

SB

24



Sponsor Statement -- SB 24

"An Act relating to a requirement that a parent, guardian, or custodian consent before certain minors receive an abortion; establishing a judicial bypass procedure by which a minor may petition a court for authorization to consent to an abortion without consent of a parent, guardian, or custodian; amending the definition of 'abortion'; and amending Rules 40 and 79, Alaska Rules of Civil Procedure; Rules 204, 210, 212, 213, 508, and 512.5, Alaska Rules of Appellate Procedure; and Rule 9, Alaska Administrative Rules."

Senate Bill 24 allows enforcement of existing law requiring parental consent before an abortion can be performed on a minor. Parental consent is required under AS 18.16.010, approved by the Legislature in 1970. However, a 1976 Attorney General's opinion declared the statute unenforceable as it lacks a judicial bypass provision which would enable a minor to receive permission from a judge as an alternative to a parent. Various Supreme Court decisions have held that judicial bypass is necessary if parental consent laws are to meet constitutional muster. SB 24 adds the required bypass.

In other states, parental involvement laws have had a positive impact, reducing both the number of abortions *and* the number of teen pregnancies. During the first six years Minnesota's parental involvement law was in effect, the teen pregnancy rate fell 20.5 percent, teen abortions declined 27.4 percent, and the teen birth rate went down 12.5 percent.

SB 24 also upholds the rights of parents, which are uniquely disregarded in the area of abortion. Parental consent is required for virtually every medical procedure. An exception should not exist for abortion. In Alaska, young people under age 18 are not considered mature enough to be served alcohol, buy cigarettes, or vote in elections. Even marriage is not permitted, unless a parent consents. But a teenager can obtain an abortion, even one paid for by the state, and the parents are not even required to be notified of that fact.

A clear majority of Alaskans -- 78 percent -- expressed support for parental consent legislation considered in the 19th Legislature. Parental involvement laws are on the books in 38 states. These statutes are enforced in 27 of these states.

Sectional Analysis -- SB 24

"An Act relating to a requirement that a parent, guardian, or custodian consent before certain minors receive an abortion; establishing a judicial bypass procedure by which a minor may petition a court for authorization to consent to an abortion without consent of a parent, guardian, or custodian; amending the definition of 'abortion'; and amending Rules 40 and 79, Alaska Rules of Civil Procedure; Rules 204, 210, 212, 213, 508, and 512.5, Alaska Rules of Appellate Procedure; and Rule 9, Alaska Administrative Rules."

Prepared by: Mike Pauley, Staff to Sponsor SENATOR LOREN LEMAN

Last updated: Monday, January 27, 1997

Section 1: Purpose and Legislative findings

- Intent of legislation is to protect the health and welfare of minors, foster and preserve the family structure as a viable social unit, and protect the rights of parents to rear their children.
- The legislature finds that parents often possess information on the medical history of the minor that is essential to a physician's or surgeon's medical judgment.
- The legislature also finds that minors stand to benefit from parental counsel; the capacity to become pregnant and the capacity for mature judgment concerning the wisdom of an abortion are not necessarily related.

Section 2: Amends Title 18 of Alaska Statutes (Health & Safety)

- Repeals existing language on parental consent [AS 18.16.010(a)(3)] and replaces it with language requiring *either* parental consent or court authorization before an abortion can be performed on an unemancipated minor. The bill establishes a rebuttable presumption that an unmarried woman under 18 is unemancipated.

Section 3: Establishes new subsections under AS 18.16.010 (Regulation of Abortions)

- Person who performs an abortion without obtaining the required consent is civilly liable to the minor's parent(s) or guardian for compensatory and punitive damages.
- It is an affirmative defense to prosecution if the person performing the abortion was provided by the pregnant minor with false, misleading, or incorrect information about age, marital status, or emancipation.

- It is an affirmative defense to prosecution if the person performing the abortion could not comply with the consent requirement because the continuation of the pregnancy posed an immediate threat of serious risk to the life or physical health of the pregnant woman, necessitating an immediate abortion.

Section 4: Establishes new sections under AS 18.16 (Regulation of Abortions)

- **Sec. 18.16.020** provides that an abortion may not be performed on an unemancipated minor unless...
 - 1) one of the minor's parents or the minor's guardian has consented to the procedure in writing; or
 - 2) a court has issued an order permitting the minor to consent to the abortion without obtaining consent of a parent or guardian; or
 - 3) a court by its inaction has constructively authorized a minor to consent to the abortion (*see Sec. 18.16.030*).
- **Sec. 18.16.030** outlines the procedure for seeking a court order (judicial bypass) allowing a minor to consent to an abortion without first securing parental consent. Complaints must be filed in superior court. Complaint must be under oath and include a statement that the complainant is pregnant, unmarried, under age 18, unemancipated, and wishes to have an abortion without obtaining parental consent. In addition, the complainant must allege that she is sufficiently mature and well-informed to make an abortion decision without parental consent *and/or* that one or both of her parents or her guardian is abusing the complainant physically, sexually, or emotionally; or that securing consent is otherwise not in the woman's best interest. Sec. 18.16.030 also sets time limits for hearing complaints; establishes an appeals process; requires appointment of an attorney for complainants who have not retained counsel; provides for the anonymity of the complainant. If a court does not act on a complaint within the time limits established in the legislation, it shall be considered a "constructive order" allowing the minor to consent to the abortion without the consent of a parent or guardian.
- **Sec. 18.16.090** defines the terms "abortion" and "unemancipated".

Section 5: Amends Title 44 of Alaska Statutes (State Government)

- **Sec. 44.21.410(a)** is amended to require the Office of Public Advocacy to provide legal representation for minors seeking a court order for an abortion without parental consent.

Section 6: Repeals Alaska Statute 18.16.010(d)

- The existing definition of abortion under AS 18.16 (Regulation of Abortions) is repealed (*replaced with new definition @ Sec. 18.16.090*).

Section 7: Amending Rule 40, Alaska Rules of Civil Procedure

- Sec. 18.16.030(c) of the bill has the effect of amending Rule 40 by setting time limits for hearing judicial bypass cases.

Section 8: Amending Rules 204, 210, 212, and 213, Alaska Rules of Appellate Procedure

- Sec. 18.16.030(j) of the bill has the effect of amending Rules 204, 210, 212, and 213, by setting time limits for judicial bypass appeals, and also by liberally modifying or dispensing with formal requirements for the form and content of appellants' briefs.

Section 9: Amending Rule 512.5, Alaska Rules of Appellate Procedure

- Sec. 18.16.030(k) of the bill has the effect of amending Rule 512.5 by making certain appellate records and papers confidential.

Section 10: Amending Rule 9, Alaska Administrative Rules; Rule 79, Alaska Rules of Civil Procedure; and Rule 508, Alaska Rules of Appellate Procedure.

- Sec. 18.16.030(m) of the bill has the effect of amending Rule 9, Rule 79, and Rule 508 by prohibiting filing fees and court cost assessments in judicial bypass cases.

FISCAL NOTE

STATE OF ALASKA
1997 LEGISLATIVE SESSION

BILL NO. SB 24

Revision Date: _____ Dept. Affected: Alaska Court System
 Title: Parental consent before a minor's BRU: Trial Courts
abortion Component: _____
 Sponsor: Sen. Leman
 Requestor: Senate HESS COMPONENT SERIAL NO. 768

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
PERSONAL SERVICES	10.0	10.0	10.0	10.0	10.0	10.0
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS & CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	10.0	10.0	10.0	10.0	10.0	10.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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Fund Source (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	10.0	10.0	10.0	10.0	10.0	10.0
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other						
TOTAL	10.0	10.0	10.0	10.0	10.0	10.0

Estimate of any current year (FY 97) cost: None

Positions

Full-Time						
Part-Time	1.0	1.0	1.0	1.0	1.0	1.0
Temporary						

ANALYSIS: (Attach a separate page if necessary)

See attached fiscal analysis.

Prepared by: C. S. Christensen III, Staff Counsel *CC*
 Agency: Alaska Court System
 Approved by: Arthur H. Snowden, II, Administrative Director *AS* *CC*
 Agency: Alaska Court System

Phone: 264-8228

Date: 01/28/97

Date: 01/28/97

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ALASKA COURT SYSTEM
FISCAL ANALYSIS
SB 24

SB 24 provides that a person may not knowingly perform an abortion upon a woman who is unmarried, under 18 years of age, and unemancipated, unless, before the abortion, one of the woman's parents or the woman's guardian or custodian has consented to the abortion in writing; a court issues an order authorizing the woman to consent to the abortion; or a court, by its inaction, constructively authorizes the woman to consent to the abortion. A woman who seeks a court order authorizing an abortion is required to have an attorney. If she cannot afford an attorney, one must be appointed by the court from the Office of Public Advocacy (OPA). Because we are dealing with unemancipated minors, it must be assumed that all attorneys will be paid for by the state. OPA has estimated that 112 minor females will seek judicial approval for an abortion each year.

SB 24 requires a superior court judge to hold a hearing in these cases on an expedited basis. This note assumes that the review of documents, the hearing, the decision process and the preparation of the order will average two hours of judicial time. This note also reflects clerical costs associated with processing 112 filings which involve expedited hearings and which require court clerks to actively follow cases to make certain that time limits are met and that constructive consent has been given in cases in which a court takes no action within the specified period. This note does not reflect costs for appeals in cases where a court denies permission for an abortion.

FISCAL NOTE

STATE OF ALASKA
1997 LEGISLATIVE SESSION

BILL NO. SB 24

Revision Date: 1/28/97 3:30 pm.
 Title: "An Act relating to a requirement that a parent, guardian, or custodian consent before certain minors receive an abortion:..."
 Sponsor: Senator Leman
 Requestor: (S) HESS

Department Affected: Administration
 BRU: Office of Public Advocacy
 Component: Office of Public Advocacy
 COMPONENT SERIAL NO. 43

EXPENDITURES/REVENUES:

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL	168.0	168.0	168.0	168.0	168.0	168.0
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	168.0	168.0	168.0	168.0	168.0	168.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE:

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	168.0	168.0	168.0	168.0	168.0	168.0
1005 GF/Program Receipts						
1037 GF/Mental Health						
OTHER						
TOTAL	168.0	168.0	168.0	168.0	168.0	168.0

Estimate of any current year (FY 97) cost: \$ 0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.)

The judicial bypass provisions of this bill contemplate a hearing at which an unemancipated minor may seek the court approval of her wish to have an abortion. The bill mandates the appointment of counsel for the minor but does not identify which agency would provide these services. This fiscal note assumes that Office of Public Advocacy (OPA) would be appointed because that agency currently represents children in most other civil cases. The fiscal note is based on the following assumptions: (1) 2,400 abortions per year are performed in Alaska; (2) 12 percent of abortions per year (288) are performed on women aged 17 or younger; (3) 39 percent of young women (112) wishing to obtain an abortion would seek a judicial bypass, based on the fact that 61 percent of parents are informed of abortions in those states which do not require parental notice or consent.

(continued)

Prepared by: Brant McGee, Public Advocate
 Division: Office of Public Advocacy

Phone: 274-1684
 Date: _____

Approved by Commissioner: Mark Bover
 Agency: Administration

Date: 1/28/97

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FISCAL NOTE

STATE OF ALASKA
1997 LEGISLATIVE SESSION

BILL NO. SB 24

ANALYSIS: (continued)

Thus, OPA could be expected to provide attorney representation to 112 young women each year in judicial proceedings in which the minor sought to obtain approval for an abortion. The legal representation in these cases would be short but intense. The Office of Public Advocacy estimates that such services would cost an estimated \$1,500 per case for a total of \$168.0 per year.

FISCAL NOTE

STATE OF ALASKA
1997 LEGISLATIVE SESSION

BILL NO. SB 24

Revision Date: _____
 Title: "An Act relating to a requirement that a parent, guardian, or custodian consent before certain minors receive an abortion..."
 Sponsor: Senator Leman
 Requestor: (S)HESS

Department Affected: Administration
 BRU: Public Defender Agency
 Component: Public Defender Agency
 COMPONENT SERIAL NO. 1631

EXPENDITURES/REVENUES:

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
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	0.0	0.0	0.0	0.0	0.0	0.0
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CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0
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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						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.)

The bill would require parental, guardian or custodian consent in writing before an abortion for an unmarried, pregnant unemancipated woman under 18 years of age. A judicial process is set up to bypass the consent requirement by the filing of a complaint in superior court. A lawyer shall be appointed to represent the complainant if she has not retained an attorney, but Section 5 of the bill provides those lawyers will be from the Office of Public Advocacy. Therefore, there will be no fiscal impact on the Public Defender Agency.

Prepared by: Barbara K. Brink, Acting Director
 Division: Public Defender Agency

Phone: (907) 264-4414
 Date: _____

Approved by Commissioner: Mark Boyer
 Agency: Department of Administration

Date: 1/28/97

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FISCAL NOTE

STATE OF ALASKA
1997 LEGISLATIVE SESSION

BILL NO. SB 24

Revision Date: _____
 Title: Relating to parental consent before
certain minors receive an abortion
 Sponsor: Leman
 Requestor: _____

Dept. Affected: Health and Social Services
 BRU: Medical Assistance
 Component: Medicaid Non-Facility
 COMPONENT SERIAL NO. 229
 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)

Enactment of this legislation would have very little impact on the funding of abortions under the General Relief Medical Assistance and Medicaid Programs. Very few abortions funded by these programs are performed on minors.

