependency on alcohol or other drugs  
17 that [WHICH] impairs the licensee's ability to practice safely;

18 (C) physical or mental disability;

19 (7) sold or furnished a license to another;

20 (8) practiced as a nursing home administrator or used a designation  
21 tending to imply that the licensee is a nursing home administrator without a license  
22 issued under this chapter unless exempted from licensure requirements under  
23 AS 08.70.080.

24 \* Sec. 9. AS 08.70.180(3) is amended to read:

25 (3) "license" means the certificate awarded by the department  
26 [BOARD] to a qualified person that [WHICH] entitles the person to be a nursing  
27 home administrator in this state;

28 \* Sec. 10. AS 08.70.180(4) is amended to read:

29 (4) "licensee" means a person who has been granted a license to be a  
30 nursing home administrator in this state by the department [BOARD];

31 \* Sec. 11. AS 44.62.330(a)(50) is amended to read:

1 (50) Department of Commerce and Economic Development  
2 concerning the licensing and regulation of nursing home administrators [BOARD  
3 OF NURSING HOME ADMINISTRATORS];

4 \* Sec. 12. AS 08.01.010(18); AS 08.03.010(c)(18); AS 08.70.010, 08.70.020, 08.70.030,  
5 08.70.040, 08.70.055, and 08.70.180(1) are repealed.

6 \* Sec. 13. TRANSITION. (a) A regulation adopted by the Board of Nursing Home  
7 Administrators and in effect on the effective date of this Act remains in effect and shall be  
8 implemented and enforced by the Department of Commerce and Economic Development after  
9 the effective date of this Act until the department amends the regulation. To be consistent  
10 with the changes made by this Act, wherever in the regulations adopted by the Board of  
11 Nursing Home Administrators the board is identified, that reference shall be read as referring  
12 to the Department of Commerce and Economic Development. Under AS 44.62.125(b)(6), the  
13 regulations attorney shall implement this subsection in the administrative regulations.

14 (b) All litigation, hearings, investigations, and other proceedings pending under a law  
15 amended or repealed by this Act, or in connection with functions transferred by this Act,  
16 continue in effect and may be continued and completed notwithstanding a transfer or  
17 amendment or repeal provided for in this Act. Licenses and orders issued under authority of  
18 a law amended or repealed by this Act remain in effect for the term issued, or until revoked,  
19 vacated, or otherwise modified under the provisions of this Act. All contracts, rights,  
20 liabilities, and obligations created by or under a law amended or repealed by this Act, and in  
21 effect on the effective date of this Act remain in effect notwithstanding this Act's taking effect.  
22 Records, equipment, and other property of the Board of Nursing Home Administrators are  
23 transferred to the Department of Commerce and Economic Development.

24 \* Sec. 14. MORATORIUM ON NURSING HOME CERTIFICATES OF NEED. (a)  
25 Notwithstanding AS 18.07, after the effective date of this Act, the Department of Health and  
26 Social Services may neither accept an application for a certificate of need under AS 18.07.031  
27 or 18.07.071(b) nor grant a certificate of need under AS 18.07.031 or 18.07.071(b) for

28 (1) construction of a health care facility that includes nursing home beds that  
29 require licensure under AS 18.20.020; or

30 (2) conversion of a building or part of a building to nursing home beds.

31 (b) This section does not apply to decisions concerning a certificate of need for which

1 an application was filed with the Department of Health and Social Services before March 15,  
2 1995. For purposes of this subsection, a letter of intent is not considered an application for  
3 a certificate of need.

4 \* Sec. 15. MORATORIUM ON NURSING HOME LICENSURES. (a) Notwithstanding  
5 AS 18.20, after the effective date of this Act, the Department of Health and Social Services  
6 may not issue a license for

7 (1) construction of a health care facility that includes new nursing home beds;

8 (2) additional new nursing home beds in a health care facility.

9 (b) This section does not apply to decisions concerning a license for which an  
10 application was filed with the Department of Health and Social Services before March 15,  
11 1995.

12 \* Sec. 16. Sections 14 - 15 of this Act are repealed July 1, 1997.

13 \* Sec. 17. This Act takes effect immediately under AS 01.10.070(c).

## LONG-TERM CARE BED MORATORIUM IN ALASKA

The health care industry in Alaska is planning to build substantial number of new long term care beds. The total number of beds could increase by 20% within 3 to 5 years from 909 to a total of 1,087. Letters of intent or strategic plans were received from 9 facilities interested in adding a total of 178 new beds and 63 replacement beds. Initially, the Medicaid budget would increase an estimated \$11.9 to \$12.3 million annually and operating costs could increase substantially after that.

Seniors in Alaska want to avoid nursing homes and live at home as long as possible. The growth and maintenance of community care will be threatened if unplanned and unnecessary nursing home beds are allowed to be built. In 1993, the average annual Medicaid rate for a nursing home bed was \$80,926. Typical costs for community based care were significantly lower from \$19,770 to \$52,389 per client.

