

**ALASKA LEGISLATURE**

**2745**

**HOUSE and SENATE FINANCE COMMITTEE FILES, 2003-2004**



ROBERT E. MOSS, JR.  
DEPUTY GENERAL COUNSEL

February 5, 2003

Maynard Falconer, Executive Director  
Alaska Optometric Association  
1689 C Street, Suite 222  
Anchorage, AK 99501

This is the legal  
opinion of the largest  
vision HMO in the country!  
RMJ

**Re: Patient/Provider Protection**

Dear Mr. Falconer:

I am in receipt of your letter a letter addressed to Don Price, Vision Service Plan ("VSP"), dated January 9, 2002. In that letter, you generally question the possible illegality of contracts between VSP and VSP providers in Alaska.

Without more specificity, it appears that you refer to Alaska Statute 21.07.010 (Patient and Health Care Provider Protection), which provides, in pertinent part,

"(b) A contract between a participating health care provider and a managed care entity that offers a group managed care plan may not contain a provision that

(1) has as its predominant purpose the creation of direct financial incentives to the health care provider for withholding covered health care services that are medically necessary; nothing in this paragraph shall be construed to prohibit a contract between a participating health care provider and a managed care entity from containing incentives for efficient management of the utilization and cost of covered health care services;

(2) requires the provider to contract for all products that are currently offered or that may be offered in the future by the managed care entity; and

(3) requires the health care provider to be compensated for health care services performed at the same rate as the health care provider has contracted with another managed care entity."

Based upon my reading of the subject statute, VSP's provider agreement is not in present violation of Alaska law. As drafted, the statute is written in the conjunctive, rather than disjunctive. Therefore, in order for a contract provision to be considered unlawful, it would necessarily have to encompass each of the prohibited provisions of (b) (1), (2) and (3).

Maynard Falconer, Executive Director

February 5, 2003

Page 2

As applied to VSP, its provider contracts may not include a provision which predominantly creates financial incentives to a doctor for withholding medically necessary covered services, and requires the doctor to contract for all products that are currently offered or that may be offered in the future by VSP, and requires the doctor to be compensated for health care services performed at the same rate as the doctor has contracted with another managed care entity.

Certainly, (b)(1) and (3) are not provisions contained within VSP's provider agreement. Since VSP's provider agreements do not contain each prohibition expressed in 21.07.010(b), it would appear that your analysis is in error.

With regard to 21.07.010(b)(2), VSP providers are not required to contract for all current and future products offered. VSP maintains three (3) different provider panels within Alaska, being the Standard network, Medicaid network and Select network. A standard network doctor is not required, but may voluntarily agree, to participate in VSP's Medicaid and Select networks. VSP may also offer specific "hard" products to doctors, which are not required to be sold to his/her patient base, such as frames (except new doctors, as of 2002 they must sell a certain number of Altairaware frames) and perhaps contact lens availability.

Furthermore, contracts between VSP and its Alaska providers do allow for addenda to the original terms of the agreement. Such addenda reduce time for review and administrative costs to both, the provider and VSP. Written notice of any change in terms to the member doctor agreement are distributed to providers well in advance of the effective date of such changes. Should a provider not wish to continue membership participation with VSP, that provider may voluntarily terminate his/her membership.

I hope this explanation is responsive to your inquiry. Should you have further questions or comments, please feel free to contact me.

Very truly yours,



ROBERT E. MOSS, JR.

REM:rcm

# SENATE COMMITTEE REPORT First Committee of Referral

DATE: 3/1/04

FURTHER: Finance

Date of 5-Day Notice: 3/4/04  
(in accordance with Uniform Rule 23)

DATE TURNED  
IN TO OFFICE: 3/24/04

Labor and Commerce Committee considered SENATE BILL NO. 357

## SB 357 INSURANCE

"An Act relating to the regulation of insurance, insurance licenses, qualifications of insurance producers, surplus lines, fraud investigations, electronic transactions, and compliance with federal law and national standards; and providing for an effective date."

and recommends:

- be replaced with \_\_\_\_\_ CS SB 357 (LEC)
- adopt previous \_\_\_\_\_ CS \_\_\_\_\_ (\_\_\_\_\_)
- attached amendment(s)
- adopt Letter of Intent by \_\_\_\_\_ Committee
- further referral to \_\_\_\_\_ Committee

<b>Senate Bill:</b>	
<input checked="" type="checkbox"/>	Same Title
<input type="checkbox"/>	New Title
<b>House Bill:</b>	
<input type="checkbox"/>	Same Title
<input type="checkbox"/>	Technical Title Change
<input type="checkbox"/>	New Title w/ SCR # _____

**NEW FISCAL NOTE(S):**

Department	Date	Fiscal	Indet.	Zero	FN#
DCED	3/5/04			✓	1.

**PREVIOUS FISCAL NOTE(S):**

Department	Date	Fiscal	Indet.	Zero	FN#

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
<i>Ralph Seebain</i>	✓			
<i>Betty Davis</i>	✓			
<i>[Signature]</i>			+	
<i>[Signature]</i>			+	
CHAIR: <i>[Signature]</i>			✓	

Seebain  
Davis  
French  
Gardner  
Bender

**SB**

**359**

**SFIN**

**FILE**

SB 359

was referred to the  
Senate Finance  
Committee

No hearing was held  
on this bill

**SB**

**364**

**HFIN**

**FILE**



## Health, Education, and Social Services Committee Alaska State Senate

### SB 364—Letter of Intent

It is the intent of the legislature that the Department of Health and Social Services continue to develop and support a continuum of mental health care that includes community-based outpatient and supportive services, community hospital-based inpatient evaluation and treatment services, and tertiary mental health care through the Alaska Psychiatric Institute. In developing this system the Department of Health and Social Services shall be guided by the principles that mental health services should be clinically appropriate, cost effective, offered in the least restrictive setting available, and provided as close to the client's home as possible.

It is further the intent of the legislature that in the event of a shortfall in appropriations for mental health evaluation and treatment at community hospitals to stabilize persons experiencing a psychiatric emergency or crisis, and who meet the criteria for involuntary commitment under AS 47.30.700 – AS 47.30.915, the Department of Health and Social Services shall make every effort to identify additional financing sources or reallocate appropriations available for the purpose from lesser priorities to continue these important services for the remainder of the fiscal year.

**COMMITTEE COPY**

# FISCAL NOTE

STATE OF ALASKA  
2004 LEGISLATIVE SESSION

Fiscal Note Number: 1  
 Bill Version: SB 364  
 ( S ) Publish Date: 3/8/04  
 Dept. Affected: Health & Social Services

Revision Date/Time (Note if correction):

Title RELATING TO THE MENTAL HEALTH TREATMENT PROGRAM

RDU Behavioral Health

Component Designated Eval & Treatment

Sponsor (RLS) BY REQUEST OF THE GOVERNOR

Requester \_\_\_\_\_

Component No. 1014

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

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims	( 100.0)	( 100.0)	( 100.0)	( 100.0)	( 100.0)	( 100.0)
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>( 100.0)</b>	<b>( 100.0)</b>	<b>( 100.0)</b>	<b>( 100.0)</b>	<b>( 100.0)</b>	<b>( 100.0)</b>

<b>CAPITAL EXPENDITURES</b>						
<b>CHANGE IN REVENUES (0)</b>						

**FUND SOURCE (Thousands of Dollars)**

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1037 GF/Mental Health	( 100.0)	( 100.0)	( 100.0)	( 100.0)	( 100.0)	( 100.0)
Other(Specify Type-do not abbreviate)						
Other(Specify Type-do not abbreviate)						
<b>TOTAL</b>	<b>( 100.0)</b>	<b>( 100.0)</b>	<b>( 100.0)</b>	<b>( 100.0)</b>	<b>( 100.0)</b>	<b>( 100.0)</b>

Estimate of any current year (FY2004) cost: \_\_\_\_\_

Mark this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

This bill will provide the Department with management tools necessary to contain costs for DET services on an annual basis. Changes to the eligibility requirements and time frames for applying for financial assistance will allow the department to better project and manage costs within the available funding levels. Current application timelines, i.e. 180 days after date of discharge results in bills for prior year service coming in the first six months of the current fiscal year. This lag makes it extremely difficult for program staff to project the level of funding available for current year program costs. (Continued on next page)

Prepared by: Bill Hogan, Director  
 Division: Behavioral Health  
 Approved by: Joel S. Gilbertson, Commissioner  
 Agency: Department of Health and Social Services

Phone 465-3371  
 Date/Time 02/05/2004  
 Date 02/06/2004

FISCAL NOTE

FN # 1

STATE OF ALASKA  
2004 LEGISLATIVE SESSION

SB 364

ANALYSIS CONTINUATION

DET program expenditures for the last few years have averaged \$500.0 more in general funds than the original budget. In past years, either a supplemental budget request has been appropriated or excess year-end funds within the appropriation were available to cover these additional costs. However, with FY04 budget reductions this is not an option. The program currently anticipates approximately \$500.0 in FY03 claims being received between July 1 - December 31, 2003 having to be paid out of its FY04 budget.

In FY2005 this program will lose federal receipts of \$724.9 (which are reflected in the Governor's budget) that have previously been available for program costs. With these compounding circumstances it is important to implement changes to allow for fiscal management of this program to stay within budgetary authorization. This bill will allow the department to cap payments to the funding levels available, rather than the current open-ended process.

Due to the FY04 and FY05 budget reductions the most that could be expected in FY05 general fund savings would be \$100.0. This represents approximately a 10% general fund reduction.

If these legislative changes are not made to the DET program, the only alternatives available to the department for this program would be requests for supplemental appropriations or to decline payment of the bill which could result in legal action.