Prepared by: Nancy Weller
 Division: Medical Assistance

Phone: 465-5825
 Date: 01/10/97

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

Date: 1/24/97

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NATIONAL ASSOCIATION OF SOCIAL WORKERS
ALASKA CHAPTER

525 Main Street, Juneau AK 99801
586-4438 1-800-478-6279 Fax: 586-4439
naswak@alaska.net

Testimony Regarding

SB 24 - PARENTAL CONSENT FOR ABORTION

Before the
HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE
ALASKA SENATE
January 28, 1997

Presented by
Angela M. Salerno, ACSW
Executive Director,
National Association of Social Workers Alaska Chapter



NATIONAL ASSOCIATION OF SOCIAL WORKERS ALASKA CHAPTER

525 Main Street, Juneau AK 99801
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The National Association of Social Workers (NASW) is the world's largest organization of professional social workers. NASW's 155,000 members nationwide and 460 in Alaska work in a wide range of settings at all levels in the public and private sectors. Professional social workers focus on vulnerable populations and promote state and federal policies which enhance the lives of the people we serve.

Thank you for the opportunity to address the Committee on SB 24 - Parental Consent for Abortion.

NASW opposes SB 24 and does not recommend its passage.

A pregnant woman's constitutional right to choose between childbirth and abortion was established in 1973 by the Supreme Court's landmark ruling in *Roe V. Wade*. All women, including those under 18, are entitled to a safe, legal abortion.

Of the more than one million teenage pregnancies that occur in the United States each year, over 80 percent are unintended. Nearly all pregnant teens are unwed, and some 40% of them choose abortion. The bill before you will require that young women seeking to terminate an unwanted pregnancy receive the permission of parents, guardians or the court before receiving a safe, legal abortion.

This proposal will not act to promote desirable parental consultation. Ideally, a teenager should be able to tell her parents about her pregnancy, obtain their love and support and arrive at critical decisions about her future through family discussions. In fact, the majority of pregnant teenagers do tell at least one parent about their pregnancies. Based on a national survey of more than 1,600 unmarried minors having abortions in states without parental consent laws, 61% discussed the decision to have an abortion with at least one of their parents. The younger the minor, the more likely she was to have voluntarily discussed the abortion with her parents.

Parental involvement laws do not strengthen family relationships. The need to reinforce family relationships is the reason most often cited to justify state laws requiring parental consent before abortion. But such laws are unnecessary for stable and supportive families, and they are ineffective and cruel for unstable, troubled families. Some teenagers cannot tell their parents. Some are victims of incest or other forms of family violence - one study showed that 14% of minors having abortions believed that, if forced to tell their parents about their pregnancies, they would face physical abuse, and 11% feared violence between their parents. Mandatory parental consent cannot transform abusive families into supportive ones.

Mandating parental involvement poses health risks to teenagers. Young women already are more likely than older women to have later abortions, and parental involvement laws only cause further delays either because of fears of telling their parents or because of the inevitable delays in going to court for a judicial bypass hearing. While abortion at all stages of pregnancy is safer than childbirth, the risk of major complications increases 15 - 30% per week. Statistics compiled by the Federal Centers for Disease Control indicate that the risk of death from childbirth is, on average, 24 times higher than the risk of death from abortion up to 12 weeks of pregnancy. Following enactment of Minnesota's parental notification laws, second-trimester abortions among minors increased by 18%. Minors who cannot obtain an abortion in their small towns or villages must travel to other sites to have the procedure, are forced to carry their pregnancies to term, or resort to illegal abortion. Under Minnesota notification statute, the birth rate in Minneapolis for 15 -17 year olds rose 38%. The American Medical Association has long recognized that parental notification and consent requirements deter minors from seeking necessary health care. The desire to maintain secrecy has been one of the leading reasons for illegal abortion deaths since the Supreme Court recognized the constitutional right to abortion in

1973. Further, the AMA believes some minors may be physically or emotionally harmed if required to involve a parent in the abortion decision.

Teenagers faced with the choice between childbirth and abortion can make a responsible decision without parents or courts. The American Psychological Association has found that minors are usually able to make intelligent, informed decisions about pregnancy. Even young women from severely troubled families often show great maturity and sensitivity when seeking confidential birth services.

A judicial bypass option is inadequate and discriminatory in Alaska. Young women using this procedure often experience fear, anxiety and shame as they are forced to reveal detail of their private lives to strangers in the courtroom. Mandatory representation by the currently overburdened Office of Public Advocacy will surely result in delays or inadequate representation. In rural Alaska, confidentiality will be severely compromised as a young woman will most likely be recognized by the judge or other court personnel.

In Alaska, the courts are moving toward assigning teenagers greater responsibility for their actions, not imposing further restrictions. During the last legislative session lawmakers were successful in passing laws to treat certain juvenile offenders as adults. In the 20th Legislature, bills have been introduced to remove the protections of immaturity from teenagers who commit minor offenses. It is unfair to treat pregnant teens differently with proposals to strip personal responsibility in decisions about reproductive matters.

Parental consent laws are an unconstitutional attack on a women's right to abortion, and in Alaska, on an individual's right to privacy. *Roe v. Wade* entitled all women to legal, safe abortion. Parental consent as well as other provisions of SB 24 such as the creation of civil liability for performing abortion, are barriers manufactured to interfere with this constitutional guarantee. Should this bill become law in Alaska, there will most certainly be court challenges, as the Constitution of the State of Alaska specifically guarantees each citizen the right to privacy.

While NASW supports strong families and believes that parents have profound interests in their children's well-being, in the case of pregnancy, a teenager's privacy rights must be paramount. Courts have found that teenagers who want to keep their pregnancies a secret almost always have sound reasons. When there is a reason to expect an extremely abusive parental reaction to a young woman's unplanned pregnancy, her right to privacy must come first since she is in the best position to know whether or not she is in danger. A legislature that is unfamiliar with a young woman's particular situation is not in a position to force her to involve her parents. Where abortion is concerned, privacy can be a life or death matter for teenagers.

In acknowledging and affirming the social work profession's commitment to respecting diverse value systems in a pluralistic society, we recognize that the issue of abortion is controversial because it reflects the different value systems of different groups. Consequently, NASW does not take a position concerning the morality or immorality of abortion.

NASW's position concerning abortion services is based on the principle of self-determination. Every individual must be free to participate or not participate in abortion services. In the event that a woman choose abortion the following services should be available to her:

- *counseling and referral provided by professionally trained staff who are knowledgeable of the social and psychological dynamics of unwanted pregnancy and abortion*
- *safe surgical care, including pre- and post-operative services*
- *counseling regarding the use of contraception and the prevention of unwanted pregnancies*
- *provision of appropriate contraceptive devices. These devices should be available to all women.*

January 28, 1997

Kimberly Miller
3151 Norm Circle
Anchorage, AK 99507

Senator Gary Wilken
State Capitol
Juneau, AK 99801-1182

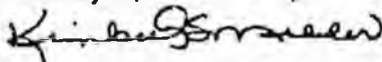
Dear Senator Wilken:

I am writing to express my opposition to SB 24 regarding requiring parental consent for minors seeking an abortion. I feel that SB 24 is an attempt to end safe and legal abortions by erecting insurmountable barriers for young women. The argument that SB 24 would enhance teen-parent communication is inaccurate. The following is a list of reasons why I am adamantly opposed to SB 24:

- * Studies have shown that nationally the majority (61%) of minors who have abortions do so with at least the knowledge of one parent. The younger the minor the more likely she is to voluntarily discuss the abortion with a parent. The study looked at states without parental consent laws.
- * Studies have shown that parental consent laws do not encourage young women to tell their parents. The minority of minors who do not tell their parents come from families where communication is difficult or dangerous due to a variety of circumstances. The belief that telling their parents would result in further abuse, family violence, or increased drug/alcohol use for example is real. Thus, SB 24 would act to further victimize these young women.
- * The judicial bypass process is not an adequate safety valve for these young women. The judicial process can be a fearful, anxiety and shame producing experience where a young woman who is already in a vulnerable and difficult situation is subjected to further barriers in finding a resolution to her situation. The judicial system is not an appropriate venue for this type of decision to be made.
- * Minors in rural Alaska will have to maneuver additional obstacles to receive safe and legal abortions if SB 24 is enacted. If the young woman's situation was such that she could not tell her parents she would be forced to go to a local judge who more than likely knows her to seek a judicial bypass. The process, coupled with the fact that she already has to travel to a strange place to receive an abortion, makes young women in rural communities even more penalized by SB 24.

The net effect of SB 24 will be to chip away at women's legal right for a safe abortion. After enacting a parental consent law in Minnesota the state had a 18% increase in second-trimester abortions among minors, and the birth rate in Minneapolis for 15-17 year olds increased by 38.4%. These statistics show how detrimental SB 24 will be for Alaskan's. I urge you to take Alaska in a safe, healthy and positive direction rather than cause more hardship for Alaska's children and families.

Thank you,



Kimberly Miller, MSW

Alaska Women's Lobby
P.O. Box 210685 Anchorage 99521
211 Fourth Street Juneau #108 99801
586-1107
fax: 586-1097

POSITION PAPER

SB 24: Parental Consent Before Minor's Abortion

The Alaska Women's Lobby is a statewide advocacy organization representing thousands of Alaskans working toward expanded opportunities, equal access, and enhanced representation for women. The Lobby is supported solely by contributions.

The Alaska Women's Lobby opposes Senate Bill 24. We wholeheartedly encourage open and honest communication between parents and their children, and support efforts to prevent teenage pregnancy. We don't believe, however, that SB 24 will accomplish either of those goals.

SB 24 places an untenable judicial burden on young women who, by virtue of their situation, are already facing difficult decisions. By requiring a teenager to seek judicial redress, SB 24 assumes that young women in these situations not only have the resources to seek but also the access to obtain such redress.

In its 1992 decision in Planned Parenthood of Southeastern Pennsylvania v. Casey, the U.S. Supreme Court made it clear that states may not veto a woman's decision to terminate her pregnancy, but that states could impose restrictions so long as those restrictions don't have the "purpose or effect of placing a substantial obstacle in the path of a woman seeking an abortion." By requiring young Alaskan women to obtain judicial approval in order to terminate a pregnancy, SB 24 creates just the kind of "substantial obstacle" the U.S. Supreme Court decision prohibits.

SB 24 will not reduce the rate of teenage pregnancy, encourage teens to talk to their parents, or transform dysfunctional families into stable ones. It will force teens to take unwanted pregnancies to term, to have illegal abortions, or face the results of exacerbating an already troubled or dangerous home life.

The thousands of Alaskans represented by the Alaska Women's Lobby oppose SB 24.

January 29, 1997

Dear Members of the Senate Health, Education, and Social Services Committee:

The Juneau Coalition for Pro-Choice (JCPC) would like to go on record opposing the passage of SB 24 which would restrict a young woman's ability to act on her Constitutionally protected right to choose. JCPC strongly encourages all young women who become pregnant, and the putative fathers, to discuss options with their parents if they are able, but such communication cannot be achieved through passage of this bill. The majority of young women who do not involve their parents in making decisions about a pregnancy have problems with their family which precludes discussion about the issue. SB 24 only serves to put minors at risk.

Judicial bypass procedures are not the answer either, as this option is intimidating to a young woman and only results in delay which makes an abortion riskier if the minor gets approval from the judge for an abortion. As an appellate court in California stated "the judicial bypass procedure creates a substantial obstacle whose only effect is to hinder the minor from obtaining an abortion. Whether a minor is capable of giving informed consent to undergo an abortion is a question which can be more easily decided by a physician than a judge." The judicial bypass is particularly unworkable in Alaska where rural communities may not have access to a court, resulting in a law that unreasonably impacts rural Alaskans.

SB 24 does not protect young women who are at risk from physical or emotional abuse by their parents and unconstitutionally restricts a young woman's right to choose to terminate a pregnancy.

Sincerely,



Shannon O'Fallon
President
Juneau Coalition for Pro-Choice

Sec. 18.16.010. Abortions. (a) An abortion may not be performed in this state unless

(1) the abortion is performed by a physician or surgeon licensed by the State Medical Board under AS 08.64.200;

(2) the abortion is performed in a hospital or other facility approved for the purpose by the Department of Health and Social Services or a hospital operated by the federal government or an agency of the federal government;

(3) consent has been received from the parent or guardian of an unmarried woman less than 18 years of age; and

(4) the woman is domiciled or physically present in the state for 30 days before the abortion.

(b) Nothing in this section requires a hospital or person to participate in an abortion, nor is a hospital or person liable for refusing to participate in an abortion under this section.

(c) A person who knowingly violates a provision of this section, upon conviction, is punishable by a fine of not more than \$1,000, or by imprisonment for not more than five years, or by both.

(d) In this section, "abortion" means an operation or procedure to terminate the pregnancy of a nonviable fetus. (§ 65-4-6 ACLA 1949; am § 1 ch 103 SLA 1970; am § 22 ch 166 SLA 1978)

Revisor's notes. — Formerly AS 11.15.060. Re-numbered in 1978.

In 1986, the section was reorganized to conform to the style of the Alaska Statutes. Subsection (b) was formerly the last sentence of (a); subsection (c) was formerly (b); and subsection (d) was formerly the second sentence of (a).