"Home and Community-Based services" enable elderly Alaskans to avoid entirely, or postpone nursing home placement. Programs specifically designed to keep seniors out of nursing homes include:

- Adult day care and family respite care (AS 47.65.100) target "frail older persons and other similarly disabled" who are "at risk of institutional placement."
- Home and Community-Based Waivers (7 AAC 43.100) offer an alternative to institutional care to Medicaid eligible clients.
- AS 47.33.005 promotes establishment of assisted living homes to help the elderly "age in place." There are currently 393 assisted living beds in Alaska.
- Personal care attendant services (7 AAC 43.750 (a)), enable an individual who would otherwise require nursing home placement to remain safely at home.

Other services include Home Health Care (7 AAC 43.800), homemaker/chore services, home health aid, adult foster care, specialized private duty nursing, case management, home delivered and congregate meals, habilitation services, and transportation.

Construction of some of the nursing home beds may be prevented by the Certificate of Need Program. However, a significant number (35 beds or 28%) could be built without a Certificate of Need review because of loopholes in the law.

A two year moratorium on long-term care beds would allow time for the community based services programs to more fully develop. Also, it would allow the Department of Health and Social Services and the Division of Senior Services time to develop a plan for the orderly development and proper mix of community based services and long-term care beds.





TONY KNOWLES, GOVERNOR

## GOVERNOR'S COUNCIL ON DISABILITIES AND SPECIAL EDUCATION

P.O. Box 240249 • Anchorage, Alaska 99524-0249 • Phone: 907-563-6365 • Fax: 907-563-5357

Senator Rick Halford  
 Capitol Building Room 508  
 Juneau, AK 99611

April 18, 1995

Dear Senator Halford,

The Governor's Council has worked with several legislatures and administrations to improve the effectiveness of services in the most cost-efficient manner. We have appreciated your openness and willingness to try new ways of solving difficult problems.

FY95 cuts to non-facility Medicaid services unintentionally created life-threatening situations for many Alaskans, and have diverted many adults with disabilities from using the lower-cost home and community based service waivers. This results in higher costs through facility-based Medicaid services and in services paid solely by the General Fund. The Council believes that further cuts to the non-facility Medicaid component will again increase costs to the state.

The Council's Medicaid Subcommittee has reviewed several methods for managing the cost of Medicaid. One method, which the legislature could implement this fiscal year and would save millions over the next few years, would be to place a moratorium on additional long term care beds.

We have become aware of a new problem in Alaska: long term care facilities are growing with little state oversight. Planners at DHSS have informed us of private industry's intentions to add or convert 168 new long term care beds paid for by the state. This will result in a total average annual increase of \$16.8 million in facility-based Medicaid costs. Allowing any of these new beds to come on line diverts state funds from appropriate home and community based services to unnecessarily restrictive, expensive services. The chart below describes some of the data involved; the attached position paper describes the issues more fully.

Numbers and Costs of Long Term Care Beds in Alaska

Number of beds currently available	1,293
Beds needed in 1995	975
Beds needed in 2010	1,037
Planned new beds by 1997	123
Planned conversions by 1997	45
Average annual Medicaid cost per bed	\$100,000

The Council recommends a two-year moratorium on all long term care beds while the Department works with affected populations and providers around the state to identify if, where, and how, additional long term care beds should be built. We understand that Representative Hanley has drafted a bill for such a moratorium, but has not yet introduced it. His draft does not hold the Department responsible for developing a more effective way to manage long term care bed growth, although the Department has offered to do so. We appreciate your assistance in having moratorium legislation introduced in the Senate as well, and in identifying a responsible agency for the management of this issue. I am sending this letter to Senator Lyda Green and Rep. Hanley for their review.

Thank you for considering this matter. Please contact me at 563-5355 if the Council may be of further assistance to you.

Sincerely,

David Maltman  
 Executive Director

cc: Sen. Lyda Green  
 Rep. Mark Hanley  
 Commissioner Karen Perdue



TONY KNOWLES, GOVERNOR

**GOVERNOR'S COUNCIL ON DISABILITIES AND SPECIAL EDUCATION**

P.O. Box 240249 • Anchorage, Alaska 99524-0249 • Phone: 907-563-5356 • Fax: 907-563-5357

**Impact of a moratorium on long-term care beds in Alaska**  
April 18, 1995**Introduction**

The Governor's Council on Disabilities and Special Education (the Council) advocates on behalf of individuals who have developmental disabilities and their families. Most people who have severe, lifelong disabilities use services funded by Medicaid. When the Medicaid program changes, the individuals most affected are those with disabilities.