SB 364



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STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
JUNEAU

March 5, 2004

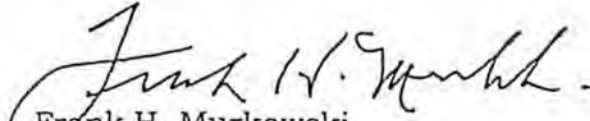
The Honorable Gene Therriault  
President of the Senate  
Alaska State Legislature  
State Capitol, Room 111  
Juneau, AK 99801-1182

Dear President Therriault:

Under the authority of article III, section 18, of the Alaska Constitution, I am transmitting a bill related to the mental health treatment assistance program. The bill would give the Department of Health and Social Services additional tools to control costs. Costs would be controlled by limiting financial assistance to persons meeting the eligibility criteria after registration. Registration would require contacting the department in a timely manner and supplying information on medical and financial need. The department would also gain some flexibility to reduce rates when there is a shortfall of funds.

I urge your support of this important bill.

Sincerely yours,

  
Frank H. Murkowski  
Governor

Enclosure

SB 364

House HESS Questions 3/25/04 ~~HB 535~~  
Draft 3/31/04

- 1) If a person has been sent to a DET facility on a court order, would the DBH have any authority to question or overthrow the court order.

Attn Gen – the DBH would be obligated to follow that order

However, the treating physician can discharge a person who does not meet admission criteria.

- 2) How many youth are treated in DET facilities?

Seven (under 3%) admissions occurred in FY 03 out of a total 244 admissions; one youth entered the hospital twice. None exceeded the evaluation phase of up to 7 days.

- 3) What is the explanation for the increased length of stay at Bartlett?

See attached list of reasons for extended stays as explained by Bartlett justified by clinical reasons in the best interests of the patient

- 4) Why is cost of care at Mt. Edgecumbe so high compared to Bethel for example?

All IHS hospitals have a nationally determined rate that is the same for all hospitals

General answer is full cost studies are conducted every four years which include facility depreciation and are used to collect Medicaid funds.

- 5) What would happen if API were full?

- See # 3 – We can ask a DET facility to keep someone longer
- API is being more assertively managed to avoid being full – Current CEO has not turned anyone away

- 6) Could we send anyone to a correctional facility if API is full?

Attn Gen. -- DHSS will pay for another placement – we will not send to correctional facility (notwithstanding hold in jail while transportation being arranged for combative patients – leads to discussions about developing more assertive local DET and other medication options including Dr. to Dr. discussions with local physicians and API physicians.

- 7) Why are there different poverty levels eligibility definitions -- example between DET and Denali Kid Care.

There are at least 9 categorical programs using poverty definitions ranging from 100 – 250% of federal poverty guidelines. Each was developed at different times, under different climates and different administrations.

See attached data summary sheet.

- 8) What is the comparable API Daily Medicaid Rate?

I was in error reporting the daily cost at API as \$669. That rate did not include depreciated facility costs. The Medicaid Rate was calculated at \$757.46/day calculated with the same standardized procedure used to calculate the other Medicaid rates used for other hospitals.

A rate for the new facility has not been calculated.

- 9) Are the Medicaid Rates cost shifting from higher Medical Costs such as surgery?

(Note: DHSS efforts to restructure psychiatric hospital rate.)

- 10) How will be using First Health and MD to monitor program?

See Summary of Proposed DET Monitoring Process

- 11) How have other states managed DET like programs in terms of an entitlement vs. limitations of budget.

Dan Branch, Att. Gen. Office has been asked to attend on 4/2/04

### Length of Stay Extensions at Bartlett FY 03

- Difficulty in stabilizing on medications; developed many side effects to medications
- Placement, working w/ courts to get guardianship
- Difficulty in stabilizing medications, many reactions
- Placement, unable to release safely by self, not appropriate for API
- MD felt API placement inappropriate, better to stay within the southeast community
- Stabilizing on medications
- Difficulty in stabilizing on medications related to reactions/EPS
- Was off medication completely, restarted and stabilized
- Stabilizing on medications
- Co-occurring ETOH abuse, needing extra time
- Newly diagnosed, stabilizing on medication

Hospital CEO notes that most delays occurred with patients sent from across the region where resources tend to be less than in Juneau. Sixty-four percent of the delays were related to medication issues. More assertive discharge planning may be able to facilitate earlier discharges. Discharge planning should begin on Day of Admission by hospital staff and local programs. More active management by DBH/API/First Health may facilitate more timely discharges.

## 2003 Monthly Federal Poverty Guidelines for Alaska

Effective 9/1/2002

Household Size	QMB	SLMB	SLMB	Denali KidCare	Denali KidCare	Transitional Medicaid	QDWI	Working Disabled
	Working Disabled (Premium Level)	Base	Plus	(limit for insured children)	(limit for uninsured children) Pregnant Women	DET		(eligibility)
	100%	120%	135%	150%	175%	185%	200%	250%
1	\$935	\$1,121	\$1,262	\$1,402	\$1,635	\$1,729	\$1,869	\$2,336
2	\$1,262	\$1,514	\$1,704	\$1,893	\$2,208	\$2,335	\$2,524	\$3,155
3	\$1,590			\$2,384	\$2,782	\$2,940	\$3,179	\$3,973
4	\$1,917			\$2,875	\$3,355	\$3,546	\$3,834	\$4,792
5	\$2,245			\$3,367	\$3,928	\$4,152	\$4,489	\$5,611
6	\$2,572			\$3,858	\$4,501	\$4,758	\$5,144	\$6,430
7	\$2,900			\$4,349	\$5,074	\$5,364	\$5,799	\$7,248
8	\$3,227			\$4,840	\$5,647	\$5,970	\$6,454	\$8,086
Ea Addl	\$328			\$492	\$574	\$606	\$655	\$819

## Proposed DET Monitoring Process

DBT Admission & Review Process	Existing Practice	Administered by DBH/API/1 <sup>st</sup> Health
<p><b>I. <u>Registration:</u></b> Provides ability to identify level of utilization for program management. Type of Information obtained:</p> <ul style="list-style-type: none"> <li>• Basic demographics</li> <li>• Program Criteria:               <ul style="list-style-type: none"> <li>• Mental status</li> <li>• Level of acuity (dangerousness)</li> </ul> </li> </ul> <p>(Note: Discharge Planning is to begin at Day 1)</p>	<p><b>I. <u>Registration:</u></b> 1. The treating physician certifies on admission that the patient meets involuntary commitment criteria. Reference AS 47.30.700-47.30.915</p> <p>Note: registration does not involve authorizing admission.</p>	<p><b>I. <u>Registration:</u></b> All registration would be sent to DBH/API</p> <p>(Note: it is possible to have online data entry into AKAIMS from the provider or API)</p>
<p><b>II. <u>Eight Day Review:</u></b></p> <p>It is assumed that the "evaluation" period is up to three days, and can be extended to 7 days. The "treatment" period is implemented from this point forward.</p> <p>Note: Updating the means for documentation to more clearly articulate that criteria for continued stay is evident.</p> <p>(NOTE: Discharge planning should be updated)</p>	<p><b>II. <u>Eight Day Review:</u></b> 1. The treating physician makes a daily notation n each patient's care chart regarding whether the patient continues to meet the involuntary commitment criteria, and recertifies every 7 days, whether the patient continues to meet criteria.* (Reference the <u>Mental Health Treatment Assistance Eligibility Manual</u>, p.3)</p> <p>2. "The division will reimburse a designated evaluation facility for no more than 7 days for evaluation and crisis stabilization or for transition to community-based services if the division determines the amount of time is clinically appropriate" (Reference the <u>Mental Health Treatment Assistance Eligibility Manual</u>, p.6) Reference 7 AAC 75.520(b) and (c).</p>	<p><b>II. <u>Eight Day Review:</u> (est. # 60-70)</b> DBH/API staff would conduct the 8 day review.</p> <p>1. Does the evaluation period exceed 7 days?</p> <ul style="list-style-type: none"> <li>• No....No review is conducted</li> <li>• Yes... Medical necessity of extension is reviewed: Criteria met?           <ul style="list-style-type: none"> <li>• Yes...extension is approved.</li> <li>• No....provider contacted for more information. Criteria met?               <ul style="list-style-type: none"> <li>• Yes...extension is approved.</li> <li>• No...DBH medical director consults with provider. Criteria met?                   <ul style="list-style-type: none"> <li>• Yes...extension approved</li> <li>• No... payment denied</li> </ul> </li> </ul> </li> </ul> </li> </ul>
<p><b>III. <u>Retrospective Review</u></b></p> <p>This review would occur within 90 days of admission, after discharge.</p> <ul style="list-style-type: none"> <li>• Same as time limit for bill submission</li> <li>• Note: this would involve, on average, 275 clients annually.</li> </ul>	<p><b>III. <u>Retrospective Review</u></b> 1. The division will reimburse a designated treatment facility for no more than 40 days for evaluation, treatment, and crisis stabilization or for transition to community-based services if the division determines the amount of time is clinically appropriate</p> <p>(Reference the <u>Mental Health Treatment Assistance Eligibility Manual</u>, p.7) Reference 7 AAC 75.520(b) and (c).</p>	<p><b>III. <u>Retrospective Review</u></b> API staff would conduct review. Sources used: the client file Process:</p> <ol style="list-style-type: none"> <li>1. Paperwork is filed in a timely manner</li> <li>2. Admission criteria is met?</li> <li>3. File contains medical necessity that matches length of stay with client need?</li> <li>4. File contains discharge planning that includes referral linkage to community based programs?</li> </ol>

