

HB

217

HFIN

FILE

HOUSE COMMITTEE REPORT

(11)

Date Referred to Committee: April 17, 1997

FURTHER REFERRALS:

Date of Committee Action: 4/30/97

The FINANCE Committee considered:

HB 217

HOUSE BILL NO. 217

CERTIFIED NURSE AIDES

"An Act relating to certified nurse aides; and providing for an effective date."

recommends it be replaced
with the following committee substitute

CS HB 217 (FIN)

the same title
 a new title

additional referral to _____ Committee
 attached amendment(s)

ADOPTS: _____ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept)

APPROVES PREVIOUS: (Dept/Date)

fiscal note(s) DCEI

fiscal note(s) _____

zero fiscal note(s) _____

zero fiscal note(s) DHSS 4/17/97

SIGNING WITH RECOMMENDATIONS		DP	DNP	NR	AM
<i>Gene Therriault</i>	Therriault			X	
<i>Bob Grussendorf</i>	Grussendorf	X			
<i>Bob Milder</i>	MILDER			X	
<i>Terry Martin</i>	Martin	X			
<i>J. Davis</i>	J. Davis	X			
<i>G. Davis</i>	G. Davis	X			

CHAIR'S SIGNATURE

Gene Therriault
Therriault

FISCAL NOTE

STATE OF ALASKA
1997 LEGISLATIVE SESSION

BILL NO. CSHB 217(FIN)

Revision Date: _____
 Title: An Act relating to certified nurse aides.
 Sponsor: Representative Ryan
 Requestor: House Finance

Department: Commerce and Economic Development
 BRU: Occupational Licensing
 Component: Operations
 COMPONENT SERIAL NO. 1844

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
PERSONAL SERVICES	59.6	59.6	59.6	59.6	59.6	59.6
TRAVEL	2.0	2.0	2.0	2.0	2.0	2.0
CONTRACTUAL	15.7	15.7	15.7	15.7	15.7	15.7
SUPPLIES	1.0	1.0	1.0	1.0	1.0	1.0
EQUIPMENT	8.0					
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	86.3	78.3	78.3	78.3	78.3	78.3

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES	86.3	78.3	78.3	78.3	78.3	78.3
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 General Fund						
1005 GF/Program Receipts	86.3	78.3	78.3	78.3	78.3	78.3
1006 GF/MHTIA						
Other 1091 Designated PR						
TOTAL	86.3	78.3	78.3	78.3	78.3	78.3

Estimate of any current year (FY 97) cost: \$ 0.0

POSITIONS

FULL-TIME	1	1	1	1	1	1
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

The bill places certification of nurse aides under the Board of Nursing and grants disciplinary authority of certified nurse aides to the board. Certification of nurse aides is currently administered by the Department of Commerce and Economic Development under Administrative Order #115 signed on 8/4/89. However, current administration of the program does not include enforcement of unacceptable or inappropriate conduct. Since the bill assigns enforcement responsibility to the Board of Nursing, this fiscal note provides a full-time investigator to work certified nurse aide cases and provides funding for legal services. See attached for further explanation.

Prepared by: Jennifer Strickler, Administrative Manager
 Division: Occupational Licensing
 Approved by Commissioner: William L. Hensley
 Agency: Commerce and Economic Development

Phone: 465-2144
 Date: 4/30/97
 Date: 4/30/97

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FISCAL NOTE

STATE OF ALASKA
1997 LEGISLATIVE SESSION

BILL NO.: CSBB 217(FIN)

ANALYSIS: (Continued)

DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT FISCAL NOTE CALCULATIONS

PERSONAL SERVICES 59.6

1 - Permanent Full-Time Investigator III, Range 18, GGU

TRAVEL 2.0

- Travel and Per Diem for the Investigator III to conduct field work throughout the State: \$2.0

CONTRACTUAL 15.7

- Contractual-related costs for the Investigator III position, such as communications (phones, postage, etc.), misc. case related costs (copies of records), expert witnesses, depositions, etc.: \$3.0
- Office space costs for the Investigator III position: \$2.5
- Legal services in preparing cases for litigation. The funding provides 120 hours of legal services (10 hours per month x 12) at \$85 per hour. There are 1,929 certified nurse aides. At the rate of \$85 per hour, each individual would be responsible to contribute \$5.29 of their licensing fees toward enforcement, for a total of: \$10.2

SUPPLIES 1.0

Provides daily operating desk top supplies for the Investigator III.