Cross references. — For power of the State Medical Board to regulate abortion procedures, see AS 08.64.105.

Editor's notes. — For the constitutionality of statutes similar to this one, see *Roe v. Wade*, 410 U.S. 113, 93 S. Ct. 705, 35 L. Ed. 2d 147 (1973), *Doe v. Bolton*, 410 U.S. 179, 93 S. Ct. 739, 35 L. Ed. 2d 201 (1973), *Planned Parenthood of Missouri v. Danforth*, 428 U.S. 52, 96 S. Ct. 2831, 49 L. Ed. 2d 788 (1976), *Sendak v. Arnold*, 429 U.S. 968, 97 S. Ct. 476, 50 L. Ed. 2d 579 (1976), *Akron v. Akron Center for Reproductive Health, Inc.*, 462 U.S. 416, 103 S. Ct. 2481, 76 L. Ed. 2d 687 (1983), *Thornburgh v. American College of Obstetricians and Gynecologists*, 476 U.S. 747, 106 S. Ct. 2169, 90 L. Ed. 2d 779 (1986), *Webster v. Reproductive Health Services*, 492 U.S. 490, 109 S. Ct. 3040, 106 L. Ed. 2d 410 (1989), *Hodgson v. Minnesota*, 497 U.S. 417, 110 S. Ct. 2926, 111 L. Ed. 2d 344 (1990), *Ohio v. Akron Center for Reproductive Health*, 497 U.S. 502, 110 S. Ct. 2972, 111 L. Ed. 2d 405 (1990), *Planned Parenthood of Southeastern Pennsylvania v. Casey*, U.S. , 112 S. Ct. 2791, 120 L. Ed. 2d 674 (1992). See also 1 Am. Jur. 2d,

Abortion and Birth Control, § 3 and 1 C.J.S., *Abortion*, § 2.

Legislative history reports. — For report on ch. 103, SLA 1970 (CSSB 527 (HWE)), see 1970 Senate Journal Supplement No. 10; 1970 Journal Supplements Nos. 12 and 13. Also refer to the following relevant reports on abortion bills: 1970 Senate Journal Supplements Nos. 1 and 4 (re SB 411); 1970 House Journal Supplement No. 11 (re CS HB 776).

Opinions of attorney general. — Separation of responsibilities in AS 18.16.010 is clear: the approval of facilities is granted to the Department of Health and Social Services; the ethical and professional responsibilities of medical doctors are committed to the supervision of the State Medical Board. No language in AS 08.64.105 vitiates any of the responsibilities granted in paragraph (a)(2) to the Department of Health and Social Services. October 7, 1974 Op. Att'y Gen.

Under the language of subsection (a) only paragraph (1) is clearly constitutional; paragraph (2) could be validated by limiting its effect to abortions performed after the end of the first trimester of pregnancy; paragraph (3) is clearly unconstitutional as written; and paragraph (4) is subject to constitutional challenge, as neither the Alaskan or U.S. Supreme Court has dealt with durational residency requirements in the context of abortion. October 21, 1976 Op. Att'y Gen.

NOTES TO DECISIONS

Quoted in *Cleveland v. Municipality of Anchorage*, 631 P.2d 1073 (Alaska 1981).

Cited in *Bird v. Municipality of Anchorage*, 787 P.2d 119 (Alaska Ct. App. 1990).

Collateral references. — 1 Am. Jur. 2d, *Abortion and Birth Control*, § 1 et seq.

1 C.J.S., *Abortion*, § 1 et seq.

Necessity, to warrant conviction of abortion, that fetus be living at time of commission of acts. 16 ALR2d 949.

Pregnancy as element of abortion or homicide based thereon. 46 ALR2d 1393.

Validity of statute or ordinance forbidding or regulating sale or advertisement of contraceptives or abortives, or dissemination of birth control information. 96 ALR2d 955.

Applicability in criminal proceedings of privilege as to communications between physician and patient. 7 ALR3d 1458.

Earlier prosecution for offense during which homicide was committed as bar to prosecution for homicide. 11 ALR3d 834.

Woman upon whom abortion is committed or attempted as accomplice for purposes of rule requiring corroboration of accomplice testimony. 34 ALR3d 858.

Right of action for injury to or death of woman who consented to illegal abortion. 36 ALR3d 630.

Homicide based on killing of unborn child. 40 ALR3d 444.

Minor's right to have abortion performed without parental consent. 42 ALR3d 1406.

Woman's right to have abortion without consent of, or against objections of, child's father. 62 ALR3d 1097.

Availability in state court of defense of entrapment where accused denies committing acts which constitute offense charged. 5 ALR4th 1128.

Entrapment defense in sex offense prosecutions. 12 ALR4th 413.

Validity of state statutes and regulations limiting or restricting public funding for abortions sought by indigent women. 20 ALR4th 1166.

Medical malpractice in performance of legal abortion. 69 ALR4th 875.

Recoverability of compensatory damages for mental anguish or emotional distress for tortiously causing another's birth. 74 ALR4th 798.

Chapter 20. Hospitals.

Article

1. Regulation of Hospitals (§§ 18.20.010 — 18.20.130)
2. Alaska Hospital and Medical Facilities Survey and Construction Act (§§ 18.20.140 — 18.20.220)
3. Payment of Hospital Charges (§§ 18.20.230 — 18.20.260)
4. Quality of Care in Nursing Facilities (§§ 18.20.300 — 18.20.390)

Article 1. Regulation of Hospitals.

Sections

10. Purpose
20. License required
30. Application and fees
40. Issuance and renewal of license and posting
50. Denial, suspension, or revocation of license
60. Regulations and standards
70. Compliance with regulations
75. Risk management

Section

80. Inspection and consultation for alterations
85. Hospital records retention
90. Information confidential
110. Misdemeanor to establish or conduct hospital without license
120. Injunction or other process to prevent establishment or operation without a license
130. Definitions

NOTES TO DECISIONS

Liability for negligence of emergency room physician. — A general acute care hospital has a nondelegable duty to provide nonnegligent physician care in its emergency room and, therefore, the hospital may be held vicariously liable for negligent health

care rendered by an emergency room physician who is not an employee of the hospital, but is, instead, an independent contractor. *Jackson v. Power*, 743 P.2d 1376 (Alaska 1987).

Collateral references. — 40 Am. Jur. 2d, Hospitals and Asylums, § 1 et seq.; 51 Am. Jur. 2d, Licenses and Permits, § 4 et seq.

41 C.J.S., Hospitals, § 1 et seq.

Nonprofit charitable institutions as within operation of labor statutes. 26 ALR2d 1020.

Tax exemption of Blue Cross, Blue Shield, or other hospital or medical service corporation. 88 ALR2d 1414.

Liability of hospital for refusal to admit or treat patient. 35 ALR3d 841.

Exclusion of or discrimination against physician or surgeon by hospital. 37 ALR3d 645.

Propriety of hospital's conditioning physician's staff privileges on his carrying professional liability or malpractice insurance. 7 ALR4th 1238.

Sec. 18.20.010. Purpose. The purpose of AS 18.20.010 — 18.20.130 is to provide for the development, establishment, and enforcement of standards for

(1) the care and treatment of individuals in hospitals, convalescent homes, nursing homes and public health centers, community mental health centers, and facilities for the mentally retarded; and

(b) If the interviewing board member determines that the interview is not adequate to allow license or permit approval without consultation with the board, an in-person interview before a quorum of the board is required. (Eff. 4/10/88, Register 106)

Authority: AS 08.64.100

AS 08.64.255

ARTICLE 2. ABORTIONS.

Section	Section
60. Termination of pregnancy	110. Abortion procedures
70. Informed consent	120. Standards for hospitals and facilities
80. Medical procedures	130. Records
90. Evaluation	140. Limitation
100. Consultation requirements	

12 AAC 40.060. TERMINATION OF PREGNANCY. Termination of pregnancy must be requested by the pregnant woman, unless she has been adjudged mentally incompetent or is unmarried and under 18 years of age, in which case the request must be made by her parent or guardian. (Eff. 12/20/70, Register 36; am 8/29/73, Register 47)

Authority: AS 11.15.060(a)

AS 08.64.105

12 AAC 40.070. INFORMED CONSENT. Unless otherwise provided in 12 AAC 40.060, a written informed consent shall be obtained from the patient or from any other person whose consent is required before termination of a pregnancy. Such written informed consent shall be on the patient's chart. The patient and other persons whose consent is required shall be advised of the medical implications and the possible emotional and physical sequelae of the procedure. (Eff. 12/20/70, Register 36; am 8/29/73, Register 47)

Authority: AS 08.64.105

12 AAC 40.080. MEDICAL PROCEDURES. The patient shall be examined by a physician licensed in Alaska, and a written record of the patient's physical and emotional health shall be prepared before performing an abortion procedure as set out in 12 AAC 40.110. (Eff. 12/20/70, Register 36; am 8/29/73, Register 47)

Authority: AS 08.64.105

12 AAC 40.090. EVALUATION. The attending physician shall make an evaluation of the patient and an estimation of the duration of gestation based upon the patient's history, examination and test results. This information shall be recorded on the patient's chart. (Eff. 12/20/70, Register 36)

Authority: AS 08.64.105

AS 08.64.105 gives the State Medical Board authority to adopt regulations to carry into effect the provisions of AS 18.16.010.

12 AAC 40.100. CONSULTATION REQUIREMENTS. Abortions interrupting a pregnancy up to and including the twelfth week of gestation may be performed without consultation. Abortions performed after the twelfth week of gestation shall be preceded by consultation with another physician. The consultation shall include an opinion as to the preferred method of termination of pregnancy. (Eff. 12/20/70, Register 36; am 8/29/73, Register 47)

Authority: AS 08.64.105

12 AAC 40.110. ABORTION PROCEDURES. During the second or third trimester of a pregnancy, acceptable procedures include dilatation and curettage, suction aspiration of the uterus, injection of pharmacological agents, hysterectomy and hysterotomy. The exact procedure to be used will depend upon the patient's total health, age, associated disease and pathology, and anomalies such as skeletal defects and other medical indications. (Eff. 12/20/70, Register 36; am 8/29/73, Register 47)

Authority: AS 08.64.105

12 AAC 40.120. STANDARDS FOR HOSPITALS AND FACILITIES. (a) During the second or third trimester of a pregnancy, abortions shall be performed under sterile conditions. A bed and a registered nurse shall be available for a minimum recovery period of one-half hour. A registered nurse shall be present during the procedure.

(b) During the second or third trimester of a pregnancy, blood, blood derivatives, blood substitutes or plasma expanders shall be immediately available when an abortion is performed, and an operating room appropriately staffed and equipped for major surgery in accordance with regulations adopted under AS 18.20.060 shall be immediately available. (Eff. 12/20/70, Register 36; am 8/29/73, Register 47)

Authority: AS 08.64.105

12 AAC 40.130. RECORDS. During the second or third trimester of a pregnancy, the attending physician shall record a medical history, findings of the physical examination, operative report of the abortion procedure and pathology report as part of the clinical record to be maintained by the hospital or facility. The physician and hospital or facility shall treat the patient's identity and medical record as confidential information. (Eff. 12/20/70, Register 36; am 8/29/73, Register 47)

Authority: AS 08.64.105

12 AAC 40.140. LIMITATION. A fetus which has not developed beyond 150 days after the first day of the last menstrual period may be

considered non-viable for purposes of AS 11.15.060(a). In the performance of an abortion after that date, the physician shall be guided by a reasonable judgment as to whether the fetus is viable in fact. (Eff. 12/20/70, Register 36; am 8/29/73, Register 47)

Authority: AS 08.64.105 AS 11.15.060(a)

ARTICLE 3. CONTINUING MEDICAL EDUCATION.

Section

- 200. General requirements
- 210. Credit hours
- 220. Certification of compliance

Editor's note: For new location of the substance of former 12 AAC 40.160, see 12 AAC 40.990.

12 AAC 40.200. GENERAL REQUIREMENTS. (a) A physician seeking renewal of a license on or after January 1, 1986 shall obtain an average of 17 credit hours of continuing medical education during each year of the previous license period.

(b) If a licensee fails to meet continuing medical education requirements due to illness or other extenuating circumstances, the board will, in its discretion, grant an extension of time in compliance with AS 08.64.312(c). The board will consider each case on an individual basis. (Eff. 10/8/81, Register 80)

Authority: AS 08.64.100 AS 08.64.312(b)

12 AAC 40.210. CREDIT HOURS. (a) Except as provided in (b) of this section, a licensee may meet the continuing medical education requirements set out in 12 AAC 40.200(a) only by obtaining credit hours in a Category I continuing medical education program accredited by the American Medical Association.

(b) The board will accept the following as the equivalent of the credit hours required under 12 AAC 40.200(a):

(1) a current physician's recognition award from the American Medical Association, American Podiatry Association, American Osteopathic Association, or a recognized subspecialty board; or

(2) initial certification or recertification during the concluding licensing period by a specialty board recognized by the American Medical Association. (Eff. 10/8/81, Register 80; am 5/1/94, Register 130)

Authority: AS 08.64.100 AS 08.64.312(b)

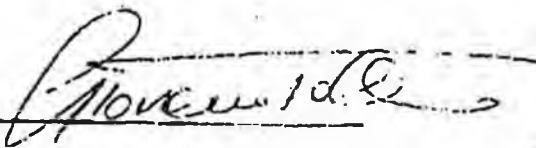


Alaska State Legislature

Please enter into the record my testimony to the Senate H.E.S.S.
 committee name
 committee on SB 24 / Parental Consent, dated 1/29/97
 bill/subject

I urge the committee to PASS this bill.