In the mid-80s, the Council identified ways that Alaska could optimize Medicaid funding for individuals who have severe disabilities through Waivers. With the Older Alaskans Commission and the Department of Health and Social Services (DHSS), the Council developed a package of Waivers and the TEFRA Option in 1992. These innovations maximize federal Medicaid funding while reducing the cost to the state. The Council is interested in continuing to work with the Legislature and DHSS in identifying ways to use Medicaid more efficiently.

To this end, the Medicaid Subcommittee has investigated several ways to decrease the cost of Medicaid while improving program efficiency. One way to cut the cost of Medicaid is to place a moratorium on long-term care beds. This paper describes the problem, impact on individuals who have developmental disabilities, the cost of service, and the factors involved in a moratorium.

**Recommendation**

The Council recommends that the legislature impose a two year moratorium on long-term care bed construction and conversion. During this two year period, DHSS should reassess the process by which Certificates of Need are given.

**Problem Statement**

The Legislature is seeking ways to decrease the cost of health coverage to poor people in Alaska. Several ways to cut the cost of Medicaid deserve consideration. This paper will discuss one way to cut Medicaid costs, and the implications for Alaskans who have disabilities and their families.

Impact on a moratorium on long term care beds in Alaska p. 2

Last year, the Legislature decreased Medicaid funding in two ways. By requiring that Medicaid recipients pay a share of home and community based care costs, the Legislature hoped to decrease the state's cost. The Legislature also chose to eliminate funds, resulting in loss of eight services to adults, as allowed in AS 47.07.035. These decreases came from the Medicaid non-facility budget, which serves most poor and disabled Alaskans at a fraction of the cost of facility based care. These decreases have hampered implementation of the home and community based waivers, which the 18th legislature put into place. Individuals ready to transition out of hospital based care are hard pressed to leave, because necessary community based care is not paid by Medicaid or is more costly to the consumer. The state pays a higher price for the same services in the institutional setting than in a community setting.

Alaska has been conservative in capturing federal dollars to supplement state health and social service expenditures. Imminent federal initiatives to give states funds through block grants will decrease Alaska's federal receipts significantly. This is not the time to cut Medicaid expenditures; it is time to assure that Alaska has the fiscal flexibility to meet adequately the needs of its poorest and most disabled citizens.

#### **Cost of services**

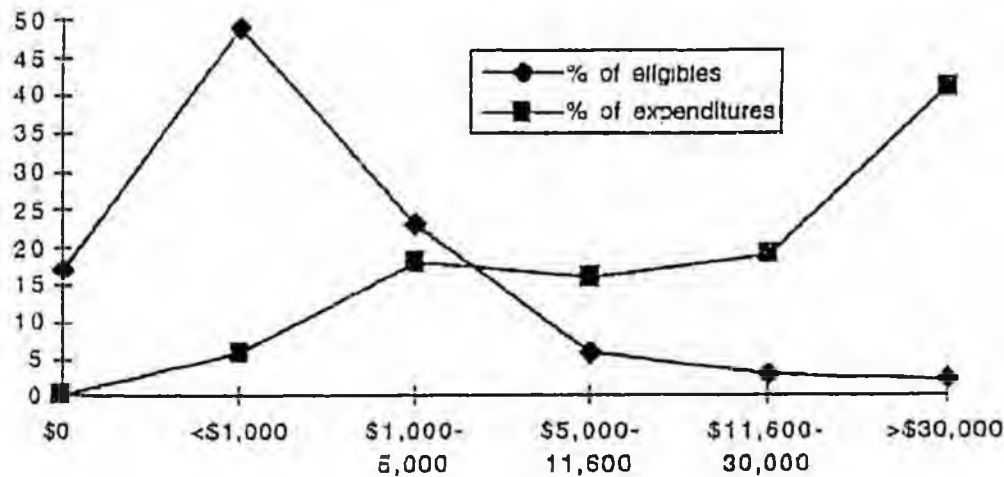
Alaska's costs of services are distributed disproportionately across the Medicaid-eligible population. A brief review of Medicaid expenditures in FY94 reveals that relatively few Alaskans require high cost Medicaid services--yet the bulk of funds pay for services to these few Alaskans who have serious disabilities. This high-cost care is paid to hospitals, nursing homes, and intermediate care facilities.

The state's Medicaid funds are tied to institutional care because of a federal requirement known as the Boren Amendment. The Boren Amendment guarantees institutional facilities reasonable payment rates. As long as poor Alaskans are in hospitals and nursing homes, the state is forced to pay these institutions anywhere from \$72,000 to \$300,000 per person per year. Not only are Alaska's Medicaid dollars funding institutional care, but state general funds cover 100 percent of the care to 2,200 Alaskans with disabilities who do not reside in institutions. The home and community based services waivers put into place in FY94 reduce the state's total cost by maximizing the federal government's share through Medicaid.