EQUIPMENT (One-time costs only) 8.0

Workstation	3.0
Phone/Install	2.0
Computer	2.0
File Cabinet	1.0

TOTAL FY 98 Costs: \$ 86.3

REVENUE:

Certified Nurse Aides currently pay biennial fees of \$30 (\$15 per year). Fees will be adjusted to cover its program costs.

STATE OF ALASKA
1997 LEGISLATIVE SESSION

Bill Version: CSHB 217(L&C)
(H) Publish Date: 4/17/97

Revision Date: _____ Dept. Affected: Health and Social Services
 Title: "An Act relating to certified nurse aides
and providing for an effective date." BRU: Medical Assistance Admin
 Sponsor: Representative Ilyan Component: Certification & Licensing
 Requestor: _____ COMPONENT SERIAL NO. 245
 See also (SN#): _____

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY98	FY99	FY00	FY01	FY02	FY03
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGES IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (please specify)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of any current year (FY97) cost: \$0.0

ANALYSIS: (Attach a separate page if necessary)

Federal monies are already provided to fund this program, and no additional funding needs are anticipated.

Prepared by: Ronald A. Cowan
 Division: Medical Assistance
 Approved by Commissioner: Karen Perdue, Commissioner
 Agency: Department of Health & Social Services

Phone: 561-8081
 Date: 04/04/97
 Date: 4-7-97

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FISCAL NOTE

No. 2

Bill Version: CSHB 217(L&C)

(H) Publish Date: 4/17/97

STATE OF ALASKA 1997 LEGISLATIVE SESSION

Revision Date: _____
Title: An Act relating to certified nurse aides.

Department: Commerce and Economic Development
BRU: Occupational Licensing
Component: Operations

Sponsor: Representative Ryan
Requestor: House Labor & Commerce

COMPONENT SERIAL NO. 1844

Expenditures/Revenues

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
PERSONAL SERVICES	59.8	59.8	59.8	59.8	59.8	59.8
TRAVEL	2.0	2.0	2.0	2.0	2.0	2.0
CONTRACTUAL	15.7	15.7	15.7	15.7	15.7	15.7
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CAPITAL EXPENDITURES						
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CHANGE IN REVENUES	88.3	78.3	78.3	78.3	78.3	78.3
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FUND SOURCE

(Thousands of Dollars)

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1005 GF/Program Receipts						
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Other 1091 Designated PR	88.3	78.3	78.3	78.3	78.3	78.3
TOTAL	88.3	78.3	78.3	78.3	78.3	78.3

Estimate of any current year (FY 97) cost: \$ 0.0

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FULL-TIME	1	1	1	1	1	1
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TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

The bill places certification of nurse aides under the Board of Nursing and grants disciplinary authority of certified nurse aides to the board. Certification of nurse aides is currently administered by the Department of Commerce and Economic Development under Administrative Order #115 signed on 8/4/89. However, current administration of the program does not include enforcement of unacceptable or inappropriate conduct. Since the bill assigns enforcement responsibility to the Board of Nursing, this fiscal note provides a full-time investigator to work certified nurse aide cases and provides funding for legal services. See attached for further explanation.

Prepared by: Jennifer Strickler, Administrative Officer
 Division: Occupational Licensing
 Approved by Commissioner: William L. Hensley
 Agency: Commerce and Economic Development

Phone: 465-2144
 Date: 4/3/97
 Date: 4-3-97

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FISCAL NOTE

STATE OF ALASKA
1997 LEGISLATIVE SESSION

BILL NO.: HB 217

ANALYSIS: (Continued)

DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT FISCAL NOTE CALCULATIONS

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Phone/Install	2.0
Computer	2.0
File Cabinet	1.0

TOTAL FY 98 Costs: \$ 86.3

REVENUE:

Certified Nurse Aides currently pay biennial fees of \$30 (\$15 per year). Fees will be adjusted to cover its program cost.