Parental consent is mandatory for tonsillectomies, appendectomies, and the treatment of infected ingrown toenails in a hospital or clinic. Also, parental consent is required by schools for the students' involvement in sports. It seems pretty obvious to me that it should also be required for abortion when the pregnant woman is a minor. As the father of a girl, I myself would want to know if my daughter is going to risk her life undergoing something more dangerous than an ingrown toenail operation on a basketball game. Also, I would not want my own grandchild to be terminated without my knowledge or approval.

Signed: GIOVANNI TALLINO 
 Testifier

Vice-Chairman, Kodiak Republican Party (But am testifying on my
on my own behalf
 Representing (Optional)

PO Box 4496 Kodiak, AK 99615

Address
 907-486-3043

Phone No.



NATIONAL ASSOCIATION OF SOCIAL WORKERS
ALASKA CHAPTER

525 Main Street, Juneau AK 99801
586-4438 1-800-478-6279 Fax: 586-4439
naswak@alaska.net

January 30, 1997

Senator Gary Wilkin, Chair
Health, Education and Social Services Committee
Alaska State Senate

Dear Senator Wilkin:

Thank you for the opportunity to testify before the Senate HESS Committee concerning SB 24, Parental Consent for Abortion. I'd like to offer some additional information for the public record.

Safety of Abortion

Public testimony alluded to the belief that abortion was an unsafe procedure. The facts do not bear this out:

- 97% of women who obtain abortions before 13 weeks of pregnancy report no complications. (American Medical Association Council Report, *Induced Termination of Pregnancy Before and After Roe v. Wade*, 1992).
- Abortion is 11 times safer than carrying a pregnancy to term. (Gold, R. B, *Abortion and Women's Health: A Turning Point for America?*, 1990).
- **Teenage girls are more than 24 times more likely to die from childbirth than from a first trimester, legal abortion.** (Ory, H W, "Mortality Associated with Fertility and Fertility Control," *Family Planning Perspectives*, vol. 15, no. 2).
- Of the 3.4 million woman who become pregnant unintentionally in the U.S. each year, approximately 1.6 million terminate their pregnancies by medically safe, legal abortion. (Gold, R. B, *Abortion and Women's Health: A Turning Point for America?*, 1990).

Health Risks to Women

One of the bill's stated purposes is to "protect the health of minor women." This bill will potentially **endanger the health of minor women** who want to keep their pregnancies secret or who must use the judicial bypass process, and therefore experience delays in receiving an abortion.

- Legislation mandating parental involvement in decisions about abortion does **increase the risk of harm to the adolescent** by delaying access to appropriate medical care. (American Academy of Pediatrics, Committee on Adolescence, "The Adolescent's Right to Confidential Care When Considering Abortion," *Pediatrics*, vol. 97, no 3).
- Complication rates increase for abortions performed between 13 and 24 weeks. (American Medical Association Council Report, *Induced Termination of Pregnancy Before and After Roe v. Wade*, 1992).

- The American Medical Association noted that "because the need for privacy may be compelling, minors may be driven to desperate measures to maintain the confidentiality of their pregnancies. They may run away from home, obtain a "back alley" abortion, or resort to self-induced abortion. The desire to maintain secrecy has been **one of the leading reasons for illegal abortion deaths since...1973.** (AMA, "Mandatory Parental Consent," 83.).

Possible Links Between Abortion and Breast Cancer

The theory behind a possible link between pregnancy termination and breast cancer is based on the hormonal disruption that occurs when a woman's pregnancy is interrupted. However, numerous epidemiological studies on the risk of breast cancer in women who have had one or more abortions have proved to be inconclusive.

- Only about 20 studies have examined the risk of developing breast cancer for women who have had abortions. (National Women's Health Network Fact Sheet: "*Abortion and Breast Cancer: The Unproven Link.*" January, 1994).
- Cancer researchers at the **National Cancer Institute**, the **American Cancer Society**, and major universities say that the most reliable studies show no increased risk, and they call the entire body of research inconclusive.
- **Harvard School of Public Health** researchers concluded in the January issue of *Cancer Causes and Control*, that abortion does not appreciably increase or decrease a woman's risk for breast cancer.

Long-Term Effects of Abortion

Testimony was introduced which alluded to the emotional trauma supposedly brought on by receiving an abortion. At least one member of the committee expressed interest in more information on the long-term psychological effects of abortion. Moreover, one of the stated findings of the bill is that "the physical, emotional, and psychological consequences of abortion are serious and can be lasting particularly when the patient is immature." Again, the facts prove this assumption untrue.

Research studies indicate that **responses to legally induced abortion largely are positive.** Anti-choice extremists, however, are circulating unfounded claims that a majority of American women who choose to terminate their pregnancies suffer severe and long-lasting emotional trauma as a result. They call this largely nonexistent phenomenon "post-abortion trauma," or "post-abortion syndrome." They hope that terms like these will gain wide currency and credibility despite the fact that **neither the American Psychological Association nor the American Psychiatric Association recognizes their existence.**

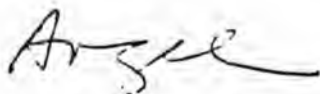
- For most women who have had abortions, the procedure represents a maturing experience, a successful coping with a personal crisis situation. In fact, **the most prominent emotional response of most women to first-trimester abortion is relief.** (Zabin, L.S. et al. "When Urban Adolescents Choose Abortion: Effects on Education, Psychological Status and Subsequent Pregnancy." *Family Planning Perspectives*, 21(6), Nov/Dec 1989; Adler, N. et al. "Psychological Responses After Abortion." *Science*, April 6, 1990; Lazarus, A. "Psychiatric Sequelae of Legalized Elective First Trimester Abortion." *Journal of Psychosomatic Obstetrics & Gynecology*, 43(3), September 1985; Russo, N.F. and Zierk, K.L. "Abortion, Childbearing, and Women's Well-Being." *Professional Psychology: Research and Practice*, 23(4), 1992; Armsworth, M.W. "Psychological Response to Abortion." *Journal of Counseling and Development*, 69, March/April 1991.).

- A study of a group of teenage black women who obtained pregnancy tests at one of two Baltimore clinics found that the young women who choose to have abortions were **are more likely to graduate from high school** than those of similar socioeconomic status who carried their pregnancies to term or who were not pregnant. They showed no greater levels of stress at the time of the pregnancy and abortion and no greater rate of psychological problems two years after the abortion than did the other women. (Zabin, L.S. et al. "When Urban Adolescents Choose Abortion: Effects on Education, Psychological Status and Subsequent Pregnancy." *Family Planning Perspectives*, 21(6)).
- Up to 98% of the women who have abortions **have no regrets and would make the same choice again** in similar circumstances. (Dagg, P.K.B., MD "The Psychological Sequelae of Therapeutic Abortion - Denied and Completed." *American Journal of Psychiatry*, 148(5), May 1991).
- In July 1987, President Ronald Regan directed Surgeon General C. Everett Koop to provide the administration with a report on the health effects of induced abortion. In a letter to the president dated January 8, 1989, Dr. Koop stated that he could not form a conclusion with the available data. (Koop, C. Everett, letter to President Regan, January 9, 1989. Reproduced in "A Measured Response: Koop on Abortion," *Family Planning Perspectives*, 21(1), Jan/Feb, 1989.
- In a 1988 closed meeting, Surgeon General Koop told representatives from several anti-abortion organizations that the risk of **significant emotional problems following abortion** was "minuscule" from a public health perspective. (House Committee on Government Operations. "The Federal Role in Determining the Medical and Psychological Impact of Abortions on Women, H.R. Rep. No. 329, 101st Congress, 2d Sess. 14 (1989)).
- In 1989, a panel of experts assembled by the **American Psychological Association** concluded unanimously that legal abortion "**does not create psychological hazards for most women undergoing the procedure.**" The panel noted that, since approximately 21% of all U.S. women have had an abortion, if severe emotional reactions were common there would be an epidemic of women seeking psychological treatment. There is no evidence of such an epidemic. (Adler, N., University of California at San Francisco, statement on behalf of the American Psychological Association before the Human Resources and Intergovernmental Relations Subcommittee of the Committee on Government Operations, U.S. House of Representatives, March 16, 1989.)

Thank you for the opportunity to introduce additional facts on some of the committee members' concerns. I ask that you include them in the public record of testimony on SB 24. I would further ask that you consider these facts outside the highly emotional atmosphere that surrounds this issue. The teenagers and all the people of Alaska deserve the most careful and rational discussion of this potentially life and death matter.

I am available to answer questions at any time. You may reach me at 585-4438 until Thursday evening. From Friday through Sunday, you may reach me at 563-4502. Thanks again.

Sincerely,



Angela M. Salerno, ACSW
Executive Director, NASW Alaska Chapter

TESTIMONY ON SB 24

**Senate Health and Social Services Committee
January 29, 1997**

Mr. Chairman and members of the Committee,

Thanks you for the opportunity to testify on SB 24, a bill that would require parental consent before a minor's abortion.

My Name is Dr. Peter Nakamura.

I am the Director of the Division of Public Health within the Department of Health and Social Services. I am also a family practitioner and pediatrician. I have provided medical care or supervised health care programs in diverse International settings, on American Indian Reservations, Native American communities, and within the urban setting of Anchorage. I managed the health program for the Yukon Kuskokwim area from 1970 to 1972 and provided clinical care in several of the remote communities. I share this information to demonstrate that I have had the opportunity to experience the influence of small and culturally diverse communities on the behavior of their youth.

A State law that would mandate parental notification or consent for minor women who choose to have an abortion pose significant dilemmas for the minor and her chosen health care professional. The health care professional may be forced to delay care, abrogate patient confidentiality, and , in some cases expose the minor woman to actual physical harm.

Health care professionals routinely encourage their minor patients to consult with parents or guardians about health care treatment. A state law that mandates parental involvement in all circumstances, however, is impractical, unjustified, and possibly unwise. Health professionals agree that without confidentiality, many adolescents will not seek timely or appropriate care. The American Academy of Pediatrics, American Academy of Family Physicians, American College of Obstetricians and

Gynecologists, and over 40 organizations with an interest or investment in health care have endorsed this position.

Basic principles of law and society hold that parents should be involved in and responsible for assuring appropriate medical care for their children, that parents ordinarily act in the best interest of their children, and the minors benefit from the advice and emotional support of their parents. Legislation mandating parental involvement in abortion are promoted on the basis of the theoretical benefits on strengthening family responsibility and communication.

Experience has shown that 61% of unmarried minors have informed one or both parents of their pregnancy. Over 20% of unmarried minors did not inform their parents but they did involved at least one responsible adult such as the clergy, another relative, teacher, counselor, or professional other then the principle physician. The most frequent reasons minors site for not informing their parents include the belief that the knowledge would damage their relationship, the fear that it would elevate conflict or coercion, and the desire to protect a vulnerable parent from stress and disappointment. One third of minors who do not inform parents already have experienced family violence and fear it will recur. Although parental involvement in many cases may be helpful, in others it may be punitive, coercive, or abusive.

Legislation that threatens a physician with a civil crime subjective to punitive damages for allowing his clinical judgment and practice to be guided by what is best for the individua? patient is not at all supportive of the best practice of medicine. This may in many cases subject the young woman to increased risk to her health and well being. In a similar manner, legislation that preclude any consideration for psychological or emotional damage to the client is denying the serious consequences that can result from such omissions.

Provisions are made in the proposed bill to accommodate a judicial bypass procedure which is meant to allow a teenager to appear before a judge to request a waiver of the parental involvement. Young women often will avoid or delay access to this intimidating procedure because of the anticipated fear, anxiety, shame and concern for loss of confidentiality often associated with this action. In small rural

communities it is almost impossible for a young adolescent to access medical care much less to appear in a judicial setting. If successful it would generally not be done without personal recognition. Access for young woman in the rural communities is often compromised by the lack of knowledge and by the great distance to a judicial system. There is no mechanism in most rural communities whereby confidentiality could be preserved during the effort to identify the true parent, guardian, or legal custodian.

Further restricting access to professional guidance and safe medical procedures can only increase the risks to life and to the health of our children.

For the many reasons identified, the administration is in opposition to SB 24.

DATE: Wednesday, January 29, 1997

TO: Senator Gary Wilken
Chairman, HESS Committee
465-4714/fax

FROM: Karen Miller
10021 Crest View Lane
Eagle River, AK 99577
907-694-2710/phone

RE: SB24

Senate Bill 24 has just come to my attention. I would respectfully disagree with its provisions regarding the necessary parental consent for abortion for a child under 16. I was just watching Gavel to Gavel and I thought I heard that the age limit has been increased to 18.

I share the desire to adopt measures to increase family involvement and communication in important life decisions. I do not believe and statistics do not support that this measure would achieve that goal.

There are many reasons that this measure may do more harm than good. One that particularly concerns me is that the judicial bypass measure of this bill is not appropriate for Rural Alaskan residents.

I ask that you and the members of your committee carefully review the statistics that have been published in regard to this issue. Decreasing abortion rates and improving family communications are laudable goals but this bill will not achieve that end.