Summary of DES/T for FY00 to FY03				Hospitals Only		
		Clients Served in Fiscal Year				
Region	Facility	FY00	FY01	FY02	FY03	
ARO	Providence Hospital	2	0	0	0	
ARO	North Star Hospital	0	0	2	0	
NRO	Fairbanks Memorial Hospital	127	185	207	178	
NRO	YKHC	6	6	2	0	
SCRO	Providence Kodiak Island Medical	12	9	0	1	
SCRO	Valdez Community Hospital	0	0	2	0	
SERO	Bartlett Memorial Hospital	44	68	65	57	
SERO	Ketchikan General Hospital	33	21	0	0	
SERO	Mt Edgecombe Hospital	2	1	8	8	
SERO	Petersburg General	0	1	0	0	
	<b>Statewide</b>	<b>226</b>	<b>291</b>	<b>286</b>	<b>244</b>	
		Days of Evaluation and Treatment Services in Fiscal Year				
Region	Facility	FY00	FY01	FY02	FY03	
ARO	Providence Hospital	6	0	0	0	
ARO	North Star Hospital	0	0	6	0	
NRO	Fairbanks Memorial Hospital	874	791	892	991	
NRO	YKHC	8	12	2	0	
SCRO	Providence Kodiak Island Medical	22	24	0	4	
SCRO	Valdez Community Hospital	0	0	6	0	
SERO	Bartlett Memorial Hospital	235	460	430	670	
SERO	Ketchikan General Hospital	59	33	0	0	
SERO	Mt Edgecombe Hospital	2	2	28	21	
SERO	Petersburg General	0	1	0	0	
	<b>Statewide</b>	<b>1206</b>	<b>1323</b>	<b>1364</b>	<b>1686</b>	
		Average Length of Stay in Fiscal Year				
Region	Facility	FY00	FY01	FY02	FY03	
ARO	Providence Hospital	3	0	0	0	
ARO	North Star Hospital	0	0	3	0	
NRO	Fairbanks Memorial Hospital	6.9	4.3	4.33	5.6	
NRO	YKHC	1.3	2	1	0	
SCRO	Providence Kodiak Island Medical	1.8	2.7	0	4	
SCRO	Valdez Community Hospital	0	0	3	0	
SERO	Bartlett Memorial Hospital	5.3	6.8	6.6	11.8	
SERO	Ketchikan General Hospital	1.8	1.6	0	0	
SERO	Mt Edgecombe Hospital	1	2	3.5	2.6	
SERO	Petersburg General	0	1	0	0	
	<b>Statewide</b>	<b>3</b>	<b>2.9</b>	<b>3.6</b>	<b>6</b>	
		Cost of Increase 01 to 03				Estimated
	<b>Statewide</b>		FY01	FY02	FY03	<b>Cost Increases</b>
	Average Daily Medicaid Rate		1178	1449	1493	
	Percentage of Increase in Rate					27% \$534,090
	Total Bed Days		1323	1364	1686	
	Percentage of Increase in Days					27% \$612,018
	Total DES/T		\$1,410,745	\$2,470,511	\$2,831,728	
	Percentage of Increase in Cost					100% \$1,420,938

## SB 364 / HB 535 -- DET Bill Summary -- 3/31/04

### Background/Intent

The existing statutes require the State to cover the costs of diagnosis, evaluation and treatment (DET) for financially eligible patients who need to be involuntarily committed to non-state-operated hospitals. The costs of these services and the related transportation cost have increased over the years. The intent of this bill is to:

- Establish that this is not an entitlement
- Clearly communicate that costs incurred will only be covered up to the amount appropriated by the legislature
- Require hospitals to notify the Department within 24 hours of admission of a potentially eligible individual, allowing the Department to assist in timely and appropriate discharge to community based programs
- Establish that the Department is under no obligation to pay for services a hospital delivers to a patient beyond recommended discharge date
- Funding is decreased between FY04 and FY05

### Program Effects

- Contains costs on an annual basis
- 24-hour registration assists Department to determine costs at time they are incurred and thus allow for fiscal management
- Limit State responsibility to funds appropriated by legislature

### Cost Progression 2000-2005

FY00	\$	1,901,480	
FY01		2,055,420	
FY02		2,284,930	
FY03		3,384,430	
FY 04 Budget		3,096,800	
FY 05 Budget		1,901,480	Strategies being explored to expand federal participation via Disproportionate Share (DSH)

### Cost Saving Strategies

- Update transportation policies and procedures
  - Ambulances

### DET Sites

- Fairbanks
- Juneau

### Other Sites

Palmer, Ketchikan, Cordova, Homer, Valdez, Sitka,  
Bethel, Kodiak

### Cost Comparisons between API and DET/S Facilities

• API daily rate	757.46
• Fairbanks	1,646.91
• Bartlett	1,636.04
• Ketchikan	1,800.68
• Mt. Edgecombe	2,049.00
• Bethel	2,049.00

### Explanation for Cost Increases over years

100% of Hospital cost increases between 01 and 03

27% of Hospital increases in average daily Medicaid between 01 and 03

27% of Hospital increases in total beds used between 01 and 03

### Management of Costs

Costs within existing budget – if retrospective reviews are changed from DBH staff to First Health the cost would be about \$31,800/year based on a current charge of \$111.44/review X 275 reviews (average # of admissions / last 3 years).

If we add an early review at 8<sup>th</sup> day of admission (transitioning from evaluation to treatment) we can also add discussion about eligibility and discharge planning, the cost would increase by \$7,000 based on 63 admissions over 8 days in FY03. The total First Health review costs would be about \$40,000/year.

**SB**

**364**

**SFIN**

**FILE**

# SENATE FINANCE COMMITTEE REPORT

DATE: 04/05/04

FURTHER:

REPORTED OUT  
APR 27 2004  
SENATE FINANCE  
COMMITTEE

DATE TURNED  
IN TO OFFICE: 27 April 2004

Finance Committee considered

SENATE BILL NO. 364

## SB 364 LIMIT STATE AID FOR MENTAL HEALTH CARE

"An Act relating to liability for expenses of placement in certain mental health facilities; relating to the mental health treatment assistance program; and providing for an effective date."

and recommends:

- be replaced with \_\_\_\_\_ CS \_\_\_\_\_ (\_\_\_\_\_)
- adopt previous \_\_\_\_\_ CS SB 364 (HES)
- attached amendment(s)
- adopt Letter of Intent by HES \_\_\_\_\_ Committee
- further referral to \_\_\_\_\_ Committee

**Senate Bill:**  
 Same Title  
 New Title

**House Bill:**  
 Same Title  
 Technical Title Change  
 New Title w/ SCR # \_\_\_\_\_

**NEW FISCAL NOTE(S):**

Department	Date	Fiscal	Indet.	Zero.	FN#

**PREVIOUS FISCAL NOTE(S):**

Department	Date	Fiscal	Indet.	Zero.	FN#
<u>HES</u>	<u>4/04/04</u>	<u>(100.0)</u>			<u>#1</u>

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
<u>[Signature]</u>			✓	
<u>[Signature]</u>		✓		
<u>[Signature]</u>				✓
<u>[Signature]</u>	✓			
<u>[Signature]</u>	✓			
COCHAIR: <u>[Signature]</u>	✓			
COCHAIR: <u>[Signature]</u>	✓			



REPORTED OUT

APR 27 2004

SENATE FINANCE  
COMMITTEE

## Health, Education, and Social Services Committee Alaska State Senate

### SB 364—Letter of Intent

It is the intent of the legislature that the Department of Health and Social Services continue to develop and support a continuum of mental health care that includes community-based outpatient and supportive services, community hospital-based inpatient evaluation and treatment services, and tertiary mental health care through the Alaska Psychiatric Institute. In developing this system the Department of Health and Social Services shall be guided by the principles that mental health services should be clinically appropriate, cost effective, offered in the least restrictive setting available, and provided as close to the client's home as possible.

It is further the intent of the legislature that in the event of a shortfall in appropriations for mental health evaluation and treatment at community hospitals to stabilize persons experiencing a psychiatric emergency or crisis, and who meet the criteria for involuntary commitment under AS 47.30.700 – AS 47.30.915, the Department of Health and Social Services shall make every effort to identify additional financing sources or reallocate appropriations available for the purpose from lesser priorities to continue these important services for the remainder of the fiscal year.

**COMMITTEE COPY**

APR 27 2004

# FISCAL NOTE

STATE OF ALASKA  
2004 LEGISLATIVE SESSION

Fiscal Note Number: 1  
Bill Version : SB 364  
( S ) Publish Date: 3/8/04

SENATE FINANCE  
COMMITTEE

Revision Date/Time (Note if correction):

Dept. Affected: Health & Social Services

Title RELATING TO THE MENTAL HEALTH TREATMENT PROGRAM

RDU Behavioral Health

Component Designated Eval & Treatment

Sponsor (RLS) BY REQUEST OF THE GOVERNOR

Requester \_\_\_\_\_

Component No. 1014

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

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims	( 100.0)	( 100.0)	( 100.0)	( 100.0)	( 100.0)	( 100.0)
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>( 100.0)</b>	<b>( 100.0)</b>	<b>( 100.0)</b>	<b>( 100.0)</b>	<b>( 100.0)</b>	<b>( 100.0)</b>

<b>CAPITAL EXPENDITURES</b>						
<b>CHANGE IN REVENUES (0)</b>						

**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1037 GF/Mental Health	( 100.0)	( 100.0)	( 100.0)	( 100.0)	( 100.0)	( 100.0)
Other(Specify Type-do not abbreviate)						
Other(Specify Type-do not abbreviate)						
<b>TOTAL</b>	<b>( 100.0)</b>	<b>( 100.0)</b>	<b>( 100.0)</b>	<b>( 100.0)</b>	<b>( 100.0)</b>	<b>( 100.0)</b>

Estimate of any current year (FY2004) cost: \_\_\_\_\_

Mark this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

This bill will provide the Department with management tools necessary to contain costs for DET services on an annual basis. Changes to the eligibility requirements and time frames for applying for financial assistance will allow the department to better project and manage costs within the available funding levels. Current application timelines, i.e. 180 days after date of discharge results in bills for prior year service coming in the first six months of the current fiscal year. This lag makes it extremely difficult for program staff to project the level of funding available for current year program costs. (Continued on next page)

Prepared by: Bill Hogan, Director  
Division Behavioral Health  
Approved by: Joel S. Gilbertson, Commissioner  
Agency Department of Health and Social Services

Phone 465-3371  
Date/Time 02/05/2004  
Date 02/06/2004

FISCAL NOTE

FN # 1

STATE OF ALASKA  
2004 LEGISLATIVE SESSION

SB 364

ANALYSIS CONTINUATION

DET program expenditures for the last few years have averaged \$500.0 more in general funds than the original budget. In past years, either a supplemental budget request has been appropriated or excess year-end funds within the appropriation were available to cover these additional costs. However, with FY04 budget reductions this is not an option. The program currently anticipates approximately \$500.0 in FY03 claims being received between July 1 - December 31, 2003 having to be paid out of its FY04 budget.