0-LS0737L
Lauterbach
4/30/97

adopted 4/30/97

CS FOR HOUSE BILL NO. 217()

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - FIRST SESSION

BY

**Offered:
Referred:**

Sponsor(s): REPRESENTATIVE RYAN

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to certified nurse aides; and providing for an effective date."**

2 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

3 *** Section 1.** AS 08.01.087 is amended by adding a new subsection to read:

4 (c) Under procedures and standards of operation established by the department
5 by regulation, and with the agreement of the appropriate agency, the department may
6 designate appropriate state or municipal agencies to investigate reports of abuse,
7 neglect, or misappropriation of property by certified nurse aides.

8 *** Sec. 2.** AS 08.01.090 is amended to read:

9 **Sec. 08.01.090. Applicability of the Administrative Procedure Act.** The
10 Administrative Procedure Act (AS 44.62) applies to regulations adopted and
11 proceedings held under this chapter, except those under AS 08.01.087(b) and actions
12 taken under AS 08.68.333(c).

13 *** Sec. 3.** AS 08.68.100(a) is amended to read:

14 (a) The board shall
15 (1) adopt regulations necessary to implement this chapter, including

1 regulations pertaining to practice as an advanced nurse practitioner and a nurse
 2 anesthetist, and regulations necessary to implement AS 08.68.331 - 08.68.336
 3 relating to certified nurse aides in order to protect the health, safety, and welfare
 4 of clients served by nurse aides;

5 (2) approve curricula and adopt standards for basic education programs
 6 that prepare persons for licensing under AS 08.68.190;

7 (3) provide for surveys of the basic nursing education programs in the
 8 state at the times it considers necessary;

9 (4) approve education programs that meet the requirements of this
 10 chapter and of the board, and deny, revoke, or suspend approval of education programs
 11 for failure to meet the requirements;

12 (5) examine, license, and renew the licenses of qualified applicants;

13 (6) prescribe requirements for competence before a former nurse may
 14 resume the practice of nursing under this chapter;

15 (7) keep a record of its proceedings, and submit annual reports to the
 16 governor and legislature;

17 (8) define by regulation the qualifications and duties of the executive
 18 secretary and delegate authority to the executive secretary that is necessary to conduct
 19 board business;

20 (9) develop reasonable and uniform standards for nursing practice;

21 (10) publish advisory opinions regarding whether nursing practice
 22 procedures or policies comply with acceptable standards of nursing practice as defined
 23 under this chapter.

24 * Sec. 4. AS 08.68.140 is amended to read:

25 **Sec. 08.68.140. Applicability of Administrative Procedure Act.** Except as
 26 specified in AS 08.68.333(f), the [THE] board shall comply with the Administrative
 27 Procedure Act (AS 44.62).

28 * Sec. 5. AS 08.68 is amended by adding new sections to read:

29 **Article 3A. Certified Nurse Aides.**

30 **Sec. 08.68.331. Certification of nurse aides.** (a) The board or the
 31 Department of Commerce and Economic Development, as designated by the board,

1 shall issue certification as a nurse aide to qualified applicants. The board, after
2 consultation with affected agencies, may adopt regulations regarding the certification
3 of nurse aides, including

4 (1) the training, educational, and other qualifications for certification
5 that will ensure that the nurse aides are competent to perform the tasks of their
6 occupation;

7 (2) application, certification, renewal, and revocation procedures; and

8 (3) maintenance of a registry of certified nurse aides.

9 (b) The board may

10 (1) conduct hearings upon charges of alleged violations of this chapter
11 or regulations adopted under it; and

12 (2) invoke, or request the department to invoke, disciplinary action
13 under AS 08.01.075 against a certified nurse aide.

14 **Sec. 08.68.332. Use of title.** (a) A person may not use the title "certified
15 nurse aide" or the abbreviation "C.N.A." unless the person is certified under this
16 chapter.

17 (b) A person who knowingly violates this section is guilty of a class B
18 misdemeanor. In this subsection, "knowingly" has the meaning given in
19 AS 11.81.900(a).

20 **Sec. 08.68.333. Registry of certified nurse aides.** (a) The board shall
21 maintain a registry of certified nurse aides. At a minimum, this registry must include
22 the information required under federal regulations that are applicable to nurse aides
23 found to have committed abuse, neglect, or misappropriation of property in connection
24 with their employment by a facility participating in the Medicaid or Medicare program.