G
1/30/97

Bob LYNN's
Testimony
SB24

Good morning, my name is Bob Lynn, 4400 Trapline Drive, Anchorage, Alaska. I'm ^{representing over 60,000 members and supporters} the Vice President of Alaska Right to Life - but more importantly, I'm the father of [^] six children, of whom four are young ladies.

The bill, which I hope and pray you'll adopt, requires parental consent for a minor child to procure an elective abortion. This bill is exceedingly important. In reality, however, it's a vote on the Principle that parents and family are the bedrock of civilization.

It's schizophrenic for the government to hold parents responsible for the communication of Values, and the physical and emotional care of their children - on the one hand - and then on the other hand, to prohibit those same parents from making informed decisions for a procedure which could emotionally traumatize, injure, or even kill their daughter - and destroy their grandchild for sure.

In this country, and the State of Alaska, a child's Values, care, sustenance, shelter, emotional support, and decisions on appropriate medical procedures, should be entrusted to parents, not the state legislature, or any other branch of government. If parents appear to be unwilling, or unable, to meet these responsibilities, or to take care of their children properly, there's due process procedures on the books to take care of that.

RECEIVED
JAN 29 1997

Post-It™ brand fax transmittal memo 7671 # of pages 3

To <u>Sen. Wilken</u>	From <u>Anch L10</u>
Co <u>(S) HESS Chair</u>	Co.
Dept.	Phone # <u>258-8111</u>
Fax # <u>465-4714</u>	Fax #

You may remember the old commercial, "Parents, it's ten o'clock. Do you know where your children are?" The way the law stands now, a parent could answer, "No, I don't know where my little girl is. For all I know, she's at the neighborhood abortion clinic, and she may be in danger - but the legislature keeps me from knowing that, doesn't let me do anything about it, and doesn't let me be with my child when she needs me."

The children and families of Alaska need your help.

Your good vote on this bill would help counterbalance the tender marketing skills of the abortion industry, and its fellow travelers. Abortion is not a safe procedure, regardless of propaganda to the contrary, and abortionists do not occupy the upper stratum of the medical profession - by anyone's standards.

The pro-abortion folks would attempt to hang their hat on so-called "right to privacy" from intrusive government - yet those same "pro-choice/ whatever the choice/ people" would deny the right to privacy from government intrusion into the privacy of parent-child relationships. Privacy applies not just to women, or to little girls - privacy applies also to parents and to families.

We're all concerned about the physical, emotional, and even economic welfare, of a child who becomes pregnant, for whatever the reason - and we understand how distraught a child might be - especially a sensitive and frightened child - in having to tell their parents they got pregnant. It's a given that some parents are

better at parenting skills and compassion than other parents. Nonetheless, if the legislature keeps parents removed, carte blanche, from any decision making process in the emotional and medical care - and responsibility for their own children - the legislature will have traded a "maybe problem," in a few cases, for a much larger set of problems, far far worse - for the individual family, and society in general.

Please - with your vote - return to us the safety of our children, and the privacy of our families. I respectfully ask your favorable consideration of this bill.

Thank you.

JAN 29 1997



Alaska State Legislature

Please enter into the record my testimony to the HESS COMMITTEE
 committee name
 committee on SB24 , dated 1-29-97
 bill/subject

As a parent + fellow Alaskan - I ask your support of SB24. This is a very important bill for families - for family freedom, for family cohesiveness, ^(SP) For parental responsibility.

The privacy propaganda + unconstitutionality that the assistant Attorney General presented is bunk - pure + simple. Indeed - it is liberal judges with the same mind set as this assistant Attorney General (which testified) that have in fact - invaded family "privacy" to allow a parent's child abortion surgery without a parent's knowledge or consent. Parental consent + knowledge was constitutional for the 1st 200 years in this nation and still is. If the state intervenes in the parent/child relationship and takes the parents responsibility away from them in a life + death situation, as well as major surgery decision such as abortion on their child - the state is close to taking all responsibility from parents for raising their children.

Please support SB 24 for the sake of Alaskan Families.

Signed: Mandi N. Melchior
 Testifier

Representing (Optional)
PO Box 595 STERLING, AK 99672
 Address
262-9319
 Phone No.



Alaska State Legislature

Please enter into the record my testimony to the HES
 committee on SB 24, dated 29 JAN, 1997.
committee name
bill/ subject

My thoughts + statement, as a parent, are simple.
 It seems illogical to me that altho parents
 need to give permission, + rightly so, for routine
 matters pertaining to their minor children,
 including school field trips, ~~the~~ ^{the} receiving of
 aspirin at school, + many other matters, ---
 + yet a surgical procedure such as abortion,
 w/ the risks associated with any surgery,
 could be performed without their consent
 or even knowledge. — It really defies
 all logic --

Therefore I strongly recommend a YES
 vote regarding parental consent.

Signed: BARBARA RAWALT
Testifier
DIST 35 RPA - FINANCE CHAIR
Representing (Optional)
PO Box 823 - DELTA JCT AK
Address
(907) 895-1946
Phone No.



Alaska State Legislature

Please enter into the record my testimony to the HES
 committee on SB 24, dated 1/29/97 committee name
 bill/ subject

Please approve this bill. As a parent of 4 children I would certainly not want my girls or my boys' girlfriend to undergo such a serious surgical procedure and such a major life decision without consulting their parents. It is too much of an emotional decision to be made without the more mature advice of the parents that are also affected by this procedure.

Signed:

Linda Bowhe

Testifier

114 35 West St.

Representing (Optional)

P.O. Box 1047 Sitka, Alaska

Address

895-4328

Phone No.



Alaska State Legislature

Please enter into the record my testimony to the HES
 committee on SB24, dated 1-29-97 committee name
 bill/ subject

Please vote yes on this Bill.
 Responsible parents will thank you. Certainly
 if our children need parental consent for
 trivial matters such as participation in
 sports or field trips, they should need
 parental consent for such a serious medical
 procedure.

Signed:

Debra Joslin Delgado-John
 Testifier RPA, District 35
 Representing (Optional) PO Box 377 Delta Jct. AK 99737
 Address (907) 895-4565
 Phone No.



Alaska State Legislature

Please enter into the record my testimony to the SHESS
 committee on SB 24 , dated 11/29/97 committee name
 bill/ subject

Dear Senators:

When an event as troubling as an unplanned pregnancy happens in a young girls life, I implore all of you to strongly seek legislation to implement the parental consent law SB 24.

A young person does not have the logical reasoning process when she is terrified and left abandoned to solely decide the fate of an unborn child. All she is instinctively feeling is fear of having done something wrong and not wanting her parents to find out about what she has been up to, and to quickly cover the mistake to hide her shame. A youth does not realize the emotional effects that she will suffer the rest of her life. (The birthdays of her unborn child, the hidden secret she has kept to herself and her distancing herself from her family).

I witnessed testimonies from young teens who have gone through this procedure without their parents support, and seen a deep anguish and depression and the inability to establish healthy relationships, their souls always being troubled. I witnessed a teen get up in front of over 300 people and sob as she shared her experience of having a unsupported abortion.

SB 24 should be passed. I am a parent of a teenager now, I have to sign permission slips for days missed at school, sports physicals, to obtain a learners permit, for a trip to the emergency room to be sewed up. I find it inconceivable that a life threatening procedure can be performed without the consent of a minors parents.

If that child should die during a legalized unconsented abortion, who is responsible for her death? Wouldn't it be a shock to get a phone call? I believe the State of Alaska has a moral obligation to ALL parents by passing this bill. It is a safeguard to all of us.

A youth is nothing but scared! Wouldn't the short term fear of telling a parent that she is pregnant be less damaging then the results that will hide within the walls of her young heart when she has to bear the responsibility for terminating a life all to herself. Death is permanent. Mommy and Daddy please forgive me!

With Hopes of Passage.

Jeanne Pankelma

Signed:

Jeanne Pankelma
 Testifier

Representing (Optional)
Box 336 Delta, AK
 Address
907 895-5250
 Phone No.



Alaska State Legislature

Please enter into the record my testimony to the SHES
 committee name .
 committee on SB 24 , dated 1/29/97
 bill/subject

I BELIEVE STRONG PARENTAL INVOLVEMENT IS TO BE NOTED HERE. I DISAGREE WITH PARENTAL RIGHTS BEING GIVEN OVER TO THE STATE. EXAMPLE: A METHOTREXATE-MISOPROSTOL (CYTOTEC) CHEMICAL ABORTION CAN TAKE THREE WEEKS TO RESOLVE. PICTURE YOUR YOUNG DAUGHTER OR GRANDDAUGHTER ANGUISHING OVER PROLONGED CRAMPING AND BLEEDING WITH A STATE (APPROVED) APPOINTED GUARDIAN AD LITEM. AND, WHERE WOULD YOU FIT IN? YOU WOULDN'T.

IT IS IMPORTANT THAT A YOUNG GIRL BE OFFERED THE FAMILY SUPPORT TO CARRY HER PREGNANCY TO TERM, OR SHOULD FAMILY DECIDE TO ABORT, SHE AT LEAST HAS FAMILIAR SURROUNDINGS TO CARRY HER THROUGH THIS TIME.

I SUPPORT STRONG PARENTAL INVOLVEMENT REGARDING TEEN ~~PER~~ ABORTION ISSUES (BEFORE THE FACT). I SUPPORT SB24

Signed: Teresa Lundy
 Testifier

Representing (Optional)

P.O. Box 2975 SITKA AK 99835

Address

907-966-2204

Phone No.



Alaska State Legislature

Please enter into the record my testimony to the Senate HES
 committee on SB/24D Parental Consent dated 1-29-97
 bill/subject

As a parent I acknowledge the responsibilities - both the joys and the sorrows of raising children. I'd appreciate consistency in applying medical guidelines - I'm sure there are existing provisions for life and death situations.

It is very inconsistent to charge all the law to possibly benefit a miniscule percentage.

I strongly support passage of SB24.

Signed: Coralyn Jones
 Testifier

Representing (Optional)
2414 HPR, Sitka, AK 99835
 Address
907-747-6132
 Phone No.

Alaska State Legislature

Please enter into the record my testimony to the Senate H.E.S.S committee on SB 24 "Parental Consent before a minor receives an abortion with a judicial by pass option. dated January 29, 1997.

In every case that I worked with, I have seen family bonds strengthend when a minor told her parents she was pregnant. Most parents love and care for their children and any thing that weakens the bond between parents and child destorys the family bonds of trust. It is inconceivable to me why any one who is not receiving money or personal satisfaction from weaking the bonds between parent and child, would want to help a minor sneak behind her parents back and have such an intrusive surgical procedure as an abortion. Remember it is the parents who are the ones who are left with their child's emotional and physical problems after an abortion.

Please pass SB 24. Thank You.

Remember - Fred Hutchins CANCER CENTER has documented A STRONG CORRELATION between breast cancer and Abortion -

Signed Virginia C. Phillips
Testifier

Self
Representing(Optional)

404 LAKE ST., 2-D, SITKA, AK 99835
Address

907-747-9074
Phone Number

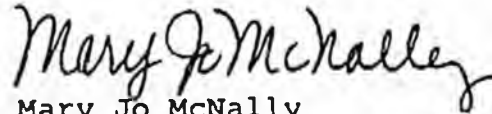
January 29, 1997

TO: Members of the Senate HESS Committee
RE: SB 24

Please do all you can to require parental consent before a minor can have an abortion. The decision to have an abortion is very complex and can have long-lasting ramifications; a minor is not mature enough to make that type of decision on her own. She needs the benefit of as much counsel as she can get so as not to make a permanent solution to a temporary problem.

Finally, from the parents' perspective, as they are responsible for their children in all other regards, including paying restitution for damages their child may have caused, they should be permitted to have input on this life and death situation. Parental consent is required for a child to play in sports and to travel for school activities, etc., so should also be required for a minor to have an abortion.

Thank you.



Mary Jo McNally
608 Sawmill Creek Road
Sitka, Alaska 99835
907-747-3877

To: Senate Health, Education and Social Services Committee
Thru: Chairman Senator Gary Wilken

From: Mary Lauer
510 Kinkead
Sitka, AK 99835
907-747-5752

Mary Lauer

Date: 1/29/97

RE: Parental Consent Bill SB 24

I strongly urge passage of SB 24 relating to a requirement that a parent, guardian or custodian grant permission before performing abortion.

This bill adds the required judicial bypass and will uphold the statute now in place, but unenforcable because it lacks this bypass.



Alaska State Legislature

Please enter into the record my testimony to the S. HESS committee name
 committee on SB 24 Parental consent before minors abortion, dated 1/29/97
 bill/subject

I support SB 24. Parental involvement will bring kids back into the home + off the streets.
 Parents need to be involved in crisis pregnancies, not the courts.
 My own birth mother, although raped + abandoned, had the courage to adopt me out. I think she realized I was not to blame, nor was I to be punished. Her family supported her.
 I don't know what became of her, but I'd like to thank her for her courage.
 And you for yours.
 Please support adoption, not abortion.
 Parental involvement will lower teen pregnancy, teen abortions, and teen birthrate.

Signed: Mary S. Soltis
 Testifier

Representing (Optional)
405 Verstovia Sitka AK 99835
 Address
907-747-5624
 Phone No.