In FY2005 this program will lose federal receipts of \$724.9 (which are reflected in the Governor's budget) that have previously been available for program costs. With these compounding circumstances it is important to implement changes to allow for fiscal management of this program to stay within budgetary authorization. This bill will allow the department to cap payments to the funding levels available, rather than the current open-ended process.

Due to the FY04 and FY05 budget reductions the most that could be expected in FY05 general fund savings would be \$100.0. This represents approximately a 10% general fund reduction.

If these legislative changes are not made to the DET program, the only alternatives available to the department for this program would be requests for supplemental appropriations or to decline payment of the bill which could result in legal action.

SB 364

House HESS Questions 3/25/04 ~~HB 535~~

Draft 3/31/04

- 1) If a person has been sent to a DET facility on a court order, would the DBH have any authority to question or overthrow the court order.

Attn Gen – the DBH would be obligated to follow that order

However, the treating physician can discharge a person who does not meet admission criteria.

- 2) How many youth are treated in DET facilities?

Seven (under 3%) admissions occurred in FY 03 out of a total 244 admissions; one youth entered the hospital twice. None exceeded the evaluation phase of up to 7 days.

- 3) What is the explanation for the increased length of stay at Bartlett?

See attached list of reasons for extended stays as explained by Bartlett justified by clinical reasons in the best interests of the patient

- 4) Why is cost of care at Mt. Edgecumbe so high compared to Bethel for example?

All IHS hospitals have a nationally determined rate that is the same for all hospitals

General answer is full cost studies are conducted every four years which include facility depreciation and are used to collect Medicaid funds.

- 5) What would happen if API were full?

- See # 3 – We can ask a DET facility to keep someone longer
- API is being more assertively managed to avoid being full – Current CEO has not turned anyone away

- 6) Could we send anyone to a correctional facility if API is full?

Attn Gen. -- DHSS will pay for another placement – we will not send to correctional facility (notwithstanding hold in jail while transportation being arranged for combative patients – leads to discussions about developing more assertive local DET and other medication options including Dr. to Dr. discussions with local physicians and API physicians.

- 7) Why are there different poverty levels eligibility definitions -- example between DET and Denali Kid Care.

There are at least 9 categorical programs using poverty definitions ranging from 100 – 250% of federal poverty guidelines. Each was developed at different times, under different climates and different administrations.

See attached data summary sheet.

- 8) What is the comparable API Daily Medicaid Rate?

I was in error reporting the daily cost at API as \$669. That rate did not include depreciated facility costs. The Medicaid Rate was calculated at \$757.46/day calculated with the same standardized procedure used to calculate the other Medicaid rates used for other hospitals.

A rate for the new facility has not been calculated.

- 9) Are the Medicaid Rates cost shifting from higher Medical Costs such as surgery?

(Note: DHSS efforts to restructure psychiatric hospital rate.)

- 10) How will be using First Health and MD to monitor program?

See Summary of Proposed DET Monitoring Process

- 11) How have other states managed DET like programs in terms of an entitlement vs. limitations of budget.

Dan Branch, Att. Gen. Office has been asked to attend on 4/2/04

### Length of Stay Extensions at Bartlett FY 03

- Difficulty in stabilizing on medications; developed many side effects to medications
- Placement, working w/ courts to get guardianship
- Difficulty in stabilizing medications, many reactions
- Placement, unable to release safely by self, not appropriate for API
- MD felt API placement inappropriate, better to stay within the southeast community
- Stabilizing on medications
- Difficulty in stabilizing on medications related to reactions/EPS
- Was off medication completely, restarted and stabilized
- Stabilizing on medications
- Co-occurring ETOH abuse, needing extra time
- Newly diagnosed, stabilizing on medication

Hospital CEO notes that most delays occurred with patients sent from across the region where resources tend to be less than in Juneau. Sixty-four percent of the delays were related to medication issues. More assertive discharge planning may be able to facilitate earlier discharges. Discharge planning should begin on Day of Admission by hospital staff and local programs. More active management by DBH/API/First Health may facilitate more timely discharges.

## 2003 Monthly Federal Poverty Guidelines for Alaska

Effective 9/1/2002

Household Size	QMB  Working Disabled (Premium Level)	SLMB  Base	SLMB  Plus	Denali KidCare  (limit for insured children)	Denali KidCare  (limit for uninsured children) Pregnant Women	Transitional Medicaid  DET	QDWI	Working Disabled  (eligibility)
	100%	120%	135%	150%	175%	185%	200%	250%
1	\$935	\$1,121	\$1,262	\$1,402	\$1,635	\$1,729	\$1,869	\$2,336
2	\$1,262	\$1,514	\$1,704	\$1,893	\$2,208	\$2,335	\$2,524	\$3,155
3	\$1,590			\$2,384	\$2,782	\$2,940	\$3,179	\$3,973
4	\$1,917			\$2,875	\$3,355	\$3,546	\$3,834	\$4,792
5	\$2,245			\$3,367	\$3,928	\$4,152	\$4,489	\$5,611
6	\$2,572			\$3,858	\$4,501	\$4,758	\$5,144	\$6,430
7	\$2,900			\$4,349	\$5,074	\$5,364	\$5,799	\$7,248
8	\$3,227			\$4,840	\$5,647	\$5,970	\$6,454	\$8,086
Ea Addl	\$328			\$492	\$574	\$606	\$655	\$819

## Proposed DET Monitoring Process

DBT Admission & Review Process	Existing Practice	Administered by DBH/API/1 <sup>st</sup> Health
<p>I. <u>Registration:</u> Provides ability to identify level of utilization for program management. Type of Information obtained:</p> <ul style="list-style-type: none"> <li>• Basic demographics</li> <li>• Program Criteria:               <ul style="list-style-type: none"> <li>• Mental status</li> <li>• Level of acuity (dangerousness)</li> </ul> </li> </ul> <p>(Note: Discharge Planning is to begin at Day 1)</p>	<p>I. <u>Registration:</u> 1. The treating physician certifies on admission that the patient meets involuntary commitment criteria. Reference AS 47.30.700-47.30.915</p> <p>Note: registration does not involve authorizing admission.</p>	<p>I. <u>Registration:</u> All registration would be sent to DBH/API</p> <p>(Note: it is possible to have online data entry into AKAIMS from the provider or API)</p>
<p>II. <u>Eight Day Review:</u></p> <p>It is assumed that the "evaluation" period is up to three days, and can be extended to 7 days. The "treatment" period is implemented from this point forward.</p> <p>Note: Updating the means for documentation to more clearly articulate that criteria for continued stay is evident.</p> <p>(NOTE: Discharge planning should be updated)</p>	<p>II. <u>Eight Day Review:</u></p> <p>1. The treating physician makes a daily notation in each patient's care chart regarding whether the patient continues to meet the involuntary commitment criteria, and recertifies every 7 days, whether the patient continues to meet criteria.* (Reference the <u>Mental Health Treatment Assistance Eligibility Manual</u>, p.3)</p> <p>2. "The division will reimburse a designated evaluation facility for no more than 7 days for evaluation and crisis stabilization or for transition to community-based services if the division determines the amount of time is clinically appropriate" (Reference the <u>Mental Health Treatment Assistance Eligibility Manual</u>, p.6) Reference 7 AAC 75.520(b) and (c).</p>	<p>II. <u>Eight Day Review: (est. # 60-70)</u> DBH/API staff would conduct the 8 day review.</p> <p>1. Does the evaluation period exceed 7 days?</p> <ul style="list-style-type: none"> <li>• No.....No review is conducted</li> <li>• Yes... Medical necessity of extension is reviewed: Criteria met?           <ul style="list-style-type: none"> <li>• Yes...extension is approved.</li> <li>• No....provider contacted for more information. Criteria met?               <ul style="list-style-type: none"> <li>• Yes...extension is approved.</li> <li>• No...DBH medical director consults with provider. Criteria met?                   <ul style="list-style-type: none"> <li>• Yes...extension approved</li> <li>• No... payment denied</li> </ul> </li> </ul> </li> </ul> </li> </ul>
<p>III. <u>Retrospective Review</u></p> <p>This review would occur within 90 days of admission, after discharge.</p> <ul style="list-style-type: none"> <li>• Same as time limit for bill submission</li> <li>• Note: this would involve, on average, 275 clients annually.</li> </ul>	<p>III. <u>Retrospective Review</u></p> <p>1. The division will reimburse a designated treatment facility for no more than 40 days for evaluation, treatment, and crisis stabilization or for transition to community-based services if the division determines the amount of time is clinically appropriate</p> <p>(Reference the <u>Mental Health Treatment Assistance Eligibility Manual</u>, p.7) Reference 7 AAC 75.520(b) and (c).</p>	<p>III. <u>Retrospective Review</u> API staff would conduct review. Sources used: the client file</p> <p>Process:</p> <ol style="list-style-type: none"> <li>1. Paperwork is filed in a timely manner</li> <li>2. Admission criteria is met?</li> <li>3. File contains medical necessity that matches length of stay with client need?</li> <li>4. File contains discharge planning that includes referral linkage to community based programs?</li> </ol>