25 (b) If the board finds that a certified nurse aide has committed abuse, neglect,
26 or misappropriation of property in connection with employment as a nurse aide, the
27 board shall revoke the nurse aide's certification and enter the finding in the registry.

28 (c) Upon receiving a notice of a finding under AS 47.05.055 that a certified
29 nurse aide has committed abuse, neglect, or misappropriation of property, the board
30 shall immediately revoke the nurse aide's certification without a hearing, enter the
31 finding in the registry, and notify the nurse aide of the revocation and entry of the

1 finding. Notice is considered given when delivered personally to the nurse aide or
2 deposited in the United States mail addressed to the nurse aide's last known mailing
3 address on file with the board. The department shall retain proof of mailing.

4 (d) If the certified nurse aide is employed in a skilled nursing facility or a
5 nursing facility, other than an intermediate care facility for the mentally retarded, that
6 is participating in the Medicaid or Medicare program, only the state survey and
7 certification agency may make, and report to the Board of Nursing, a finding that the
8 certified nurse aide has committed abuse, neglect, or misappropriation of property in
9 connection with the nurse aide's employment at the facility.

10 (e) The board shall establish procedures under which a finding under
11 AS 47.05.055 that a certified nurse aide has committed abuse, neglect, or
12 misappropriation of property and the resulting revocation of certification will be
13 removed from the registry if the certified nurse aide requests a hearing and can
14 establish mistaken identity or the finding has been set aside by the reporting agency
15 or by a court of competent jurisdiction.

16 (f) AS 44.62.330 - 44.62.630 do not apply to actions taken under (c) of this
17 section.

18 **Sec. 08.68.334. Grounds for denial, suspension, or revocation of certificate.**

19 The board may deny a certification to, or impose a disciplinary sanction authorized
20 under AS 08.01.075 against, a person who

21 (1) has obtained or attempted to obtain certification as a nurse aide by
22 fraud, deceit, or intentional misrepresentation;

23 (2) has been convicted of a crime substantially related to the
24 qualifications, functions, or duties of a certified nurse aide;

25 (3) has impersonated a registered or practical nurse or other licensed
26 health care provider;

27 (4) has intentionally or negligently engaged in conduct that has resulted
28 in a significant risk to the health or safety of a client or in injury to a client;

29 (5) is incapable of working as a certified nurse aide with reasonable
30 skill, competence, and safety for the public because of

31 (A) professional incompetence;

1 (B) addiction or severe dependency on alcohol or a drug that
2 impairs the licensee's ability to practice safely;

3 (C) physical or mental disability; or

4 (D) other factors determined by the board;

5 (6) has knowingly or repeatedly failed to comply with this chapter, a
6 regulation adopted under this chapter, or with an order of the board; or

7 (7) has misappropriated the property of, abused, or neglected a client.

8 **Sec. 08.68.335. Immunity for certain reports to the board.** A person who,
9 in good faith, reports information to the board relating to alleged incidents of
10 incompetent, unprofessional, or unlawful conduct of a certified nurse aide is not liable
11 in a civil action for damages resulting from the reporting of the information.

12 **Sec. 08.68.336. Fees.** The Department of Commerce and Economic
13 Development shall set fees under AS 08.01.065 for certified nurse aides for each of
14 the following:

15 (1) application;

16 (2) examination;

17 (3) certification; and

18 (4) renewal of certification.

19 * Sec. 6. AS 08.68.410 is amended by adding a new paragraph to read:

20 (9) "certified nurse aide" is a person who is certified as a nurse aide by
21 the board.

22 * Sec. 7. AS 44.62.330(a)(10) is amended to read:

23 (10) Board of Nursing functions, except those related to findings of
24 abuse, neglect, or misappropriation of property contained in the registry of
25 certified nurse aides under AS 08.68.333;

26 * Sec. 8. AS 47.05.010 is amended by adding a new paragraph to read:

27 (15) investigate reports of abuse, neglect, or misappropriation of
28 property by certified nurse aides in facilities licensed by the department under
29 AS 18.20.