P.O.Box 804
Petersburg, Alaska 99833

January 28, 1997

To Whom It May Concern:

We request that all lawmakers vote to ^{require} parental consent in the case of abortions performed on a minor. It is not the business of government to take over the role of parent. Parents should provide the financial, emotional, and physical care for their children. Providing abortions for minors drives another wedge between parents and civil authorities, generating more confusion in our young over who's in charge.

Respectfully submitted,

Elizabeth & William Pawuk

Elizabeth and William Pawuk



Alaska State Legislature

Please enter into the record my testimony to the Senate H.E.S.S.
 committee name

committee on SB 24 / Parental Consent, dated 1/29/97
 bill/subject

I urge the committee to PASS this bill.

Parental consent is mandatory for tonsillectomies, appendectomies, and the treatment of infected ingrown toenails in a hospital or clinic. Also, parental consent is required by schools for the students' involvement in sports. It seems pretty obvious to me that it should also be required for abortion when the pregnant woman is a minor. As the father of a girl, I myself would want to know if my daughter is going to risk her life undergoing something more dangerous than an ingrown toenail operation on a basketball game. Also, I would not want my own grandchild to be terminated without my knowledge or approval.

Signed:

GIOVANNI TALLINO *[Signature]*
 Testifier

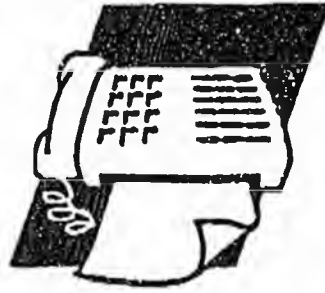
Vice-Chairman, Kodiak Republican Party (But am testifying on my
Representing (Optional) on my own behalf

PO Box 4496 Kodiak, AK 99616

Address
907-486-3043

Phone No.

AUL



FAXLINE

TALKING POINTS re: the Danish abortion study by Melbye et al., published in the 1/9/97 New England Journal of Medicine (NEJM)

1. Study's enormity is exaggerated: Database is highly skewed

- Of the 1.5 million women studied, 1.2 million neither have had exposure to induced abortion nor have developed breast cancer.
- Of the 281,000 women who had induced abortions, most are too young to have developed breast cancer (Some are still teenagers).
- Of the 10,000 women who developed breast cancer, most are too old to have their abortion histories on record, since the abortion registry only goes back to 1973 (when the oldest women were 38).
- Of the 1338 women who had abortions and did develop breast cancer, over 81% had abortions recorded only at age 30 or over; 54% at age 35 or over.

2. Important data are omitted or de-emphasized

- Among the women who had abortions as teenagers the study actually found essentially the same increased risk (29%) as had been reported in Brind et al.'s Comprehensive Review and Meta-analysis of 23 worldwide studies (a statistically significant 30% overall elevated risk), published last October. However, Melbye et al.'s finding is not statistically significant, because their statistical power is too low.
- The Melbye study actually found a statistically significant trend of a 3% risk increase for each week of gestation before abortion, even within the first trimester: Women who had an abortion of an 11-12 week fetus showed a 12% higher breast cancer risk, with the risk increase rising to 89% for abortions after 18 weeks (but it wasn't in the study's "Conclusions").
- Much data was missing from the paper: No information was given on the independent effect of other variables that influence breast cancer risk, and we are shown only relative risk data after adjustment for these variables. Somehow, an unadjusted overall relative risk of 1.44 is adjusted down to 1.00.

3. Previous studies are attacked or misrepresented

- Melbye et al. attacked the validity of the meta-analysis and all case-control (Interview-based data) on the basis of alleged response-bias, citing a 1991 Swedish study. However, the only significant evidence of response bias depends on the assumption that 7 Swedish breast cancer patients reported abortions that never took place (alleged "overreporting"). Response bias is the "Loch Ness Monster" of abortion-breast cancer research: No credible evidence of it has yet been produced.
- 4 previous cohort studies are cited as reporting similar findings of no increased risk with induced abortion. But 2 of the studies are exclusively on spontaneous abortion (miscarriage), and one is mostly on spontaneous abortion and does not report any specific data on induced abortion.

A scientific perspective on the Danish abortion study
published in the 1/9/97 New England Journal of Medicine (NEJM)

MYTHS AND FACTS. Prepared by Joel Brind, Ph.D., Professor of endocrinology, Department of Natural Sciences, Baruch College, City University of NY, 1/13/97

Myth 1

The Danish study's lead author, Dr. Mads Melbye, told the Wall Street Journal (1/9/97):

"I think this settles it. Definitely—there is no overall increased risk of breast cancer for the average woman who has had an abortion."

Dr. Patricia Hartz of the National Cancer Institute, in a NEJM Editorial accompanying the Danish study, echoed "the clear central finding that there is no overall risk", and concluded: "In short, a woman need not worry about the risk of breast cancer when facing the difficult decision of whether to terminate a pregnancy."

Fact

Said Dr. Karin Michels of Harvard Medical School, as quoted in the 1/9/97 Wall Street Journal: "You should never end a debate with one study and say this is the definitive study"

In fact, this one study from Denmark is the 30th separate study published since 1957 to report specific data on induced abortion and breast cancer. It is only the sixth one not to show an overall increased risk, compared to 24 that do show an increased risk, 18 of which are statistically significant on their own.

Contrary the implication of most current media reports, the Brind study, the comprehensive review and meta-analysis, published in the October, 1996 Journal of Epidemiology and Community Health the epidemiology journal of the British Medical Association, is not one of the 30 studies: It is a compilation of the entire worldwide literature, which pooled the results of the 23 separate studies available at the time of its preparation. This study of studies found a statistically significant, 30% overall risk increase.

Myth 2

The Danish study is different. One reason it is definitive is its enormous size, including over 1.5 million women (most Danish women), over 280,000 of whom had one or more induced abortions. Moreover, the study includes over 10,000 women with breast cancer.

Fact

The enormous size of the Danish study is enormously misleading, because this is a cohort study, in which an entire population (or cohort) of women is followed for many years, to track exposures to the alleged risk factor (induced abortion) and the incidence of the disease in question (breast cancer). Consequently, most of the women in the cohort (over 1.2 million of the 1.5 million) have neither the exposure nor the disease in question, but their presence in the cohort inflates the size of the study.

Myth 3

Even so, the number of women with abortion and breast cancer is very large, which gives this study unusually large statistical power. According to Dr. Hartz, in her NEJM editorial:

"In this cohort of 1.5 million women, 1338 cases of breast cancer were diagnosed in women who had

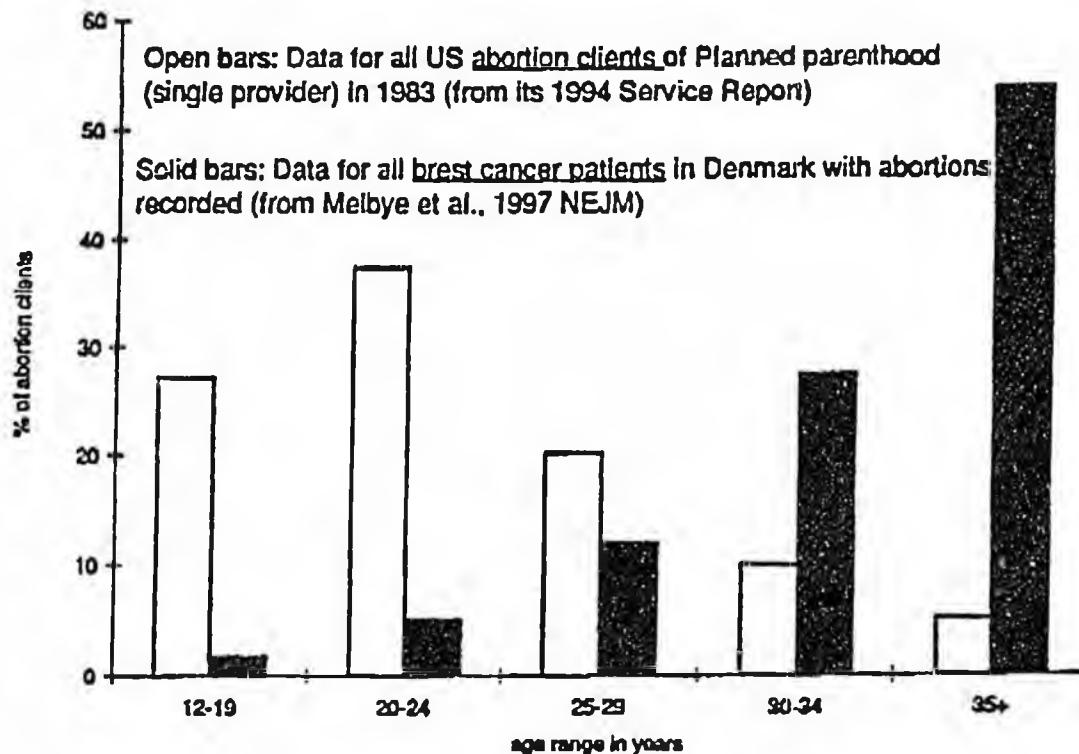
terminated pregnancies. By comparison, large case-control studies in the United States each have included 200 to 300 cases of breast cancer in women who had abortions."

Fact

The selection of such a large part of the Danish population (i.e., women born back to 1935), yields a data base which is very distorted because only abortions occurring since 1973 are on record. Consequently, the majority of breast cancer patients in the Danish study who are on record as not having had any abortions (8,908 women) were in their 30's when abortion data were first collected. Consequently, their abortion history is largely unknown. Keep in mind that we are speaking of a very small proportion of the entire cohort— but the majority of breast cancer victims—since breast cancer is found overwhelmingly among the oldest members of the cohort.

Among the 1338 breast cancer patients whose abortions are on record, the majority of them are on record as having had abortions only at age 35 or over. In fact, over 81% of them have abortions recorded only at age 30 or over!

The egregious distortion of the age distribution of abortion clients is best illustrated by a graphic comparison with US data for the average year (1983) for which the abortions are recorded:



From the above graph, it is easily seen that the Danish (Melbye) study is therefore considerably weaker than its authors and proponents indicate: The statistical power of the study relies largely on a database which is questionable for three reasons:

- 1) It consists mostly of women too young for cancer to develop (those who had abortions and did get breast cancer having had their abortions when they were atypically old);
- 2) The abortion histories of the oldest women in the cohort (which includes most of the women who did get breast cancer) before their fourth decade of life are largely unknown.

3) Concerning the fate of women who have abortions at younger ages—particularly in their teens—the study has almost no statistical power. That is why, even though it shows a 29% risk increase for women who had any abortions as teenagers (the same magnitude of the overall risk increase calculated for women in the Brind meta-analysis), the figure is not statistically significant:

The database only contains a total of 23 cases of breast cancer among women with teenage abortions, and a grand total of only 252 cases of breast cancer for all women who had abortions before the age of 30. That puts the study's real statistical power in the same range as the American studies Dr. Hartge refers to in her editorial.

Unfortunately, the effect of including all the older women (who have most of the breast cancer, but a relatively small portion of the recorded abortions) and all the younger women (who have most of the abortions, but almost none of the breast cancer), is to dilute the statistics, making the calculated relative risk appear lower and at the same time, more precise than it really is. (The summary finding of the Melbye study is an overall relative risk of 1.00 [i.e., no risk increase with induced abortion], and a 95% confidence interval of 0.94-1.06.)

Myth 4

Even though the sample size for women with abortion at younger ages is limited, the Danish data should show some sort of trend, if there were a real risk increase due to abortion. But there is no trend, Dr. Melbye arguing "the oldest women have exactly the same (relative) risk as the younger women."

Fact

As noted above, women who got abortions in their teens showed a 29% higher risk of breast cancer. This was, in fact, noted in the text of the results section (but interestingly, not in the discussion or the abstract):

"Age at the time of the induced abortion did not significantly influence the overall risk, but there was a tendency toward a higher risk of breast cancer among women in the lowest age category—between 12 and 19 years of age (relative risk, 1.29; 95% confidence interval, 0.80 to 2.08)." The lack of significance and lack of effect on observed overall risk is a direct consequence of the lack of statistical power of this supposedly definitive study.

Myth 5

The credibility of the overall finding of no increased risk in the Melbye study is supported by previous research. According to the first paragraph of the authors' Discussion section: "This result is very much in line with the results of previous retrospective cohort studies 9,10,15,16".

Fact

This statement is a flat-out misrepresentation of the medical literature: Three of the four studies cited (as footnotes) to back it up are entirely irrelevant. Two concern spontaneous abortion (miscarriage) exclusively 9,16 and one concerns spontaneous abortion mostly, and does not present any data relating specifically to induced abortion.10

Myth 6 (The "Loch Ness Monster")

It isn't just the statistical power of the study that's important, but the fact that the data are collected

prospectively (i.e., at time of abortion) means they do not depend on the accuracy of study subjects' own reporting of past, personally sensitive events. According to Dr. Hartge, in her NEJM editorial:

"By relying on uniformly collected data on abortion in Danish registries, Melbye et al. avoided the major problem that has plagued case-control interview studies: differential reporting of abortions (response bias)".

Melbye et al. used this argument to attack the Brind meta-analysis directly: "However, since almost all 23 studies included in the analysis were case-control studies, it is not unreasonable to assume that many of them were inherently biased, making the pooled conclusions biased as well."