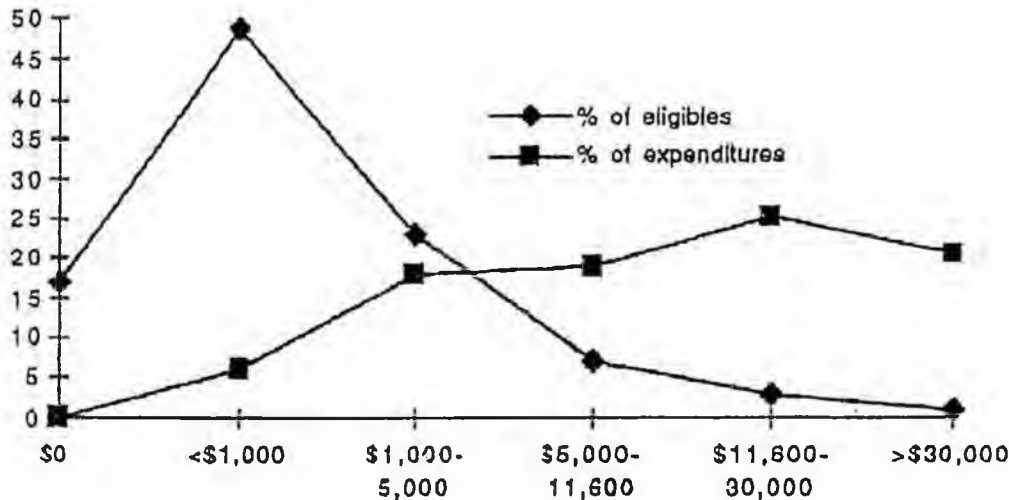
Virtually all Alaskans in institutional settings can benefit from less costly home and community based care. These home and community based services are funded in the Medicaid non-facility component. When home and community based services are reduced or eliminated, however, the number of individuals who can receive life-sustaining services nowhere else must return to hospitals and nursing homes at a higher cost to the state.

Impact on a moratorium on long term care beds in Alaska p. 3

FY94 Medicaid Expenditure Distribution by Eligibles



By fully funding lower-cost home and community based services for the individuals who require specialized care, and reducing use of institutional care, the state could reduce its Medicaid expenditures significantly. Roughly, Medicaid expenditures could look more like the chart below:



However, as the state continues to decrease home and community based services through cuts to the non-facility Medicaid component, the state's institutional cost of care will continue to rise.

Impact on a moratorium on long term care beds in Alaska p. 4

### Relevance to people with disabilities and their families

Roughly 10,600 Alaskans have developmental disabilities.<sup>1</sup> Most adults with developmental disabilities are among the approximately 10,000 Medicaid users who are eligible for or use SSI and Adult Public Assistance because of their disabilities or chronic illnesses. These Medicaid users who have disabilities are also poor, and therefore qualify for the program. The monthly income for an individual who uses SSI and Adult Public Assistance ranges from about \$800 to \$825. About 678 of these poor individuals who have disabilities or who are aging use nursing facilities, ICFs-MR, or residential psychiatric hospital care.<sup>2</sup> Medicaid pays for the cost of long-term care and for all other health care costs, as required by state and federal laws.

Of the 67,631 individuals using the Medicaid program,<sup>3</sup> 41,159 are children. As many as 15,155 Alaskan children experience health problems requiring special care.<sup>4</sup> About 3,500 infants and toddlers require early intervention services to prevent or ameliorate disabilities, reducing the need for more intrusive and extensive lifelong supports.<sup>5</sup> Other children with disabling conditions are served solely within the educational system, comprising 6.47 percent of the population of all children and youth ages 3 through 21.<sup>6</sup> Despite the prevalence of children in the Medicaid population, children are very inexpensive to serve.

About 70 percent of all Alaskans with disabilities use Medicaid services. These are 16 percent of Medicaid users who cost the state more than \$3,920, the average yearly cost per person. Approximately 22,600 Alaskans ages 16 to 64 have work disabilities and do not receive institutional levels of care. Of those, 7,900 are prevented from working because of disabling conditions. An additional 8,600 Alaskans ages 16 to 64 have mobility and/or self-care limitations and do not receive institutional levels of care.<sup>7</sup> More than 95,700 Alaskans have permanent disabilities that substantially limit one or more major life activities, have a history of such disabilities, or are regarded as having such disabilities.<sup>8</sup>

Parents of children with disabilities often find themselves forced to live on public assistance to guarantee Medicaid coverage for their children who have disabili-

<sup>1</sup> Gollay, E. (1981): *Summary Report on the Implications of Modifying the Definition of a Developmental Disability*. Department of Health, Education & Welfare.

<sup>2</sup> Division of Medical Assistance (1994). *Alaska Nursing Homes Census for 6/30/94*. State of Alaska, Department of Health and Social Services, Division of Medical Assistance.

<sup>3</sup> Kim Busch, Policy Analyst, Division of Medical Assistance, February 1995. Although 83,920 Alaskans are eligible, only eighty percent actually use the Medicaid program.

