

**HB**

**124**



# Alaska State Legislature

## HOUSE OF REPRESENTATIVES

Official Business

REPRESENTATIVE CYNTHIA TOOHEY

State Capitol  
Juneau, AK 99801-1182

DISTRICT 13

MEMORANDUM.

TO: Representative Toohey

FROM: Benjamin Brown, <sup>LEG</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

MEMORANDUM 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

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### 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 350, Anchorage, 99501-2133

# FISCAL NOTE

STATE OF ALASKA  
1995 LEGISLATIVE SESSION

BILL NO. CSHB 124

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 Toohay  
 Requestor: Representative Toohay COMPONENT SERIAL #: 1844

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 98	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
1008 GF/MHTA						
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 Stuckler, Admin Officer Phone: 485-2144  
 Division: Occupational Licensing Date: 2/22/95  
 Approved by Commissioner: William L. Hensley Date: 2/2/95  
 Agency: Commerce and Economic Development

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ALASKA STATE

HOSPITAL & NURSING HOME

ASSOCIATION

February 16, 1995

Representative Cythia Toohy, Co-Chair  
Health, Education & Social Services Committee  
House of Representative  
Alaska State Legislature  
Juneau, AK 99801

Re: SUPPORT, CSFB 124  
Nursing Home Administrator Board

Dear Representative Toohy:

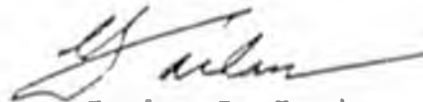
A sincere thank you for having SB 124 introduced. Also a very sincere apology that we did not have our "act" together on the need for the nursing home board when we requested your help in repealing the sunset for the board and extending its life for another 10 years.

The state must license nursing home administrators to remain eligible to participate in the Medicaid program. The Division of Occupational Licensing may administer that function along with the handling of disciplinary proceedings.

Having a board is an option. Nursing home administrators met here in Juneau last week and decided the board really wasn't necessary to provide the license exam and/or safeguard the public, therefore we would support elimination of the Nursing Home Administrators Board.

Thank you for your patience and your leadership on this issue.

Sincerely,



Earlan R. Knudson  
President/CEO

ALASKA STATE

# HOSPITAL & NURSING HOME

ASSOCIATION

April 5, 1995

Senator Lyda Green, Chair  
Health, Education & Social Services  
Committee

Alaska State Senate  
Capitol Building  
Juneau, AK 99801

Re: Support, CSHB 124  
Nursing Home Administrator Board

Dear Senator Green & Members HESS 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.

The state must license nursing home administrators to remain eligible to participate in the Medicaid program. The Division of Occupational Licensing may administer that function along with the handling of disciplinary proceedings.

Having a board is an option. Nursing home administrators met here in Juneau last month and agreed the board really wasn't necessary to provide the license exam and/or as a safeguard for the public.

There are national exams utilized for licensure. The DHSS Division on Facility Licensing and Certification and the Senior Services Ombudsman monitor closely the quality of care in Alaska's long term care facilities.

We ask the support of the Senate HESS Committee.

Sincerely,



Harlan R. Knudson  
President/CEO

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THE POOR QUALITY OF THE ORIGINAL

eligibility determinations for Medicare) or immediately thereafter (e.g., in the case of notice of eligibility).

(2) The agency, so 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 instruct as for obtaining further information about the WIC program to all Medicare recipients (including those found to be presumptively eligible) who are under age 1 or who are women who might be pregnant, postpartum, or breastfeeding as described in paragraphs (c)(2) and (3) 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.

37 FR 2102, June 21, 1972

**Support N—State Programs for Licensing Nursing Home Administrators**

**§ 421.700 Basis and purpose.**

This support implements sections 1901(a)(2) and 1908 of the Act which require that the State plan include a State program for licensing nursing home administrators.

**§ 421.701 Definitions.**

Unless otherwise indicated, the following definitions apply for purposes of this support.

**Agency** means the State agency responsible for licensing individual practitioners under the State's health care 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 health care 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 support.

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

determined under § 421.704 to be included under the requirements of this support. The term does not include—

(a) a Christian Science institution operated, or listed and certified, by the First Church of Christ, Scientist, 300-100, Mass., or

(b) a distance part of a hospital, if the hospital meets the definition in § 440.10 or § 440.150 if this subchapter, and the distance part is not licensed, certified, or formally recognized as a nursing home by the State even though it is designated or certified as a limited nursing facility.

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

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

(2) Shares the ownership and control with one or more other persons.

**§ 421.702 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 § 421.700 through § 421.706 of this support.

**§ 421.703 Licensing requirements.**

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

**§ 421.704 Nursing homes designated by other terms.**

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

**§ 421.706 Licensing authority.**

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

(1) The agency designated under the health care act of the State; or

(2) A State licensing board.

(3) The State agency or board must perform the functions and duties specified in § 431.707 through 431.715 and the board must meet the membership requirements specified in § 431.706 of this subpart.

#### § 431.706 Composition of licensing board.

(1) The board must be composed of persons representing professions and institutions concerned with the care and treatment of essentially all or the most needy persons. However—

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

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

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

#### § 431.707 Standards.

(1) The agency or board must develop, impose, and enforce standards that must be met by institutions in order to be licensed as a nursing home under this part.

(3) The standards must be designed to assure that nursing home administrators are—

(i) Of good character;

(ii) 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 and 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 assure 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 enforce the law in all instances in the event of violations of standards.

#### § 431.713 Continuing study and improvement.

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.