30 * Sec. 9. AS 47.05.017(b) is amended to read:

31 (b) The department shall adopt regulations identifying actions that it will take,

1 in addition to those otherwise required under AS 47.17 and AS 47.24, when a report
2 of harm is made under AS 47.17 or AS 47.24 that might relate to harm caused by
3 actions or inactions of a public home care provider. The regulations must

4 (1) address circumstances under which the department will, or will
5 require a contractor or grantee to, reassign, suspend, or terminate a person alleged to
6 have perpetrated harm; [AND]

7 (2) include appropriate procedural safeguards to protect the due process
8 rights of public home care providers who may be reassigned, suspended, or terminated
9 under the circumstances described in (1) of this subsection; and

10 (3) if the home care provider is a certified nurse aide, include
11 procedures under which the department shall notify the Board of Nursing if the
12 nurse aide is suspected of abuse, neglect, or misappropriation of property.

13 * Sec. 10. AS 47.05 is amended by adding a new section to read:

14 **Sec. 47.05.055. Certified nurse aides.** (a) If the department has reason to
15 believe that a certified nurse aide employed in a facility licensed by the department
16 under AS 18.20 has committed abuse, neglect, or misappropriation of property in
17 connection with the person's duties as a certified nurse aide at the facility, the
18 department shall investigate the matter. The department shall conduct proceedings to
19 determine if a finding of abuse, neglect, or misappropriation of property should be
20 made. These proceedings shall be conducted under AS 44.62.330 - 44.62.630. A
21 finding under this subsection that a certified nurse aide has committed abuse, neglect,
22 or misappropriation of property shall be reported by the department to the Board of
23 Nursing.

24 (b) If the certified nurse aide is employed in a skilled nursing facility or
25 nursing facility, other than an intermediate care facility for the mentally retarded, that
26 is participating in the Medicaid or Medicare program, only the state survey and
27 certification agency may make, and report to the Board of Nursing, a finding that a
28 certified nurse aide has committed abuse, neglect, or misappropriation of property in
29 connection with the nurse aide's employment at the facility.

30 * Sec. 11. AS 47.17.030 is amended by adding a new subsection to read:

31 (f) If an investigation under this section shows reasonable cause to believe that

1 a certified nurse aide has committed abuse, neglect, or misappropriation of property,
2 the department shall report the matter to the Board of Nursing.

3 * Sec. 12. AS 47.17.290(13) is amended to read:

4 (13) "practitioner of the healing arts" includes chiropractors, mental
5 health counselors, dental hygienists, dentists, health aides, nurses, nurse practitioners,
6 certified nurse aides, occupational therapists, occupational therapy assistants,
7 optometrists, osteopaths, naturopaths, physical therapists, physical therapy assistants,
8 physicians, physician's assistants, psychiatrists, psychologists, psychological associates,
9 audiologists licensed under AS 08.1 hearing aid dealers licensed under AS 08.55,
10 marital and family therapists licensed under AS 08.63, religious healing practitioners,
11 acupuncturists, and surgeons;

12 * Sec. 13. AS 47.24.010(a) is amended by adding a new paragraph to read:

13 (15) a certified nurse aide.

14 * Sec. 14. AS 47.24.013 is amended by adding a new subsection to read:

15 (f) If an investigation conducted by an agency under this section shows
16 reasonable cause to believe that a certified nurse aide has committed abuse, neglect,
17 or misappropriation of property, the agency shall report the matter to the Board of
18 Nursing.

19 * Sec. 15. AS 47.24.015 is amended by adding a new subsection to read:

20 (g) If an investigation under this section shows reasonable cause to believe that
21 a certified nurse aide has committed abuse, neglect, or misappropriation of property,
22 the department shall report the matter to the Board of Nursing.

23 * Sec. 16. AS 47.33.520 is amended by adding a new subsection to read:

24 (f) If the licensing agency's investigation shows reasonable cause to believe
25 that a certified nurse aide has committed abuse, neglect, or misappropriation of
26 property, the licensing agency shall report the matter to the Board of Nursing.

27 * Sec. 17. TRANSITION: REGULATIONS. A state agency affected by this Act may
28 proceed to adopt regulations necessary to implement changes affecting the state agency that
29 are enacted by this Act. The regulations take effect under AS 44.62 (Administrative
30 Procedure Act), but not before the effective date of the changes in law in this Act.

31 * Sec. 18. TRANSITION: CERTIFICATIONS. (a) A person who holds a current, valid

1 certification from the Board of Nursing as a nurse aide on the day before the effective date
2 of this bill section, subject to continued eligibility under AS 08.68 and regulations adopted
3 under that chapter, is entitled to retain a renewable certification as a nurse aide.