Summary of DES/T for FY00 to FY03					Hospitals Only		
		Clients Served in Fiscal Year					
Region	Facility	FY00	FY01	FY02	FY03		
ARO	Providence Hospital	2	0	0	0		
ARO	North Star Hospital	0	0	2	0		
NRO	Fairbanks Memorial Hospital	127	185	207	178		
NRO	YKHC	6	6	2	0		
SCRO	Providence Kodiak Island Medical	12	9	0	1		
SCRO	Valdez Community Hospital	0	0	2	0		
SERO	Bartlett Memorial Hospital	44	68	65	57		
SERO	Ketchikan General Hospital	33	21	0	0		
SERO	Mt Edgecombe Hospital	2	1	8	8		
SERO	Petersburg General	0	1	0	0		
	<b>Statewide</b>	<b>226</b>	<b>291</b>	<b>286</b>	<b>244</b>		
		<b>Days of Evaluation and Treatment Services in Fiscal Year</b>					
Region	Facility	FY00	FY01	FY02	FY03		
ARO	Providence Hospital	6	0	0	0		
ARO	North Star Hospital	0	0	6	0		
NRO	Fairbanks Memorial Hospital	874	791	892	991		
NRO	YKHC	8	12	2	0		
SCRO	Providence Kodiak Island Medical	22	24	0	4		
SCRO	Valdez Community Hospital	0	0	6	0		
SERO	Bartlett Memorial Hospital	235	460	430	670		
SERO	Ketchikan General Hospital	59	33	0	0		
SERO	Mt Edgecombe Hospital	2	2	28	21		
SERO	Petersburg General	0	1	0	0		
	<b>Statewide</b>	<b>1206</b>	<b>1323</b>	<b>1364</b>	<b>1686</b>		
		<b>Average Length of Stay in Fiscal Year</b>					
Region	Facility	FY00	FY01	FY02	FY03		
ARO	Providence Hospital	3	0	0	0		
ARO	North Star Hospital	0	0	3	0		
NRO	Fairbanks Memorial Hospital	6.9	4.3	4.33	5.6		
NRO	YKHC	1.3	2	1	0		
SCRO	Providence Kodiak Island Medical	1.8	2.7	0	4		
SCRO	Valdez Community Hospital	0	0	3	0		
SERO	Bartlett Memorial Hospital	5.3	6.8	6.6	11.8		
SERO	Ketchikan General Hospital	1.8	1.6	0	0		
SERO	Mt Edgecombe Hospital	1	2	3.5	2.6		
SERO	Petersburg General	0	1	0	0		
	<b>Statewide</b>	<b>3</b>	<b>2.9</b>	<b>3.6</b>	<b>6</b>		
		<b>Cost of Increase 01 to 03</b>				<b>Estimated</b>	
	<b>Statewide</b>		<b>FY01</b>	<b>FY02</b>	<b>FY03</b>	<b>Cost Increases</b>	
	Average Daily Medicaid Rate		1178	1449	1493		
	Percentage of Increase in Rate					27%	\$534,090
	Total Bed Days		1323	1364	1686		
	Percentage of Increase in Days					27%	\$612,018
	Total DES/T		\$1,410,745	\$2,470,511	\$2,831,728		
	Percentage of Increase in Cost					100%	\$1,420,938

## **SB 364 / HB 535 -- DET Bill Summary -- 3/31/04**

### **Background/Intent**

The existing statutes require the State to cover the costs of diagnosis, evaluation and treatment (DET) for financially eligible patients who need to be involuntarily committed to non-state-operated hospitals. The costs of these services and the related transportation cost have increased over the years. The intent of this bill is to:

- Establish that this is not an entitlement
- Clearly communicate that costs incurred will only be covered up to the amount appropriated by the legislature
- Require hospitals to notify the Department within 24 hours of admission of a potentially eligible individual, allowing the Department to assist in timely and appropriate discharge to community based programs
- Establish that the Department is under no obligation to pay for services a hospital delivers to a patient beyond recommended discharge date
- Funding is decreased between FY04 and FY05

### **Program Effects**

- Contains costs on an annual basis
- 24-hour registration assists Department to determine costs at time they are incurred and thus allow for fiscal management
- Limit State responsibility to funds appropriated by legislature

### **Cost Progression 2000-2005**

FY00	\$	1,901,480	
FY01		2,055,420	
FY02		2,284,930	
FY03		3,384,430	
FY 04 Budget		3,096,800	
FY 05 Budget		1,901,480	Strategies being explored to expand federal participation via Disproportionate Share (DSH)

### **Cost Saving Strategies**

- Update transportation polices and procedures
  - Ambulances

### **DET Sites**

- Fairbanks
- Juneau

### **Other Sites**

Palmer, Ketchikan, Cordova, Homer, Valdez, Sitka,  
Bethel, Kodiak

### **Cost Comparisons between API and DET/S Facilities**

- API daily rate 757.46
- Fairbanks 1,646.91
- Bartlett 1,636.04
- Ketchikan 1,800.68
- Mt. Edgecombe 2,049.00
- Bethel 2,049.00

### Explanation for Cost Increases over years

100% of Hospital cost increases between 01 and 03

27% of Hospital increases in average daily Medicaid between 01 and 03

27% of Hospital increases in total beds used between 01 and 03

### Management of Costs

Costs within existing budget – if retrospective reviews are changed from DBH staff to First Health the cost would be about \$31,800/year based on a current charge of \$111.44/review X 275 reviews (average # of admissions / last 3 years).

If we add an early review at 8<sup>th</sup> day of admission (transitioning from evaluation to treatment) we can also add discussion about eligibility and discharge planning, the cost would increase by \$7,000 based on 63 admissions over 8 days in FY03. The total First Health review costs would be about \$40,000/year.

# STATE OF ALASKA

## DEPT. OF HEALTH AND SOCIAL SERVICES

OFFICE OF THE COMMISSIONER

FRANK H. MURKOWSKI, GOVERNOR

P.O. BOX 110601  
JUNEAU, ALASKA 99811-0601  
PHONE: (907) 465-3030  
FAX: (907) 465-3068

April 8, 2004

Honorable Gary Wilken, Co-Chair  
Senate Finance Committee  
Alaska State Capitol; Rm. 518  
Juneau, AK 99801-1182

Dear Senator Wilken,

The Department of Health and Social Services respectfully requests a hearing in the Senate Finance Committee on Senate Bill 364 "An Act relating to liability for expenses of placement in certain mental health facilities; relating to the mental health treatment assistance program; and providing for an effective date."

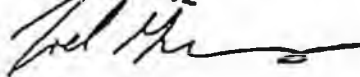
The purpose of this bill is to provide the department with additional tools to contain costs in the Designated Evaluation and Treatment (DET) program. The bill will require hospitals that participate in this program to provide the department with more timely information on persons receiving services, thereby allowing the department to better control total program costs over the course of the year. The bill also makes it clear that the State's obligation to pay for these services is limited to the amount appropriated by the legislature for this purpose.

The Senate Health, Education, and Social Services Committee heard SB 364 and recommends that it be replaced with a Senate (HES) committee substitute. The Department of Health and Social Services supports the committee substitute.

The Governor's transmittal letter and fiscal note relating to SB 364 are on file with the committee. A brief history of the DET program is attached.

Your favorable consideration of this request will be appreciated.

Sincerely,



Joel Gilbertson  
Commissioner

### Attachment

cc: Senate Lyda Green, Co-Chair  
Senate Finance Committee  
Mike Tibbles, Director, Legislative Office  
Office of the Governor  
Bill Hogan, Director, Division of Behavioral Health

**ATTACHMENT**  
**Designated Evaluation and Treatment Program**

Beginning in the late 1970s, the Designated Evaluation and Treatment Program provided funding on a fee-for-service basis to local community hospitals and specialty hospitals. This funding covered psychiatric inpatient care to certain persons, enabling them to receive care close to home and family. The population initially served by the program was anyone who did not have the means to pay the bill for hospital and related services. The budget, while limited, enabled the program to compensate hospitals for psychiatric inpatient care provided to "indigent" persons, without any further restrictions.

Growth in the program and increases in hospital rates pushed program costs beyond the available budget, and the first restriction was imposed. The program policy was changed to provide payment only for persons who were under civil commitment. A task force, appointed to resolve payment issues, recommended that the hospitals be paid at the Medicaid rate.

The Designated Evaluation and Treatment Program has become a vital part of the necessary array of community services that must be in place before the Alaska Psychiatric Institute can assume its role as the tertiary care facility for Alaska. It provides acute hospital psychiatric care treatment close to ones home community and support network.

In 1998, the federal government made funds available to assist low-income individuals in paying for evaluation and treatment services in designated mental health facilities. The funding was available through FY 01. During the 21<sup>st</sup> session of the Alaska State Legislature, Senate Bill 97 became law. It created the Mental Health Treatment Assistance Program (AS 47.31.005 – 47.31.100) and directed the department to adopt regulations to implement the program (after consulting with the Alaska Mental Health Trust Authority).

SB 364

FRANK H. MURKOWSKI  
GOVERNOR

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March 5, 2004

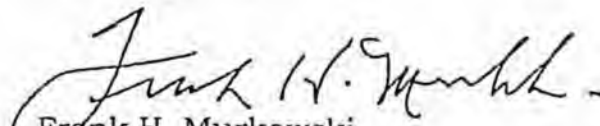
The Honorable Gene Therriault  
President of the Senate  
Alaska State Legislature  
State Capitol, Room 111  
Juneau, AK 99801-1182

Dear President Therriault:

Under the authority of article III, section 18, of the Alaska Constitution, I am transmitting a bill related to the mental health treatment assistance program. The bill would give the Department of Health and Social Services additional tools to control costs. Costs would be controlled by limiting financial assistance to persons meeting the eligibility criteria after registration. Registration would require contacting the department in a timely manner and supplying information on medical and financial need. The department would also gain some flexibility to reduce rates when there is a shortfall of funds.

I urge your support of this important bill.