<sup>4</sup> Dick, S.E. (1992). *An Estimate of the Number of Children with Special Health Care Needs in the State of Alaska*. University of Illinois: Chicago.

<sup>5</sup> Division of Public Health, Section of Maternal, Child, and Family Health.

<sup>6</sup> Department of Education, Educational Program Support (1992): *Annual Data Reports*, parts III and IV, 1991-92 School Year. Juneau, AK. The number of children served in all special education programs was 11,721. The total number of children and youth ages 3 through 21 in Alaska is 123,621 (Alaska Population Overview, 1991).

<sup>7</sup> U.S. Department of Commerce, Bureau of the Census (1992). *1990 Census of Population and Housing*.

<sup>8</sup> Americans with Disabilities Act of 1990, Section 1(b)(2), Findings and Purposes, (a)(1).

## Impact on a moratorium on long term care beds in Alaska p. 5

ties. Adults who have disabilities find themselves unable to find work that provides them with adequate medical coverage. These individuals are those who are least likely to leave the medical and public assistance systems because their disabilities substantially limit their ability to work. This is also the group of people who use most Medicaid services. Any changes to the Medicaid system will affect them more than any other group of Alaskans.

#### Capping the number of long-term care beds.

In Alaska, the Medicaid facility budget accounts for 54 percent of expenditures—a high price for relatively few services. The state pays for beds, and therefore has fewer funds for home and community based options. At the same time, state and federal law require that individuals who require long-term care and who can receive home or community based care at the same or lesser cost shall receive that option.

Alaska Statute 18.07.031 allows anyone or any agency to spend under \$1 million to construct a health care facility, change the number of beds in a health care facility, or change the kinds of services provided by a health care facility<sup>9</sup>. If a facility intends to spend over \$1 million, it requires a Certificate of Need from DHSS. A Certificate of Need is based on the availability, accessibility, and quality of existing health care resources. DHSS can issue temporary and emergency certificates, and certificates may be modified. When DHSS denies a Certificate of Need, an applicant may appeal the denial to a hearing officer. Appeals usually result in authorization to build, regardless of the community's actual need for long-term care beds.

Programs can make changes under \$1 million without DHSS approval. This creates the opportunity for unplanned increases in facility beds. Construction of several smaller projects over a period of time has the same effect as building a few large projects. The state currently has virtually no way to halt "nursing home creep," in which hospitals and nursing homes increase the number of beds or convert from one kind of service to another at state expense. The operational costs fall to the state, and are far more costly than the original capital costs. For example, ten new long-term care beds cost the state roughly \$1 million in unplanned, unbudgeted Medicaid program expenses. It is essential that the state identify all needed bed space and monitor its construction in a planned manner.

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<sup>9</sup> Statute describes "health care facility" as a private municipal, state, or federal hospital, psychiatric hospital, tuberculosis hospital, skilled nursing facility, kidney disease treatment center, intermediate care facility, and ambulatory surgical facility. "Health care facility" does not mean an Alaska Pioneers' Home, or private physicians' or dentists' offices.

## Impact on a moratorium on long term care beds in Alaska p. 6

## Numbers and Costs of Long-term Care Beds in Alaska

Number of beds currently available	1,293
Beds needed in 1995	975
Beds needed in 2010	1,037
Planned new beds by 1997	123
Planned conversions by 1997	45
Average annual Medicaid cost per bed	\$100,000
<b>Total average annual Medicaid increase</b>	<b>\$16,800,000</b>

There are two ways Alaska can cap or decrease the number of long-term care beds: changing the Certificate of Need statute, or a legislative moratorium. The Legislature may change the Certificate of Need statute to delete the \$1 million threshold. By changing the statute, however, there is no guarantee that more beds will be built. The same problems would exist with the appeals process as do now. Without a legislative mandate, the administration can change regulations which now allow certain beds to be built or converted. However, regulations could only limit the number of beds costing over \$1 million, as per current statute.

A two-year moratorium on beds would allow the state to re-assess the process by which Certificates of Need are given. The Legislature may pass such a moratorium, and mandate DHSS to develop a more appropriate certification process. It would place a temporary halt on construction and conversion from short term to long-term care beds. Although Alaska currently has more long-term beds than the state will need until the year 2010, it is important to allow for some growth in areas where long-term beds are needed by individuals for whom home and community based care is not appropriate.

#### Implications for Alaska

Facility-based care belongs on the spectrum of services to individuals who have disabilities. However, it should be a service of last resort. Alaskans who have disabilities benefit more from care which keeps them in their homes and communities.

Because facility-based care (average cost-\$100,000 per person per year) is so much more costly than community-based care (average cost-\$3,920 per person per year), the state loses money when Alaskans stay in facilities. Both Alaskans with disabilities and the state win if a moratorium is imposed.