4 (b) A person who, on the day before the effective date of this bill section, holds a
5 certification from the Board of Nursing as a nurse aide that has been expired for less than two
6 years may apply for renewal of that certification under standards to be established by the
7 board. A certification may not be renewed under this subsection unless the person applies for
8 the renewal before September 1, 1998.

9 * Sec. 19. Section 17 of this Act takes effect immediately under AS 01.10.070(c).

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101


130 Seward Street, Suite 409
Juneau, Alaska 99801-2105

MEMORANDUM

April 3, 1997

SUBJECT: Sectional Summary of HB 217. (Certified Nurse Aides)

TO: Representative Joe Ryan
Attn: Mark Rosen

FROM: Terri Lauterbach
Legislative Counsel 

You have requested a sectional summary of the above-described bill.

As a preliminary matter, please note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents. If you would like an interpretation of the bill as it may apply to a particular set of circumstances, let me know.

Section 1 amends AS 08.01.087 to allow the Department of Commerce (the investigative agency for the Board of Nursing) to designate other state or local agencies (with their consent) to conduct investigations into reports of abuse by CNAs.

Section 2 is a cross-reference to the exemption from the requirements of the Administrative Procedure Act created in AS 08.68.333.

Section 3 amends AS 08.68.100(a) to give the Board of Nursing authority to adopt regulations regarding certified nurse aides.

Section 4 amends AS 08.68.140 to exempt procedures related to the registry of certified nurse aides from the requirements of the Administrative Procedure Act.

Section 5 creates a new article in AS 08.68. It contains several new sections that give the Board of Nursing authority to regulate and certify nurse aides. Under new AS 08.68.332, it would be a class B misdemeanor crime for a person to use the title "certified nurse aide" unless the person is certified by the Board. The Board is required to establish and maintain a registry of certified nurse aides. New AS 08.68.333 establishes the procedures for including findings of abuse and neglect in the registry. New AS 08.68.334 establishes the grounds for the denial or suspension of a nurse aide's certificate. AS 08.68.335 provides immunity for

Representative Joe Ryan

April 3, 1997

Page 2

good faith reports to the Board, and AS 08.68.336 allows the Department of Commerce to set and collect fees for CNAs as shown.

Section 6 adds a definition for "certified nurse aide" in AS 08.68.

Section 7 amends AS 44.62.330(a)(10) to exempt functions related to the nurse aide registry from the requirements of the Administrative Procedure Act (APA).

Section 8 amends AS 47.05.010 to add to the duties of the Department of Health and Social Services (DHSS) the investigation of reports of abuse, neglect, or misappropriation of property by certified nurse aides in facilities licensed by DHSS under AS 18.20.

Section 9 requires the DHSS to adopt procedures to report to the Board of Nursing suspected abuse, neglect, or misappropriation of property by CNAs who work as home care providers.

Section 10 is a new section in the DHSS administrative statutes. It gives DHSS the authority to investigate reports of abuse or neglect by CNAs in facilities licensed by DHSS under AS 18.20. The department would be required to hold hearings under regulations it adopts; these need not comply with the APA. Reports of findings of abuse or neglect by a CNA must be reported to the Board of Nursing. If the facility is a long-term care facility, only the designated state survey and certification agency may make the report to the registry. This provision is included to comply with federal law.

Section 11 amends AS 47.17.030, regarding investigation by state and local agencies of reports of harm to children, to require that suspected abuse or neglect by CNAs be reported to the Board of Nursing.

Section 12 amends AS 47.17.290(13) to include "certified nurse aides" among the "practitioners of the healing arts" required to report the suspected abuse or neglect of children under their care.

Section 13 amends AS 47.24.010(a) to add CNAs to the list of those required to report the suspected exploitation or abuse of vulnerable adults under their care.

Section 14 amends existing AS 47.24.013, regarding the investigation of abuse of elderly persons, to require that suspected abuse, neglect, or misappropriation of property by CNAs be reported to the Board.

Section 15 amends existing AS 47.24.015, which requires DHSS to investigate reports of harm to elderly that are not addressed under AS 47.24.013. The proposed new subsection requires DHSS to report suspected abuse, neglect, or misappropriation of property by CNAs to the Board.