Fact

Many scientists insist that this potential source of error is responsible for the result whenever a study shows that abortion is associated with increased breast cancer risk. In fact, this is the third time in a little over two years that the National Cancer Institute has used the response bias argument, via medical journal editorials, to attack such research. Like the famous mythological Loch Ness Monster, they insist that it is there. But every time a study actually looks for evidence of its presence, the only credible evidence they can ever find is against it.

When comparing the abortion histories of breast cancer patients with those of healthy women, a finding of more abortions among the patients will show up statistically as an increased risk. The argument is essentially this: If the cancer patients report more of their abortions than the healthy women do, then their breast cancer risk will appear artificially increased, due to this response bias (bias meaning difference between the two groups).

Melbye et al. are less than forthright in their Danish study in their attack on the Brind meta-analysis: One could hardly tell from their discussion that the meta-analysis spent over 1,000 words of text meticulously analyzing the alleged evidence of such bias. Yet still, they hark back to a 1991 Swedish study which compared computer prospective cohort data with case control interview-based data on the same population of Swedish women. That study claimed statistically significant evidence of underreporting of previous induced abortions among controls relative to overreporting among cases. In other words, the significance of the finding was largely dependent upon the belief that the seven breast cancer patients who reported having had abortions of which the computer registry had no record, had overreported them, i.e., had made them up!

Until the Danish study's appearance in the 1/9/97 NEJM, the most recent citing of the monster was in the 12/4/96 Journal of the National Cancer Institute (JNCI). That issue of the JNCI contained a Dutch case-control study which attributed the 90% increased risk it found among women with abortions to response bias. However, a careful reading of the study reveals the authors found significant evidence of response bias between healthy women from different regions of Holland, but no bias between breast cancer patients and healthy women at all. That didn't stop NCI editorialists from hyping these results and unleashing the monster: . . . a Swedish study . . . show(ed) that healthy women consistently and widely underreport their history of induced abortion.

Meanwhile, strong evidence against the response bias argument has surfaced repeatedly: 1) A 1989 New York State computerized registry study found a 90% increased breast cancer risk among women with induced abortions; 2) A 1994 Seattle, Washington study found a 50% increased risk and used cervical cancer data to test specifically for response bias among these women—and found none; 3) A 1995 study among Greek women found a 51% increased risk, and cited other studies among Greek women in drawing their conclusion that healthy women in Greece report reliably their history of induced abortion.

Myth 7

According to a 1/10/97 New York Times editorial: The only uncertainty in the Melbye study) was a suggestion that women who had abortions in the second or third trimester did have an increased risk of breast cancer, but the number of women in this category was too small to warrant firm conclusions.

The falsehood of the first phrase is obvious to anyone familiar with any epidemiological study: All findings are subject to varying degrees of uncertainty. The rest of the statement is a masterpiece of understatement.

Consider the actual relevant part of the Results section of the paper: With each one-week increase in the gestational age of the fetus, however, there was a three percent increase in the risk of breast cancer. In fact, the relative risk rose from a 19% (non-significant) risk decrease for women whose abortions occurred at less than seven weeks gestational age, to a significant 89% risk increase for women with post 18-week abortions. Moreover, a risk elevated above the norm started showing up for women with late first trimester abortions (11-12 weeks).

In fairness to the New York Times, however, the authors themselves de-emphasized the finding, failing even to mention it among the "Conclusions" in the paper's abstract. Thankfully, this error of omission did not go unnoticed, drawing sharp criticism from Dr. George Bonney, Chairman of Biostatistics at the Fox Chase Cancer Center in Philadelphia, who told the Washington Post: "This is a powerful group (Melbye et al.), that should know better".

Yet the most important aspect of this finding of significantly increased risk with increasing gestational age at abortion is that Melbye et al. acknowledged it as supporting the biological basis of abortion as a breast cancer risk factor. That is, growth promotion of primitive (and potentially cancer forming) breast cells by surging estrogens during pregnancy may increase breast cancer risk if the pregnancy is aborted. Theoretically, the longer the exposure to this hormonal stimulus, the greater the risk increase. Although other studies have not found a consistent difference in early v. late first trimester abortions, this one did, and the authors call this finding to be "in line with the hypothesis".

Concluding Remarks

Ample evidence has been presented above to show that the authors' "Conclusions: Induced abortions have no overall effect on the risk of breast cancer." is, to say the least, a gross oversimplification. But there are additional concerns: First, a great deal of information about the effects of other variables is missing from the paper, as well as the unadjusted relative risk calculations. In fact, the unadjusted overall relative risk can be calculated at 1.44—a 44% risk increase. Of course, this figure doesn't mean much without adjustment, but how it manages to decrease to 0% increased risk is a disturbing mystery. Dr. Melbye (personal communication) says that they had to shorten the paper considerably for publication, but then one wonders why there is then so much redundancy in it: most of the data in the paper's only table is repeated in the text.

Second, it must be noted that one of the variables adjusted for in this (and most other) studies, is age at first full term pregnancy. That's because delaying the first full term pregnancy is universally recognized to increase breast cancer risk. Induced abortion surely increases risk when performed on young childless women, since it delays the full term delivery that would otherwise naturally have occurred. This increase, being specifically subtracted out, does not show up in any study (including the Brind meta-analysis) that is looking for the specific effect of induced abortion on breast cancer risk.

Finally, it must be acknowledged that computerized cohort data are generally of better quality than interview-based data, all other things being equal. The difficulty with computerized data on the risk of a disease like breast cancer is that it takes years—perhaps 5 to 50 years—for cancer to show up in exposed women. And abortion registries are not generally that old. Computerized registry data are most useful when the outcome in question does not require such a long follow up period. A perfect example is a 1996 study using the Finnish abortion registry. In this British Medical Journal paper, Dr. Mika Gissler et al. found a very reliable, almost sixfold (4888) increase in the rate of suicide by women who had had an induced abortion in the previous year, compared to women who had a baby.

can Osteopathic Association;

(2) clearance from the United States Department of Justice, Drug Enforcement Administration;

(3) clearance from the Federation of State Medical Boards regarding

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Post-It [®] Fax Note		7671	Date	1/27/97	# of pages	1
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ARTICLE 2. ABORTIONS

Section

- 60. Termination of pregnancy
- 70. Informed consent
- 80. Medical procedures
- 90. Evaluation
- 100. Consultation requirements
- 110. Abortion procedures
- 120. Standards for hospitals and facilities
- 130. Records
- 140. Limitation

12 AAC 40.060. TERMINATION OF PREGNANCY. Termination of pregnancy must be requested by the pregnant woman, unless she has been adjudged mentally incompetent or is unmarried and under 18 years of age, in which case the request must be made by her parent or guardian.

12 AAC 40.070. INFORMED CONSENT. Unless otherwise provided in 12 AAC 40.060, a written informed consent shall be obtained from the patient or from any other person whose consent is required before termination of a pregnancy. Such written informed consent shall be on the patient's chart. The patient and other persons whose consent is required shall be advised of the medical implications and the possible emotional and physical sequelae of the procedure.

12 AAC 40.080. MEDICAL PROCEDURES. The patient shall be examined by a physician licensed in Alaska, and a written record of the patient's

physical and emotional health shall be prepared before performing an abortion procedure as set out in 12 AAC 40.110.

12 AAC 40.090. EVALUATION. The attending physician shall make an evaluation of the patient and an estimation of the duration of gestation based upon the patient's history, examination and test results. This information shall be recorded on the patient's chart.

12 AAC 40.100. CONSULTATION REQUIREMENTS. Abortions interrupting a pregnancy up to and including the twelfth week of gestation may be performed without consultation. Abortions performed after the twelfth week of gestation shall be preceded by consultation with another physician. The consultation shall include an opinion as to the preferred method of termination of pregnancy.

12 AAC 40.110. ABORTION PROCEDURES. During the second or third trimester of a pregnancy, acceptable procedures include dilation and curettage, suction aspiration of the uterus, injection of pharmacological agents, hysterectomy and hysterotomy. The exact procedure to be used will depend upon the patient's total health, age, associated disease and pathology, and anomalies such as skeletal defects and other medical indications.

12 AAC 40.120. STANDARDS FOR HOSPITALS AND FACILITIES.
(a) During the second or third trimester of a pregnancy, abortions shall be performed under sterile conditions. A bed and a registered nurse shall be available for a minimum recovery period of one-half hour. A registered nurse shall be present during the procedure.

(b) During the second or third trimester of a pregnancy, blood, blood derivatives, blood substitutes or plasma expanders shall be immediately available when an abortion is performed, and an operating room appropriately staffed and equipped for major surgery in accordance with regulations adopted under AS 18.20.050 shall be immediately available.

12 AAC 40.130. RECORDS. During the second or third trimester of a pregnancy, the attending physician shall record a medical history, findings of the physical examination, operative report of the abortion procedure and pathology report as part of the clinical record to be maintained by the hospital or facility. The physician and hospital or facility shall treat the patient's identity and medical record as confidential information.

12 AAC 40.140. LIMITATION. A fetus which has not developed beyond 150 days after the first day of the last menstrual period may be considered nonviable for purposes of AS 11.15.060(a). In the performance of an abortion after that date, the physician shall be guided by a reasonable judgment as to whether the fetus is viable in fact.

SENATE COMMITTEE REPORT

First Committee of Referral

DATE: 1/13/97

FURTHER: Judiciary
Finance

Date of 5-Day Notice: 1/23/97
(in accordance with Uniform Rule 23)

DATE TURNED
IN TO OFFICE: 2/3/97

Health, Education and Social Services Committee considered SENATE BILL NO. 24

Require consent before minors receive an abortion; amend Rules 40 and 79, Alaska Rules of Civil Procedure; Rules 204, 210, 212, 213, 508, and 512.5, Alaska Rules of Appellate Procedure; and Rule 9, Alaska Administrative Rules.

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 title
 - new: SCR# _____

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
<i>[Signature]</i>	✓	<i>[Signature]</i>		X	
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NEW FISCAL NOTE(S):

Department	Date	Zero	Fiscal
Alaska Court System	1/28/97		✓
Public Dept of Admin - Defender	1/28/97	✓	
Social Dept of Health + Services	1/29/97	✓	
Public Dept of Admin - Advocacy	1/28/97		✓

PREVIOUS FISCAL NOTE(S):*

Department	Date	Zero	Fiscal

APPROPRIATION -- no fiscal note

*Include fiscal notes accompanying Governor's bill

of needy persons who are eligible under the provisions of this chapter for any of the following services:

- (1) major medical care as defined in 7 AAC 47.290;
- (2) skilled nursing home care;
- (3) intermediate nursing home care;
- (4) physician services if
 - (A) related to major medical care provided in a hospital on an inpatient basis;
 - (B) provided in a hospital emergency room the same day on which the recipient is admitted for major medical care;
 - (C) provided to a recipient residing in a nursing home;
 - (D) provided in either an outpatient or an inpatient setting to a recipient with a diagnosis described in 7 AAC 47.271(b);
 - (E) provided in determining eligibility for a therapeutic abortion; or
 - (F) provided for a therapeutic abortion;
- (5) outpatient laboratory and x-ray services provided in conjunction with a therapeutic abortion or nursing home care;
- (6) medical transportation related to major medical care, nursing home care, or a therapeutic abortion;
- (7) outpatient surgical center services provided in conjunction with therapeutic abortion or nursing home care;
- (8) prescribed drugs and medical supplies for a recipient with a specific diagnosis as described in 7 AAC 47.271(b);
- (9) repealed 7/1/87.

(b) Unless otherwise provided in this chapter, the medical services listed in (a) of this section are subject to the same limits placed on the amount, duration, and scope of services provided under the Medicaid program as set out in AS 47.07 or 7 AAC 43. (Eff. 3/23/78, Register 65; am 5/2/79, Register 70; am 5/17/82, Register 82; am 5/25/82, Register 82; am 9/23/84, Register 91; am 8/1/85, Register 95; am 8/1/86, Register 99; am 11/28/86, Register 100; am 7/1/87, Register 103; am 2/19/93, Register 125; am 11/20/94, Register 132)

Authority:	AS 47.05.010	AS 47.25.130	AS 47.25.195
	AS 47.25.120	AS 47.25.170	

7 AAC 47.210. EXCLUSIONS FROM GENERAL RELIEF MEDICAL PROGRAM. Notwithstanding any other provisions contained in this chapter or 7 AAC 43, a payment may not be made under the General Relief Medical program for any expense

- (1) that is for major medical care not determined necessary by the professional review organization on contract with the division of medical assistance;
- (2) that is for nursing home care not approved by the division of medical assistance;

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7 AAC 47.240 HEALTH AND SOCIAL SERVICES 7 AAC 47.240

- (3) for items and services not properly prescribed or determined necessary by a health care practitioner;
- (4) for more than 12 outpatient physician visits by a recipient in a calendar year;
- (5) for outpatient physician visits that are not for a recipient with a diagnosis as described in 7 AAC 47.271(b);
- (6) if persons are in the care and custody of penal facilities, including juveniles in detention facilities;
- (7) for an elective procedure, including an elective abortion;
- (8) if the expense is for the first \$50 of each day of hospital stay up to a maximum of \$200 per hospital admission for major medical care;
- (9) if the expense is for a prescription drug or prescribed medical supply for a recipient who does not have a diagnosis specified in 7 AAC 47.271(b);
- (10) repealed 7/1/87.
- (11) for room, board or ancillary services provided in a hospital beyond the length of hospitalization stay authorized in 7 AAC 47.245. (Eff. 3/23/78, Register 65; am 5/2/79, Register 70; am 4/15/82, Register 82; am 5/25/82, Register 84; am 8/1/86, Register 99; am 11/28/86, Register 100; am 7/1/87, Register 103; am 2/19/93, Register 125; am 11/20/94, Register 132)

Authority: AS 47.05.010 AS 47.25.130 AS 47.25.170
AS 47.25.120

7 AAC 47.240. REIMBURSEMENT OF PROVIDER.

- (a) Providers shall submit all claims for payment on invoices prescribed by the division and in accordance with the provisions contained in the division's provider manuals.
- (b) Claims for payment must be filed promptly following care. The division may not make payment for services provided more than six months before presentation of the claim.
- (c) Except as provided in (d) of this section, payment will be made in the amount determined under the provisions of 7 AAC 43. For those services not covered by Medicaid, the division will furnish providers with information for those services covered exclusively under the General Relief Medical program.
- (d) The division of medical assistance will reimburse a health facility for services covered under this chapter at 28.7 percent of the facility's Medicaid rate set by the executive director of the Medicaid Rate Advisory Commission under 7 AAC 43.701. The division of medical assistance will deduct the amount owed by the recipient under 7 AAC 47.220 from the amount of payment made to the health facility.
- (e) Payment provided by the division represents full and total reimbursement for those covered services authorized under General Relief

(c) A person may be appointed as the guardian of an incapacitated person notwithstanding the provisions of (b) of this section if the person is the spouse, adult child, parent, or sibling of the incapacitated person and the court determines that the potential conflict of interest is insubstantial and that the appointment would clearly be in the best interests of the incapacitated person.