Official Business

# Alaska State Legislature

## HOUSE OF REPRESENTATIVES

REPRESENTATIVE CYNTHIA TOOHEY

DISTRICT 13

State Capitol  
Juneau, AK 99801-1182

### MEMORANDUM.

TO: Senators Frank & Halford, Chairmen  
Senate Finance Committee

FROM: Representative Toohey *CT*

IN RE: scheduling of CSHB 124 (Fin) for the  
Senate Finance Committee

DATE: April 12, 1995

Please schedule CSHB 124 (Fin) for hearing before the Senate Finance Committee at soon as it is convenient for you. I have attached a copy of the bill, a current sectional analysis, a sponsor statement, a fiscal note, applicable federal regulations, and a letter of support. If you require any other information or documents, please have your committee aide contact Benjamin Brown in my office at 4919.

Thank you very much for your consideration of this scheduling request.



Official Business

# Alaska State Legislature

## HOUSE OF REPRESENTATIVES

REPRESENTATIVE CYNTHIA TOOHEY

State Capitol  
Juneau, AK 99801-1182

DISTRICT 13

MEMORANDUM.

**TO:** Representative Toohey

**FROM:** Benjamin Brown, <sup>Rep.</sup> Legislative Aide

**IN RE:** sectional analysis of CSHB 124 (Fin)

**DATE:** 29 March 1995

A summary, by section, of the Finance Committee Substitute for House Bill 124 follows. It ought to be noted that a sectional summary of a bill is not to be considered generally as an authoritative interpretation of the bill - the bill itself is the best statement of its contents.

Section 1 adds nursing home administrators to the list of professions to whom Chapter 1 of Title 8 of Alaska Statutes ('Centralized Licensing') applies.

Section 2 is a technical amendment that recognizes that the Board of Nursing Home Administrators is no longer involved in licensing and regulation.

Section 3 transfers the duties and powers of the Board of Nursing Home Administrators to the Department of Commerce, and changes references to the Board in Section 050 of Chapter 70 of Title 8 so they refer instead to the Department.

Section 4 transfers the legal licensing authority of the Board of Nursing Home Administrators to the Department of Commerce, and changes references to the Board in Section 110 of Chapter 70 of Title 8 so they refer instead to the Department.

Section 5 enables the Department of Commerce to deny a license to an applicant who has attempted to gain said license through deceit, fraud, or intentional misrepresentation, or for the reasons for which disciplinary sanctions may be imposed which are listed in Section 155 of Title 70 of

IN THE 8M ADDRESS: 716 West 4th Avenue, Suite 330, Anchorage, 99501-2133

*MEMORANDUM IN RE: sectional analysis of CSHB 124 (Fin)*  
*29 March '95, page two*

Section 6 transfers legal authority to give examinations to applicants for license as nursing home administrators from the Board of Nursing Home Administrators to the Department of Commerce, and changes references to the Board in Section 120 of Chapter 70 of Title 8 so they refer instead to the Department.

Section 7 transfers legal authority to issue provisional licenses to nursing home administrators from the Board of Nursing Home Administrators to the Department of Commerce, and changes references to the Board in Section 130 of Chapter 70 of Title 8 so they refer instead to the Department.

Section 8 transfers legal authority to impose disciplinary sanctions on certain nursing home administrators from the Board of Nursing Home Administrators to the Department of Commerce, and changes references to the Board in Section 155 of Chapter 70 of Title 8 so they refer instead to the Department.

Sections 9 and 10 change references to the Board of Nursing Home Administrators in the definitions of "license" and "licensee," respectively, in Section 180 of Chapter 70 of Title 8 so they refer instead to the Department of Commerce.

Section 11 substitutes the Department of Commerce's activity in licensing and regulating nursing home administrators, for the entity of the Board of Nursing Home Administrators, in the list of boards, commission, and officers to whom the administrative adjudication provisions of the Administrative Procedures Act (AS 44.62.330 - 44.62.630) apply.

Section 12 repeals sections or subsections of Title 8 that establish, govern, apply to, or otherwise refer to the Board of Nursing Home Administrators, effectively eliminating the Board.

Section 13 continues in effect all regulations of the Board of Nursing Home Administrators and allows regulatory references to the Board to be considered as references to the Department of Commerce instead; allows continuance of litigation, hearings, investigations, licenses, contract, rights, liabilities, and obligations existing under laws amended or repealed by the bill; and, transfers the records, equipment, and other property of the Board to the Department.

Section 14 provides for an immediate effective date.