Sincerely yours,

  
Frank H. Murkowski  
Governor

Enclosure

**SENATE COMMITTEE REPORT**  
**First Committee of Referral**

DATE: 3/8/04

FURTHER: Finance

Date of 5-Day Notice: 3/11/04  
(in accordance with Uniform Rule 23)

DATE TURNED IN TO OFFICE: 4.5.04

Health, Education and Social Services Committee considered

SENATE BILL NO. 364

**SB 364 LIMIT STATE AID FOR MENTAL HEALTH CARE**

"An Act relating to liability for expenses of placement in certain mental health facilities; relating to the mental health treatment assistance program; and providing for an effective date."

and recommends:

be replaced with \_\_\_\_\_ CS SB 364 (HES)

adopt previous \_\_\_\_\_ CS \_\_\_\_\_ (\_\_\_\_\_)

attached amendment(s)

adopt Letter of Intent by H.E.S.S. Committee

further referral to \_\_\_\_\_ Committee

**Senate Bill:**

- Same Title  
 New Title

**House Bill:**

- Same Title  
 Technical Title Change  
 New Title w/ SCR # \_\_\_\_\_

**NEW FISCAL NOTE(S):**

Department	Date	Fiscal	Indet.	Zero	FN#
					2

**PREVIOUS FISCAL NOTE(S):**

Department	Date	Fiscal	Indet.	Zero	FN#
HSS	2/05	✓			1

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:		Do PASS	Do NOT PASS	No REC	AMEND
Guss	<i>[Signature]</i>				✓
Green	<i>[Signature]</i>	✓			
Wilken	<i>[Signature]</i>	✓			
Cavis	<i>[Signature]</i>		X		
Dyson	CHAIR: <i>[Signature]</i>	✓			

SENATE FINANCE COMMITTEE

SIGN-IN

SB 364-LIMIT STATE AID FOR MENTAL HEALTH CARE

NAME: Bill Hogan Subject/Bill No: 364  
Co./Dept./Title: Director Division of Behavioral Health Phone: 465-3166  
Address: \_\_\_\_\_ Zip: \_\_\_\_\_  
Do you wish to testify?  Yes  No  Respond To Questions

NAME: \_\_\_\_\_ Subject/Bill No: \_\_\_\_\_  
Co./Dept./Title: \_\_\_\_\_ Phone: \_\_\_\_\_  
Address: \_\_\_\_\_ Zip: \_\_\_\_\_  
Do you wish to testify?  Yes  No  Respond To Questions

NAME: \_\_\_\_\_ Subject/Bill No: \_\_\_\_\_  
Co./Dept./Title: \_\_\_\_\_ Phone: \_\_\_\_\_  
Address: \_\_\_\_\_ Zip: \_\_\_\_\_  
Do you wish to testify?  Yes  No  Respond To Questions

NAME: \_\_\_\_\_ Subject/Bill No: \_\_\_\_\_  
Co./Dept./Title: \_\_\_\_\_ Phone: \_\_\_\_\_  
Address: \_\_\_\_\_ Zip: \_\_\_\_\_  
Do you wish to testify?  Yes  No  Respond To Questions

SENATE FINANCE COMMITTEE

SIGN-IN

SB 364-LIMIT STATE AID FOR MENTAL HEALTH CARE

NAME: Bill Hogan Subject/Bill No: 364  
Co./Dept./Title: DIRECTOR DIV. of Behavioral Health Phone: 465-3370  
Address: \_\_\_\_\_ Zip: \_\_\_\_\_

Do you wish to testify?  Yes  No  Respond To Questions

NAME: VERNON STILLNER Subject/Bill No: \_\_\_\_\_  
Co./Dept./Title: AK PSYCHIATRIC ASSN. Phone: 586 8498  
Address: JUNEAU Zip: 99821

Do you wish to testify?  Yes  No  Respond To Questions

NAME: \_\_\_\_\_ Subject/Bill No: \_\_\_\_\_  
Co./Dept./Title: \_\_\_\_\_ Phone: \_\_\_\_\_  
Address: \_\_\_\_\_ Zip: \_\_\_\_\_

Do you wish to testify?  Yes  No  Respond To Questions

NAME: \_\_\_\_\_ Subject/Bill No: \_\_\_\_\_  
Co./Dept./Title: \_\_\_\_\_ Phone: \_\_\_\_\_  
Address: \_\_\_\_\_ Zip: \_\_\_\_\_

Do you wish to testify?  Yes  No  Respond To Questions







**SB**

**365**

**HFIN**

**FILE**



# FISCAL NOTE

STATE OF ALASKA  
2004 LEGISLATIVE SESSION

Fiscal Note Number: 1  
Bill Version: SB 365  
(S) Publish Date: 4/2/04

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: DCED  
Title Speech-Language RDU Occupational Licensing (117)  
Pathologist Assistants Component Occupational Licensing  
Sponsor Senate Labor and Commerce  
Requester Senate Labor and Commerce Component No. 2360

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

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services	0.8	0.8	0.8	0.8	0.8	0.8
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.8</b>	<b>0.8</b>	<b>0.8</b>	<b>0.8</b>	<b>0.8</b>	<b>0.8</b>

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ( 1156 )	0.8	0.8	0.8	0.8	0.8	0.8
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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 1156 - Receipt Supported Services	0.8	0.8	0.8	0.8	0.8	0.8
<b>TOTAL</b>	<b>0.8</b>	<b>0.8</b>	<b>0.8</b>	<b>0.8</b>	<b>0.8</b>	<b>0.8</b>

Estimate of any current year (FY2004) cost: 0.0  
Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

SB 365 creates registration for Speech-Language Pathologist Assistants. Currently there are 121 licensed Speech-Language Pathologists. Based on similar programs that register assistants, this fiscal note assumes that at least 10% of the current licensee number will register to become an Assistant (at least 12 registrants). The expenditure shown above is based on 10% of the FY03 Speech-Language Pathologist costs. Speech-Language Pathologist Assistants will be expected to cover these costs through registration fees.

Based on biennial costs of \$1.6, registrants can expect to pay a biennial registration fee of approximately \$133.00.

Prepared by: Jennifer Strickler, Administrative Manager Phone (907) 465-2144  
Division Occupational Licensing Date/Time 3/23/04 3:10 PM  
Approved by: Edgar Blatchford, Commissioner Date 3/23/2004  
Agency Department of Community and Economic Development

Adopted no obj  
5.5.04

**AMENDMENT**

BY: \_\_\_\_\_

TO: CS SB 365 (FIN)

DELETE all language on page 4, lines 25-27

# Alaska State Legislature



*DURING SESSION*  
STATE CAPITOL  
JUNEAU, AK 99801-1182  
(907) 465-4843 (800) 892-4843  
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*WEB SITE*  
[www.akrepublicans.org/Bunde](http://www.akrepublicans.org/Bunde)

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*E-MAIL*  
[Senator.Con.Bunde@legis.state.ak.us](mailto:Senator.Con.Bunde@legis.state.ak.us)

## SENATOR CON BUNDE

District P

VICE-CHAIR: SENATE FINANCE COMMITTEE  
CHAIR: SENATE LABOR & COMMERCE COMMITTEE  
MEMBER: LEGISLATIVE BUDGET & AUDIT COMMITTEE

### Sponsor Statement SB365 Speech-Language Pathology Assistants

SB365 establishes registration of speech-language pathology assistants through the department of occupational licensing regardless of employment setting. Currently, speech-language pathology assistants (SLPA), in Alaska, are not licensed or regulated like the similar professions of physical and occupational therapy assistants. SB365 outlines the qualifications and training required to be an SLPA, their scope of practice, supervision and continuing education requirements.

Due to shortages in the number of qualified speech-language pathologists, many Alaskans are not receiving the consistency and appropriate amount of services they require. An SLPA will be able to assist the speech-language pathologists in clerical duties, charting progress, developing materials and assisting in other therapy services within their scope of practice. SLPAs will not be allowed to work independently of a speech-language pathologist or be given the sole responsibility of their own case/workload. SLPAs will be under the direction and supervision of a qualified and licensed Speech-Language Pathologist.

It is not the intent of SB365 to hire an SLPA in lieu of a qualified speech-language pathologist. SLPAs are to enhance the services provided.

All regions of Alaska will benefit from the use SLPAs. SLPAs will be able to enhance services in schools, private clinics, the underserved rural/remote areas, and in hospital settings. Having an assistant will allow the speech-language pathologist additional time to assess an individual's progress, write treatment plans, confer with medical and other professionals, attend meetings and complete other administrative duties as required. The recipients of speech-language pathology services will benefit the most, as they will have consistent services from appropriately trained individuals, which will decrease the length of treatment and thereby decreasing costs. Since many recipients of speech-language services receive assistance through Medicaid/Medicare, that cost savings is then passed on to the citizens of Alaska.

# LEGAL SERVICES

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

(907) 465-3867 or 465-2450  
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State Capitol  
Juneau, Alaska 99801-1182  
Deliveries to: 129 6th St., Rm. 329

## MEMORANDUM

March 31, 2004

**SUBJECT:** Speech- Language Pathologist Assistants SB 365  
(Work Order No. 23-LS0504\H)

**TO:** Senator Con Bunde  
Attn: Jane Alberts

**FROM:** Jean M. Mischel  
Legislative Counsel



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

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

**Section 1.** Authorizes a temporary speech-language pathology license for persons who are in the process of completing supervised clinical experience.

**Section 2.** Adds reference to registration of speech-language pathologist assistants to lapsed license provision.

**Section 3.** Adds reference to registration of speech-language pathologist assistants to suspended license provision.

**Section 4.** Adds new sections pertaining to the activities, qualifications, and supervision of registered speech-language pathologist assistants. Authorizes the Department of Community of Economic Development to regulate speech-language pathologist assistants.

**Section 5.** Adds speech-language pathologist assistant registration application and renewal to list of fees that must be set by the Department of Community and Economic Development.