Representative Joe Ryan

April 3, 1997

Page 3

Section 16 amends existing AS 47.33.500(c), regarding assisted living facilities, to allow information about a complainant or resident to be released to appropriate investigative agencies if the complaint involved a certified nurse aide.

Section 17 amends AS 47.33.520 to require that suspected abuse, neglect or misappropriation of property by CNAs in assisted living homes be reported to the Board of Nursing.

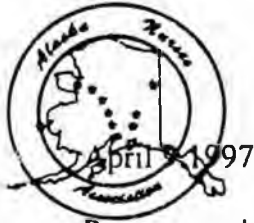
Section 18 is a transition section, allowing the Board and other affected state agencies, before the effective date of the new laws, to begin drafting the regulations necessary to implement the bill.

Section 19 is a transition section providing that persons who are certified as nurse aides immediately before the effective date of the Act retain their certifications, subject to continued eligibility. CNAs whose certifications have expired within two years before the Act takes effect may apply to renew them if they apply by September 1, 2000.

Section 20. Immediate effective date for sec. 18.

TML:jdr

97-230.jdr



ALASKA NURSES ASSOCIATION

237 E. 3rd Avenue #3 Anchorage, AK 99501-2523
(907) 274-0827 FAX: (907) 272-0292

Representative Joe Ryan
Juneau, Alaska

Dear Representative Ryan:

On behalf of the Alaska Nurses Association, I'd like to take this opportunity to comment on HB 217, "An Act relating to certified nurse aides. The Alaska Nurses Association supports this bill and its greater purpose to protect the health, safety, and welfare of the public served by nurses aides as well as to ensure competency in the performance of nurses aide tasks.

The Alaska Nurses Association believes that this act is a positive first step toward the goal to mandate certification for all nurse aides. The Alaska Nurses Association passed a resolution in support of requiring certification for all nurse aides at the annual convention in 1995. The Alaska Nurses Association continues to be committed to certification of all unlicensed assistive personnel not just those individuals who are already mandated to be certified.

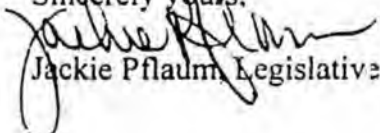
The nursing profession is accountable for the quality of service it provides to the consumer. This includes responsibility for developing nursing policies and procedures and setting the standards of practice for the nursing care of populations served. Provision of any care which constitutes nursing or any activity represented as nursing is a regulatory responsibility of Boards of Nursing. This Act rightly assigns the oversight for the practice of certified nurse aides and the protection of the public to the Alaska Board of Nursing.

The Alaska Nurses Association supports the sections of the HB which provide the following:

- Definitions of covered individuals,
- Authorization for the Board to Nursing to certify nurse aides and maintain a registry,
- Authorization for the Board to discipline certified nurse aides.
- Enforcement authorization,
- Authorization for the Board of Nursing to approve curricula and adopt standards for educational programs and to adopt regulations.

The Alaska Nurses Association thanks you for the opportunity to give input on this piece of legislation. Thank you for serving as a sponsor of the bill.

Sincerely yours,


Jackie Pflaum, Legislative Chairperson



ALASKA NURSES ASSOCIATION

237 E. 3rd Avenue #3 Anchorage, AK 99501-2523
(907) 274-0827 FAX: (907) 272-0292

Certified Nurse Aide Bill HB 217 and SB 152

PURPOSE

The purpose of these bills is to give legislative authority to the Nurse Aide Certification program which has been in existence in Alaska since 1989 through the Board of Nursing. This program establishes minimum requirements for Nurse Aide training, approves Nurse Aide training programs in Alaska, and keeps a registry of Certified Nurse Aides.

The current Nurse Aide Certification program was established by Executive Order and so there is no legislative authority to take disciplinary action against CNA's. These bills will allow the Board of Nursing to deny, suspend or revoke a nurse aide's certification for reasons such as a conviction of a crime related to the nurse aide's function, negligence that has resulted in an injury or a risk to the health or safety of a client, and addiction to illegal drugs or alcohol. In addition, they will continue to allow the Department of Health and Social Services to maintain a list of CNA's who have worked in state licensed long-term care facilities and home health agencies, and who have committed abuse, neglect, or misappropriation of property.