Official Business

# Alaska State Legislature

## HOUSE OF REPRESENTATIVES

REPRESENTATIVE CYNTHIA TOOHEY

State Capitol  
Juneau, AK 99801-1182

DISTRICT 13

### SPONSOR STATEMENT

*Finance Committee Substitute for House Bill 124: "An act transferring the regulation of nursing home administrators to the Department of Commerce & Economic Development; abolishing the Board of Nursing Home Administrators; clarifying the conditions under which a nursing home administrator license may be denied; and providing for an effective date."*

This bill eliminates the State Board of Nursing Home Administrators and transfers its legal duties to license and regulate to the Division of Occupational Licensing in the Department of Commerce. The Finance Committee Substitute also gives the Department the authority to deny licenses to persons who are deceitful on their applications. The Board is mere months from ceasing to exist legally, having passed its 'sunset date' on the 30th of June last year. At the request of the State Hospital & Nursing Home Association, I introduced HB 124 to extend the life of the Board of Nursing Home Administrators for ten more years, but the Association have since decided that they would prefer to be regulated by the Division of Occupational Licensing. The State is required by federal regulations to license persons who administer nursing homes as a condition for the receipt of Medicaid funds. Since 1975 this licensing function has been the duty of the Board of Nursing Home Administrators. It is possible, and administratively easier and less expensive, for staff at the Division of Occupational Licensing to meet federal regulatory requirements for nursing home administrators. The State Hospital & Nursing Home Association, the Division of Medical Assistance, and the Division of Occupational Licensing support transferring supervision of nursing home administrators to the Department of Commerce.

Please support the Finance CS for HB 124.

INTERIM ADDRESS: 716 West 4th Avenue, Suite 330, Anchorage, 99501-2133

eligibility determination for Medicaid) or immediately thereafter (e.g., as the time of notice of eligibility).

(2) The agency, no less frequently than annually, must also provide written notice of the availability of WIC benefits, including the location and telephone number of the local WIC agency or instructions for obtaining further information about the WIC program, to all Medicaid recipients (including those found to be presumptively eligible) who are under age 5 or who are women who might be pregnant, postpartum, or breastfeeding as described in paragraphs (c)(2) (1) through (17) of this section.

(3) The agency must effectively inform those individuals who are blind or deaf or who cannot read or understand the English language.

(57 FR 23163, June 24, 1992)

#### Subpart N—State Programs for Licensing Nursing Home Administrators

##### § 431.700 Basis and purpose.

This subpart implements sections 1902(a)(29) and 1908 of the Act which require that the State plan include a State program for licensing nursing home administrators.

##### § 431.701 Definitions.

Unless otherwise indicated, the following definitions apply for purposes of this subpart:

**Agency** means the State agency responsible for licensing individual practitioners under the State's healing arts licensing act.

**Board** means an appointed State board established to carry out a State program for licensing administrators of nursing homes, in a State that does not have a healing arts licensing act or an agency as defined in this section.

**Licensed** means certified by a State agency or board as meeting all of the requirements for a licensed nursing home administrator specified in this subpart.

**Nursing home** means any institution, facility, or distinct part of a hospital that is licensed or formally recognized as meeting nursing home standards established under State law, or that is

determined under § 431.704 to be included under the requirements of this subpart. The term does not include—

(a) A Christian Science sanatorium operated, or listed and certified, by the First Church of Christ, Scientist, Boston, Mass.; or

(b) A distinct part of a hospital, if the hospital meets the definition in § 440.10 or § 440.140 of this subchapter, and the distinct part is not licensed separately or formally approved as a nursing home by the State even though it is designated or certified as a skilled nursing facility.

**Nursing home administrator** means any person who is in charge of the general administration of a nursing home whether or not the person—

(a) Has an ownership interest in the home; or

(b) Shares his functions and duties with one or more other persons.

##### § 431.702 State plan requirement.

A State plan must provide that the State has a program for licensing administrators of nursing homes that meets the requirements of §§ 431.703 through 431.706 of this subpart.

##### § 431.703 Licensing requirements.

The State licensing program must provide that only nursing homes supervised by an administrator licensed in accordance with the requirements of this subpart may operate in the State.

##### § 431.704 Nursing homes designated by other terms.

If a State licensing law does not use the term "nursing home," the HCFA Administrator will determine the term or terms equivalent to "nursing home" for purposes of applying the requirements of this subpart. To obtain this determination, the Medicaid agency must submit to the Regional Medicaid Director copies of current State laws that define institutional health care facilities for licensing purposes.

##### § 431.705 Licensing authority.

(a) The State licensing program must provide for licensing of nursing home administrators by—

(1) The agency designated under the healing arts act of the State; or

(2) A State licensing board.

(b) The State agency or board must perform the functions and duties specified in §§ 431.707 through 431.713 and the board must meet the membership requirements specified in § 431.706 of this subpart.

#### § 431.706 Composition of licensing board.

(a) The board must be composed of persons representing professions and institutions concerned with the care and treatment of chronically ill or infirm elderly patients. However—

(1) A majority of the board members may not be representative of a single profession or category of institutions; and

(2) Members not representative of institutions may not have a direct financial interest in any nursing home.