**Section 6.** Adds a new section relating to grounds for imposition, after a hearing, of disciplinary sanctions on a speech-language pathologist assistant.

**Section 7.** Adds references to speech-language pathologist assistants for purposes of imposition of disciplinary sanctions by the Department of Community and Economic

Senator Con Bunde  
March 31, 2004  
Page 2

Development.

Section 8. Adds a reference to speech-language pathologist assistant registrants to summary suspension provision.

Section 9. Adds a reference to speech-language pathologist assistant registrants to reinstatement provision.

Section 10. Adds a reference to speech-language pathologist assistant registrants to provision allowing for reinstatement after revocation of a registration in certain circumstances.

Section 11. Adds a new subsection authorizing the Department of Community and Economic Development to place a registered speech-language pathologist on probation in certain circumstances.

Section 12. Defines different types of "supervision" and defines "screening" as used in this Act.

Section 13. Establishes a July 1, 2004 effective date for the Act.

JMM:med  
04-345.med

## Changes made to SB 365

The four changes that were made in Senate Finance to SB 365 were technical language changes throughout the bill that clarified that SPLAs should not conduct feeding and swallowing *screenings*.

We made the following changes to SB 365 (CS Version Q) in order to have all sections of the bill be in conformance with ASHA (American Speech Language Hearing Association) preferred practice patterns for speech-language pathology. It was recommended by Ms. Susan Pilch, Director, State Legislative and Regulatory Advocacy, ASHA, that the following changes be made to this bill to make it even stronger. Ms. Pilch reminded us that while SLPAs may perform feeding and swallowing treatment under the supervision of a certified Speech-Language Pathologist, they may not conduct feeding and swallowing screenings.

In order to have these specific changes be clear throughout all sections of SB 365, the following were necessary so that our intent to prohibit feeding and swallowing screenings by SLPAs would be achieved.

Sec. 08.11.042 (b) **page 2, line 26** "direct screening" was deleted.

Sec. 08.11.042 (c) **page 2, line 31** "new" was deleted from the former phrase "new screening."

Sec. 08.11.042 (e) **page 4, line 9** deals with what registered SLPAs are not permitted to do, that the following be added, "perform screening of feeding or swallowing functions."

Sec. 08.11.200 (11) **page 10, line 12** clarifies the definition of screening.

The new amended version reads,

"screening" means a procedure in which a client is identified by either "pass" or "fail" for purposes of necessitating further evaluation of speech, language or hearing.

## Fast Facts for SB365

SLP= Licensed/Certified Speech-Language Pathologist

SLPA= Speech –Language Pathology Assistant

### Concerns:

#### **Currently Alaska does not have standards/regulations for SLP Assistants.**

- Many school districts have special education aides assigned to SLPs. Aides have high school degrees, no training in speech –language specific techniques/therapies. There are not any supervision standards established or continuing education requirements. A scope of practice is not outlined and there are concerns with liability of untrained personnel providing medically related treatments (voice therapy, swallowing and feeding) and following established and proven service practices.
- With shortages of SLPs, specifically in rural areas, services cannot be provided as frequently as required.
- SLPs frequently are in a community a few days a month and need appropriately trained assistants to help provided needed services.
- Without regulations- the SLP workload increases because they have to train the new employee instead of working with clients or completing required paperwork/ billing. Hiring an appropriately trained SLPA will save time and money for the employers.
- With regulations for SLPAs, employers will be able to bill third parties and be paid for services provided.
- Regulations will prevent someone with a 2- year assistant's degree from working as an independent contractor/provider.
- **The 2-year degree requirement for SLPAs is aligned with the Federal regulations of No Child Left Behind.**

1) **31 states currently regulate SLPAs and 22 of those states have regulations similar to what is outlined in SB365** (including supervision, continuing education and initial training and practical experience). This ensures that speech-language pathology assistants in Alaska will be comparable to assistants in other states.

2) **Approximately 210 ASHA certified SLPs in AK.**

Of this, 121 SLPs are licensed through State of AK- occupational licensing to work in private practice, hospitals, or other non-school settings. SLPs are not required to hold ASHA certification to work for a school district- but they must have a Master's degree.

3) **Number of SLPs in schools not currently available:**

**A request has been made to DEED: Difficulty in obtaining information is due to:** SLPs can be certified with Type A (reg ed certificate w/ endorsement in SLP) or Type C (special services-SLP) Certification from DEED is not standardized for job title: Speech Language Pathology, Speech therapist, Communication Disorders Specialist, Speech/Hearing Sciences

4) **Approximate number of SLPs in larger school districts: ASD- 70. Juneau 9, Mat-Su 24, FBKS 20 and Kenai (central peninsula area) 20**

5) **Approximate number of non-regulated paraprofessionals working with SLPs in schools:** Anchorage 11, Kenai (central peninsula area) 2, Mat-Su SD 4, Juneau 1, Fbks 20

6) **SLPA program- Distance Delivery program through Prince William Sound Community College- in cooperation with UAA.** Has been in existence for 3 years. 10 graduates to date. Approximately 20 students enrolled in the SLPA program. 2/3 of current students are from rural areas. Several have indicated wanting to continue on to a BA or MA degree. Some students already have BA degrees and are going through the program to update their skills and get the needed practical experience to be an SLPA.

THE  
FOLLOWING  
DOCUMENT(S)  
ARE  
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AMERICAN  
SPEECH-LANGUAGE-  
HEARING  
ASSOCIATION

March 31, 2004

Alaska Speech-Language Hearing Association  
Nancy Lovering, President  
4325 Laurel Street- Suite 100  
Anchorage, AK 99508

Dear Ms. Lovering:

The American Speech-Language-Hearing Association (ASHA) would like to formally express our support for Alaska S.B. 365. ASHA is the professional, credentialing and scientific organization that represents more than 114,000 audiologists; speech-language pathologists; and speech, language and hearing scientists nationwide.

We have examined the text of S.B. 365 and would like to focus our comments on the topic of speech-language pathology assistants. S.B. 365 is well written, comprehensive and generally consistent with ASHA policy and guidelines on the use of speech-language pathology support personnel. The bill does an excellent job of clearly delineating the tasks that are allowed and prohibited to be performed by speech-language pathology assistants.

With the passage of this legislation, Alaska would be joining 31 other states that currently regulate the use of speech-language pathology support personnel. Of these 31 states, 22 states regulate through registration, similar to the proposed Alaska bill. In addition, the sections of S.B. 365 that pertain to education/experience required, title, continuing education and supervision all fall within the spectrum of other state requirements ensuring that speech-language pathology assistants in Alaska would be comparable to assistants in other states.

We feel that the bill could be made even stronger by making some minor changes and we have detailed suggested amendment language for you in the attached e-mail. If you have any questions or concerns, please contact me at [spilch@asha.org](mailto:spilch@asha.org) or at (301) 897-5700, ext. 4284.

Sincerely,

Susan Pilch

Director, State Legislative and Regulatory Advocacy

1. Under Section 08.11.042(b) we recommend that you strike the words "direct screening." This would bring the section into conformance with the ASHA preferred practice patterns for speech-language pathology that provide that while assistants may perform feeding and swallowing treatment, they may not conduct feeding and swallowing screening.
2. Under Section 08.11.045(3)(d) we would recommend that you specify that a "full-time" speech-language pathologist may not supervise more than two individuals. You may also wish to add a sentence that specifies that a "part-time speech-language pathology assistant may not supervise more than one assistant."
3. In addition, we would recommend that you include a statement similar to "A speech-language pathology assistant may not be assigned his or her own caseload" and "a school district that intends to utilize the services of a speech-language pathology assistant must provide written notification to the parent or guardian of each student served by a speech-language pathology assistant." All of the recommendations listed in this paragraph and the one prior are provisions that have been included in various state statutes and regulations pertaining to support personnel.



Senator Con Bunde  
State Capitol  
Juneau, AK 99801-1182

Senator Bunde;

I am writing in support of SB 365 and encourage your support. This bill will assist in the regulation of speech-language pathology assistants working with Alaskan children and adults with communication impairments. Nationwide there is a shortage of certified speech-language pathologists and in Alaska there is also such a shortage. Many of our remote areas rely on instructional assistants to implement services when the speech-language pathologist cannot be there. Additionally, speech-language pathologists in other work settings (i.e. hospitals, urban schools, clinics) are finding the need for qualified service delivery personnel to assist in implementing services.

Speech-language pathology assistants would be highly trained in their field with an AA or BA degree and a minimum of 100 hours supervised clinical practicum by a certified speech-language pathologist. In addition, these qualifications will satisfy the requirements for No Child Left Behind. The importance of trained speech-language pathology assistants cannot be ignored. The consistency and quality of services to people in need would be greatly enhanced.

Thank you for your consideration.

A handwritten signature in cursive script that reads "Nancy C. Lovering". The signature is written in black ink and is positioned above the typed name.

Nancy C. Lovering  
President- Alaska Speech and Hearing Association  
4325 Laurel St., Suite 100  
Anchorage, AK 99508  
907-562-8262

**Cara Leckwold, M.A. CCC-SLP**  
**4325 Laurel St. #100**  
**Anchorage, AK, 99508**  
**(907)561-8775**

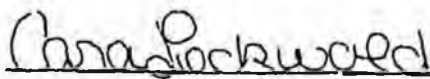
Senator Con Bunde  
Staten Capitol  
Juneau, AK 99801-1182

Dear Senator Bunde:

I am writing in support of SB 365 and to encourage your support. This bill will assist in the regulation of speech-language assistants working with children and adults with communication impairments. As I am sure you are aware, there is a national shortage of certified speech-language pathologists, and this has had a tremendous impact on the availability of services to people in Alaska with speech and language disorders. As a result of this shortage, many of our remote and undeserved areas must rely on assistants to implement services when a certified speech-language pathologist is not available.