The ultimate purpose of these bills is to protect Alaska's most vulnerable population by helping to insure that the people who care for them are properly trained and disciplined as needed.

HISTORY

The Omnibus Budget Reconciliation Act of 1987 required that states establish Nurse Aide Certification programs for nurses aides who worked in long-term care and home health agencies receiving Medicare and Medicaid funding. In Alaska the Board of Nursing has been the agency responsible for approving Nurse Aide Certification training programs, and for maintaining the list of Alaska Certified Nurses Aides. At present, the Board of Nursing has no authority to discipline CNA's or remove an individual from their list of CNA's for any reasons.

Per Federal Regulations, the Division of Medical Assistance, Section of Health Facilities Licensing and Certification, investigates complaints brought against CNA's who work in long-term care facilities and home health agencies licensed by the Division. This authority does not extend to CNA's working in other facilities, such as hospitals. This is why the present legislation

gives disciplinary authority to the Board of Nursing, who already has this responsibility for Registered Nurses and Licensed Practical Nurses.

WHY LEGISLATION NOW

The Alaska Board of Nursing has been trying to get legislative authority for their CNA program for the last seven years. With the great increase in elder Alaskans needing assistance, there has been a tremendous growth in the need for CNA's. As the number of CNA's has grown (there are now 2500 CNA's in Alaska) the need for formal authority to operate the existing program, and to take disciplinary action, has increased.

FUNDING

The present CNA program is funded in part by Federal dollars connected to Medicaid funds, and through certification fees. It is the Board of Nursing's intent that should the Federal subsidy decrease, that the program would operate on certification fees, as the program for Registered Nurses and Licensed Practical Nurses presently operates off licensing fees.

SUPPORT

The current legislation was based on a bill drafted by a coalition that included representatives from the Alaska Board of Nursing, the Division of Medical Assistance, the Attorney General's office, the Division of Senior Services, and the Alaska Hospital and Nursing Home Association. The present piece of legislation has been deemed a top priority by the Alaska Nurses Association. CNA's work under the supervision of licensed nurses. We feel these people are important members of the health care team, and so require adequate preparation for the responsibilities given to them.

Alaska State Legislature

House of Representatives

COMMITTEE ASSIGNMENTS:

LABOR & COMMERCE
MILITARY & VETERANS AFFAIRS
COMMUNITY & REGIONAL AFFAIRS
OIL & GAS



Representative Joe Ryan

1 800-922-3875 <http://www.akrepublicans.org>

INTERIM:

716 W. 4TH AVE.
ANCHORAGE, AK 99501
PHONE (907) 258-8161

SESSION:

STATE CAPITOL
ROOM 420
JUNEAU, AK 99801-1182
PHONE (907) 465-3875

Sponsor Statement

HB 217 gives the Board of Nursing the authority to oversee the training, supervision, utilization, and registration of Certified Nurse Aides.

There are some 2,800 Certified Nurse Aides (CNAs) working in Alaska's long-term care facilities and home health agencies. These Aides provide care to Alaskans most unable to care for themselves, the aged and the infirm.

These Certified Nurse Aides works under the supervision of a nurse licensed by the Board of Nursing, performing only those duties specifically delegated by that nurse.

The Omnibus Budget Reconciliation Act of 1987 (Federal) required that states establish Nurse Aide Certification programs for aides working in long-term care and home health agencies receiving Medicare and Medicaid funding. Since 1989, the responsibility for the Certified Nurse Aide program has been divided between DHSS, Division of Medical Assistance, Health Facilities and Licensing, and DCED, Occupational Licensing, Board of Nursing.

This legislation delineates responsibility for oversight of Certified Nurse Aides clearly to the Board of Nursing. The Board of Nursing has been responsible for establishing minimum training standards, approval of training programs, and maintenance of the registry of Certified Nurse Aides.

However, the Board of Nursing has not had the authority to conduct investigations, order corrective measures, or remove someone from

the Certified Nurse Aide registry when allegations of wrong-doing are made against a Certified Nurse Aide. This legislation will authorize the Board of Nursing to take appropriate action.

HB 217 protects Alaska's most vulnerable population by insuring that the people who care for them are properly trained and that oversight of that care is provided.