(b) For purposes of this section, nursing home administrators are considered representatives of institutions.

#### § 431.707 Standards.

(a) The agency or board must develop, impose, and enforce standards that must be met by individuals in order to be licensed as a nursing home administrator.

(b) The standards must be designed to insure that nursing home administrators are—

- (1) Of good character;
- (2) Otherwise suitable; and
- (3) Qualified to serve because of training or experience in institutional administration.

#### § 431.708 Procedures for applying standards.

The agency or board must develop and apply appropriate procedures and techniques, including examinations and investigations, for determining if a person meets the licensing standards.

#### § 431.709 Issuance and revocation of license.

Except as provided in § 431.714 of this subpart, the agency or board must—

(a) Issue licenses to persons who meet the agency's or board's standards; and

(b) Revoke or suspend a license if the agency or board determines that the person holding the license substantially fails to meet the standards.

#### § 431.710 Provisional licenses.

To fill a position of nursing home administrator that unexpectedly becomes vacant, the agency or board may issue one provisional license, for a single period not to exceed 6 months. The license may be issued to a person who does not meet all of the licensing requirements established under § 431.707 but who—

(a) Is of good character and otherwise suitable; and

(b) Meets any other standards established for provisional licensure by the agency or board.

#### § 431.711 Compliance with standards.

The agency or board must establish and carry out procedures to insure that licensed administrators comply with the standards in this subpart when they serve as nursing home administrators.

#### § 431.712 Failure to comply with standards.

The agency or board must investigate and act on all complaints it receives of violations of standards.

#### § 431.713 Continuing study and investigation.

The agency or board must conduct a continuing study of nursing homes and administrators within the State to improve—

- (a) Licensing standards; and
- (b) The procedures and methods for enforcing the standards.

#### § 431.714 Waivers.

The agency or board may waive any standards developed under § 431.707 of this subpart for any person who has served in the capacity of a nursing home administrator during all of the 3 calendar years immediately preceding the calendar year in which the State first meets the requirements in this subpart.

#### § 431.715 Federal financial participation.

No FFP is available in expenditures by the licensing board for establishing and maintaining standards for the licensing of nursing home administrators.

ALASKA STATE

# HOSPITAL & NURSING HOME

ASSOCIATION

April 10, 1995

Senator Steve Frank  
Senator Rick Halford  
Co-Chair, Finance Committee  
Alaska State Senate  
Capitol Building  
Juneau, AK 99801

Re: Support, CSHB 124  
Nursing Home Administrator Board

Dear Senators Frank; Halford & Members of Finance Committee:

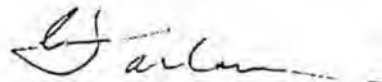
ASHNHA, representing community hospitals and nursing homes from across Alaska support CSHB 124, allowing the sunseting of the Nursing Home Administrator Licensing Board and transferring the administrator licensing responsibilities to the Division of Occupational Licensing (DOL).

Reasons for support are:

- \* Nursing Home Administrators must be licensed by state to meet HCFA requirements for federal Medicaid funding match.
- \* Division of Occupational Licensing can administer licensing exams and disciplinary process without a Board.
- \* The DHSS Division on Health Facility Licensing & Certification and the Senior Services Ombudsman closely monitor performance Alaska's long term care facilities and performance of administrators.

Your support requested.

Sincerely,



Harlan R. Knudson  
President/CEO

✓  
cc: Representative Cynthia Toohy  
Catherine Reardon, Director, DOL

# SENATE COMMITTEE REPORT

DATE: 3/30/95

FURTHER: Finance

DATE TURNED INTO OFFICE: 4-7-95

HESS Committee considered CS FOR HOUSE BILL NO. 124(FIN)

Transferring the regulation of nursing home administrators to the Department of Commerce and Economic Development; abolishing the Board of Nursing Home Administrators; efd.

*PH FIN*

and recommends:

- be replaced with \_\_\_\_\_ CS \_\_\_\_\_
- adopt previous \_\_\_\_\_ CS \_\_\_\_\_
- attached amendment(s)
- adopt Letter of Intent by \_\_\_\_\_ Committee
- further referral to the \_\_\_\_\_ Committee

Senate Bill:  
 | same title  
 | new title  
 House Bill:  
 | same title  
 | technical change  
 | new: SCR? \_\_\_\_\_

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
<i>Loren D. Luman</i>	✓	<i>Mike Miller</i>	✓		
		<i>H. Ellis</i>	✓		
		<i>Judith E. Soto</i>	✓		
CHAIR: <i>Linda Green</i>	✓				

**NEW FISCAL NOTE(S):**

Department                      Date    Zero    Fiscal


**PREVIOUS FISCAL NOTE(S):\***

Department                      Date    Zero    Fiscal

DCED-OL	3/3/95		8.2

APPROPRIATION -- no fiscal note

\*include fiscal notes accompanying Governor's bill