(d) Subject to (e) of this section, qualified persons have priority for appointment as guardian in the following order:

(1) a person, association, or private nonprofit corporation nominated by the incapacitated person, if at the time of the nomination the incapacitated person had the capacity to make a reasonably intelligent choice;

(2) the spouse of the incapacitated person;

(3) an adult child or parent of the incapacitated person;

(4) a relative of the incapacitated person with whom the incapacitated person has resided for more than six months during the year before the filing of the petition;

(5) a relative or friend who has demonstrated a sincere, longstanding interest in the welfare of the incapacitated person;

(6) a private association or nonprofit corporation with a guardianship program for incapacitated persons;

(7) the public guardian.

(e) The priorities established in (d) of this section are not binding, and the court shall select the person, association, or nonprofit corporation that is best qualified and willing to serve. The court shall also give consideration to a nomination by a person described in (d) of this section and to a nomination in the will of a deceased parent or spouse of the incapacitated person. (§ 1 ch 78 SLA 1972; am § 13 ch 83 SLA 1981)

Effect of amendments. — The 1981 amendment rewrote this section.

NOTES TO DECISIONS

Cited in *In re O.S.D.*, 672 P.2d 1304 (Alaska 1983).

Sec. 13.26.150. General powers and duties of guardian. (a) A guardian shall diligently and in good faith carry out the specific duties and powers assigned by the court. In carrying out duties and powers, the guardian shall encourage the ward to participate to the maximum extent of the ward's capacity in all decisions which affect the ward, to act on the ward's own behalf in all matters in which the ward is able, and to develop or regain, to the maximum extent possible, the capacity to meet the essential requirements for physical health or safety, to protect the ward's rights, and to manage the ward's financial resources.

(b) A partial guardian of an incapacitated person has only the powers and duties respecting the ward enumerated in the court order.

(c) A full guardian of an incapacitated person has the same powers and duties respecting the ward that a parent has respecting an unemancipated minor child except that the guardian is not liable for the care and maintenance of the ward and is not liable, solely by reason of the guardianship, to a person who is harmed by acts of the ward. Except as modified by order of the court, a full guardian's powers and duties include, but are not limited to, the following:

(1) the guardian is entitled to custody of the person of the ward and shall assure that the ward has a place of abode in the least restrictive setting consistent with the essential requirements for the ward's physical health and safety;

(2) the guardian shall assure the care, comfort, and maintenance of the ward;

(3) the guardian shall assure that the ward receives the services necessary to meet the essential requirements for the ward's physical health and safety and to develop or regain,

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to the maximum extent possible, the capacity to meet the ward's needs for physical health and safety;

(4) the guardian shall assure through the initiation of court action and other means that the ward enjoys all personal, civil, and human rights to which the ward is entitled;

(5) the guardian may give consents or approvals necessary to enable the ward to receive medical or other professional care, counsel, treatment, or services except as otherwise limited by (e) of this section;

(6) if a conservator for the estate of the ward has not been appointed, the guardian may receive money and property deliverable to the ward and apply the money and property for support, care, and education of the ward; however, the guardian may not apply the ward's money or property for the services as guardian or for room and board which the guardian, or the guardian's spouse, parent, or child has furnished the ward unless, before payment, the court finds that the ward is financially able to pay and that the charge is reasonable; notice of a request for payment approval shall be provided to at least one relative of the ward if possible; the guardian shall exercise care to conserve any excess money or property for the ward's needs;

(7) if a conservator of the estate of the ward has been appointed, the guardian shall pay all of the ward's estate received by the guardian in excess of the money expended to meet current expenses for support, care, and education of the ward, to the conservator for management as provided in AS 13.26.165 — 13.26.315, and the guardian shall account to the conservator for money expended.

(d) A guardian of a ward, for whom a conservator has also been appointed, shall have the custody and care of the ward and is entitled to receive reasonable sums for services and for room and board furnished to the ward as agreed upon between the guardian and the conservator. The guardian may request the conservator to expend the ward's estate for the ward's care and maintenance.

(e) A guardian may not

(1) place the ward in a facility or institution for the mentally ill other than through a formal commitment proceeding under AS 47.30 in which the ward has a separate guardian ad litem;

(2) consent on behalf of the ward to an abortion, sterilization, psychosurgery, or removal of bodily organs except when necessary to preserve the life or prevent serious impairment of the physical health of the ward;

(3) consent on behalf of the ward to the withholding of lifesaving medical procedures; however, a guardian is not required to oppose the cessation or withholding of lifesaving medical procedures when those procedures will serve only to prolong the dying process and offer no reasonable expectation of effecting a temporary or permanent cure of or relief from the illness or condition being treated unless the ward has clearly stated that lifesaving medical procedures not be withheld; a guardian is not civilly liable for acts or omissions under this paragraph unless the act or omission constitutes gross negligence or reckless or intentional misconduct;

(4) consent on behalf of the ward to the performance of an experimental medical procedure or to participation in a medical experiment not intended to preserve the life or prevent serious impairment of the physical health of the ward;

(5) consent on behalf of the ward to termination of the ward's parental rights;

(6) prohibit the ward from registering to vote or from casting a ballot at public election;

(7) prohibit the ward from applying for and obtaining a driver's license;

(8) prohibit the marriage or divorce of the ward. (§ 1 ch 78 SLA 1972; am § 28 ch 56 SLA 1973; am § 14 ch 83 SLA 1981; am § 1 ch 126 SLA 1986)

Effect of amendments. — The 1981 amendment rewrote this section.

The 1986 amendment in paragraph (3) of subsection (e) substituted "lifesaving" for "life-saving" and added

the language beginning "however, a guardian."

Legislative history reports. — For report on ch. 56, SLA 1973 (HCS SB 140), see 1973 Senate Journal Supplement No. 9; 1973 House Journal, p. 819.

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Sec. 08.64.085. Meetings of the board. The board shall meet at least four times a year. (§ 6 ch 48 SLA 1983)

Sec. 08.64.090. Quorum. Four members of the board constitute a quorum for the transaction of all business properly before the board. (§ 35-3-83 ACLA 1949; am § 3 ch 148 SLA 1970; am § 13 ch 102 SLA 1976)

NOTES TO DECISIONS

For constitutionality of ch. 102, SLA 1976, see
 Plumley v. George E. Hale, M.D., Inc., 594 P.2d 497
 (Alaska 1979).

Sec. 08.64.100. Power of board to adopt regulations. The board may adopt regulations necessary to carry into effect the provisions of this chapter. (§ 35-3-95 ACLA 1949)

Sec. 08.64.101. Duties. The board shall

- (1) examine and issue licenses to applicants;
- (2) develop written guidelines to ensure that licensing requirements are not unreasonably burdensome and the issuance of licenses is not unreasonably withheld or delayed;
- (3) submit an annual report of its proceedings to the governor, including a statement of money received and disbursed;
- (4) after a hearing, impose disciplinary sanctions on persons who violate this chapter or the regulations or orders of the board;
- (5) adopt regulations ensuring that renewal of licenses is contingent upon proof of continued competency on the part of the licensee; and
- (6) under regulations adopted by the board, contract with private professional organizations to establish an impaired medical professionals program to identify, confront, evaluate, and treat persons licensed under this chapter who abuse alcohol, other drugs, or other substances or are mentally ill or cognitively impaired. (§ 7 ch 48 SLA 1983; am § 3 ch 87 SLA 1987; am § 3 ch 126 SLA 1990; am § 1 ch 91 SLA 1992)

Effect of amendments. — The 1987 amendment added paragraph (6).

The 1990 amendment, effective June 15, 1990, made minor stylistic changes in paragraphs (2) and (5) and, in paragraph (6), added "under regulations adopted by the board" at the beginning, substituted

"contract" for "coordinate", and inserted "identify, confront, evaluate, and."

The 1992 amendment, effective September 16, 1992, in paragraph (6), substituted "alcohol, other drugs, or other substances or are mentally ill or cognitively impaired" for "addictive substances."

Sec. 08.64.103. Investigator; executive secretary. After consulting with the board, the department shall employ two persons who are not members of the board; one shall be assigned as the investigator for the board; the other shall be assigned as the executive secretary for the board. The investigator shall

- (1) conduct investigations into alleged violations of this chapter, and into alleged violations of regulations and orders of the board;
- (2) at the request of the board, conduct investigations based on complaints filed with the department or with the board; and
- (3) be directly responsible and accountable to the board, except that only the department has authority to terminate the investigator's employment and the department shall provide day to day and administrative supervision of the investigator. (§ 4 ch 87 SLA 1987)

Sec. 08.64.105. Regulation of abortion procedures. The State Medical Board shall adopt regulations necessary to carry into effect the provisions of AS 18.16.010 and

shall define ethical, unprofessional, or dishonorable conduct as related to abortions, set standards of professional competency in the performance of abortions and establish procedures and set standards for facilities, equipment, and care of patients in the performance of an abortion. (§ 2 ch 103 SLA 1970)

Opinions of attorney general. — Separation of responsibilities in AS 18.16.010 is clear; the approval of facilities is granted to the Department of Health and Social Services; the ethical and professional responsibilities of medical doctors are committed to the

supervision of the State Medical Board. No language in this section vitiates any of the responsibilities granted in AS 18.16.010(a)(2) to the Department of Health and Social Services. October 7, 1974 Op. Att'y Gen.

Sec. 08.64.107. Regulation of physician assistants and intensive care paramedics. The board shall adopt regulations regarding the licensure of physician assistants and registration of mobile intensive care paramedics, and the medical services that they may perform, including the

- (1) educational and other qualifications;
- (2) application and registration procedures;
- (3) scope of activities authorized; and
- (4) responsibilities of the supervising or training physician. (§ 2 ch 101 SLA 1974; am § 1 ch 36 SLA 1993; am § 1 ch 91 SLA 1996)

Effect of amendments. — The 1993 amendment, effective August 25, 1993, deleted "physician-trained" preceding "mobile intensive care paramedics," deleted "but not limited to" following "including," and made a stylistic change.

The 1996 amendment, effective September 18, 1996, substituted "licensure" for "registration," and inserted "registration of" in the introductory language and made minor stylistic changes.

Sec. 08.64.110. Per diem and expenses. The members of the board are entitled to per diem and expenses authorized by law. (§ 35-3-95 ACLA 1949)

Cross references. — For per diem and travel expenses, see AS 39.20.180.

Sec. 08.64.120. Coverage of funds and warrants for expenses. [Repealed, § 3 ch 59 SLA 1966.]

Sec. 08.64.130. Board records. (a) The board shall preserve a record of its proceedings, which must contain the name, age, residence, and duration of residence of each applicant for a license, the time spent by the applicant in medical study, the place of medical study, and the year and school from which degrees were granted. The record must also show whether the applicant was granted a license or rejected.

(b) The board shall maintain records for each person licensed under this chapter concerning the outcome of malpractice actions and claims as reported under AS 08.64.200(a) and 08.64.345. The board shall periodically review these records to determine if the licensee should be found to be professionally incompetent under AS 08.64.326(a)(8)(A).

(c) The board shall make available to the public the information maintained under (a) and (b) of this section for each person licensed under this chapter. (§ 35-3-84 ACLA 1949; am § 4 ch 126 SLA 1990)

Effect of amendments. — The 1990 amendment, effective June 15, 1990, added subsections (b) and (c).

Sec. 08.64.140. Annual report to governor. [Repealed, § 19 ch 48 SLA 1983.]

Sec. 08.64.150. Bond of secretary-treasurer. [Repealed, § 28 ch 77 SLA 1969.]

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