Speech-language pathology assistants would be required to be highly trained in their field, have an Associate or Bachelor degree, and a minimum of 100 hours of clinical practicum supervised by a certified speech-language pathologist. These requirements of qualification would satisfy the requirements for the No Child Left Behind Act. The importance of having trained speech-language assistants cannot be ignored. The consistency and quality of services to people with communication disorders would be greatly enhanced by the implementation of this bill.

Thank you for your consideration.



Cara Leckwold, M.A. CCC SLP  
Speech Language Pathologist  
ASHA #: 01083614  
AK Lic. # 10



## Southwest Region School District

P.O. Box 90  
574 Kenny Wren Road  
Dillingham, AK 99576

(907) 842-5287 • Phone  
(907) 842-5428 • Fax

To Whom It May Concern:

I am writing in support of the bill that will create regulations for SLP Assistants. As a rural speech pathologist serving nine villages, I have to rely on instructional assistants and special education teachers to deliver services when I'm not in the village. I can only visit my villages twice a month so that leaves a significant amount of time that these people are delivering services for me. Even though I have given them training, it is not the same as having someone who has graduated from a college program specifically designed for the purpose of delivering speech/language services. These assistants will be highly qualified which will satisfy the NCLB requirements.

Having a SLP Assistant deliver services under my supervision will allow me the time I don't have now to consult with teachers, medical personnel and others as well as give me the opportunity to train staff, attend meetings and complete the mountain of paperwork I have. The quality and consistency of services provided to my students will be greatly improved. Although the assistants will be highly qualified, they still need guidelines to work within. This bill will provide that.

*Aleknagik*

*Clark's Point*

*Ekwok*

*Koliganek*

*Manokotak*

*New Stuyahok*

*Portage Creek*

*Togiak*

*Twin Hills*

Sincerely,

Tina Clumpner M.S., CCC-SLP  
Speech-Language Pathologist  
Southwest Region Schools

**Subject: SLP Assistants**

**Date:** Mon, 29 Mar 2004 13:46:13 -0900

**From:** "mary@ptialaska.net" <marylang@ptialaska.net>

**To:** <Jane\_Alberts@legis.state.ak.us>

**CC:** <campbell@alaska.net>

I would like to encourage the passing of SB 365 " An Act relating to the regulation of speech-language pathology assistants; and providing for an effective date." Certified, licensed Speech/Language Pathologists are in short supply in Alaska. Programs have been in effect to educate Assistants in field appropriately to work under the supervision of licensed personnel. Their scope of practice is limited to skills developed during the acquisition of the AA or the BA. They would enhance the services available at present, offered through the SLP. Having these personnel available will allow the SLP time to consult with medical personnel and other service providers, attend meetings, evaluate, and complete other administrative duties as required. There are a number of these people available in the state at present, having gone through the AA program through Prince William Sound. Implementing them will be a tremendous help to both private therapists and school personnel increasing the frequency of service throughout the system.

Mary J. Toutonghi, MS, CCC-SLP-L



Alaska  
Speech &  
Language  
Depot INC.

1731 S. Dragaw St., Anchorage, AK 99508

Phone (907) 522-0078

Fax (907) 279-0331

WWW.alaskaspeech.com

March 29, 2004

**SB365** "An act relating to the regulation of speech-language pathology assistants; and providing for an effective date."

This letter is in support of SB365. Please consider the following points:

The State of Alaska currently has a shortage of certified Speech-Language Pathologists, in all work settings. Presently, there are students participating in long-distance education programs to obtain their master's degree in this field, to help alleviate this shortage. Alaska does not have a degree program for Speech-Language Pathology so residents have to choose whether to reside in Alaska and participate in a distance-learning program or spend their education dollars outside. SB365 will allow these students to complete their supervised practicum and Clinical Fellowship, which are required for certification from the American Speech-Language Hearing Association and to be licensed in Alaska. Without SB365 these students would have an extremely difficult time fulfilling the requirements for their degrees while residing in Alaska.

SB365 will allow for qualified and appropriately trained assistants in the field of Speech-Language Pathology. These assistants will enhance the services currently provided in Alaska. Each assistant will be supervised by a certified & licensed Speech-Language Pathologist.

Alaska needs SB365 to be passed. Please support this bill.

Sincerely,

Cheryl Campbell, M.A., CCC  
Speech-Language Pathologist / President

**Subject:** SB365

**Date:** Fri, 26 Mar 2004 16:10:22 -0900

**From:** Bruce & Nancy Steely <bnsteely@gci.net>

**To:** Jane\_alberts@legis.state.ak.us

**CC:** campbell@alaska.net

I am writing in support of SB365. I am a practicing Speech/Language Pathologist in the Anchorage School District and have been employed in this field for over 20 years. I have seen many changes over the years, notably the extreme shortage of qualified ("highly qualified" as we now call them) Speech/Language Pathologists. I currently serve two elementary schools. I have, over the years, required the very able assistance of "speech assistants". My total caseload, this year, is such that I am again using an assistant. I am fortunate to have a person who is working on her SLPA degree. The level of professionalism and knowledge she brings to the job is superior and provides my students with the necessary follow-through of the therapy plan.

ANNE VER HOEF MA, CCC-SLP

Speech - Language Pathologist

5820 Yukon Road  
Anchorage, Alaska 99507  
(907) 345-4422  
Fax (907) 345-4422

**LETTER IN SUPPORT OF  
SB365**

**An Act related to regulation of speech-language pathology assistants; and providing  
an effective date**

Dear Legislators:

This letter is in support of passing SB365 and the counterpart to be sent to the House regarding the regulation of speech-language pathology assistants and speech-language pathologists in their Clinical Fellowship Year (CFY).

Speech-language pathologists in their CFY have completed their Master's Degree in Speech-Language Pathology and all requirements by our national certifying agency, ASHA, with the exception of the Clinical Fellowship Year (CFY). During this 9-12 month period, the CFY candidate may be working as a Speech-Language Pathologist in various settings but is still supervised (more of a mentoring) by a certified and licensed SLP. SB365 would allow a SLP-CFY to obtain a temporary license, which is only appropriate for the scope of work the person is doing. They are providing professional services and this will help to clarify their status with various employment sites and reimbursement entities.

With regard to speech-language pathology assistants (SPL-A), SB365 will clarify the scope of practice, qualified personnel and increase the quality of services provided to Alaskans with impairments of communication, cognition and swallowing. The services provided by a SPL-A are under the direct guidance and supervision of a qualified speech-language pathologist and may occur in such varied settings as schools, hospitals, long-term care facilities and in the home. There is a critical shortage of service providers in a state with the geographical challenges of Alaska; but even in Anchorage certified speech-language pathologists are unable to cover the needs of those requesting and requiring services. This bill will help to ensure that qualified assistants may provide supportive services and Alaskan will benefit from obtaining medically necessary or educationally mandated services.

Thank you for your time and consideration in this matter.



Anne Ver Hoef, M.A., CCC-L-SLP  
Speech-Language Pathologist, Certified, Licensed



Alaska  
Speech &  
Language  
Depot INC.

1731 S. Bragaw St., Anchorage, AK 99508

Phone (907) 522-0078

Fax (907) 279-0331

www.alaskaspeech.com

April 9, 2004

SB365 "An act relating to the regulation of speech-language pathology assistants; and providing for an effective date."

This letter is in support of SB365. This bill will be heard in Senate Finance on Friday, April 16. Please consider the following points:

The State of Alaska currently has a shortage of certified Speech-Language Pathologists, in all work settings. Presently, there are students participating in long-distance education programs to obtain their master's degree in this field, to help alleviate this shortage. Alaska does not have a degree program for Speech-Language Pathology so residents have to choose whether to reside in Alaska and participate in a distance-learning program or spend their education dollars Outside. SB365 will allow these students to complete their supervised practicum and Clinical Fellowship, which are required for certification from the American Speech-Language Hearing Association and to be licensed in Alaska. Without SB365 these students would have an extremely difficult time fulfilling the requirements for their degrees while residing in Alaska.

SB365 will allow for qualified and appropriately trained assistants in the field of Speech-Language Pathology. These assistants will enhance the services currently provided in Alaska. Each assistant will be supervised by a certified & licensed Speech-Language Pathologist.

Alaska needs SB365 to be passed. Please support this bill.

Sincerely,

Cheryl Campbell, M.A., CCC  
Speech-Language Pathologist / President

**SB**

**365**

SFIN

FILE

# SENATE FINANCE COMMITTEE REPORT

REPORTED OUT

APR 16 2004

SENATE FINANCE  
COMMITTEE

DATE: 04/02/04

FURTHER:

DATE TURNED  
IN TO OFFICE: 16 April 2004

Finance Committee considered

SENATE BILL NO. 365

## SB 365 SPEECH-LANGUAGE PATHOLOGIST ASSISTANTS

"An Act relating to the regulation of speech-language pathologist assistants; and providing for an effective date."

and recommends:

- be replaced with \_\_\_\_\_ CS SB 365 ( FIN )
- adopt previous \_\_\_\_\_ CS CS forthcoming ( \_\_\_\_\_ )
- attached amendment(s)
- adopt Letter of Intent by \_\_\_\_\_ Committee
- further referral to \_\_\_\_\_ Committee

**Senate Bill:**  
 Same Title  
 New Title

**House Bill:**  
 Same Title  
 Technical Title Change  
 New Title w/ SCR # \_\_\_\_\_

**NEW FISCAL NOTE(S):**

Department	Date	Fiscal	Indet.	Zero.	FN#

**PREVIOUS FISCAL NOTE(S):**

Department	Date	Fiscal	Indet.	Zero	FN#
Revenue	<u>3/23/04</u>	<u>60.0</u>			<u>#2</u>
DCED	<u>3/23/04</u>	<u>0.8</u>			<u>#1</u>

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
<u>[Signature]</u>			<input checked="" type="checkbox"/>	
<u>[Signature]</u>	<input checked="" type="checkbox"/>			
<u>[Signature]</u>	<input checked="" type="checkbox"/>			
<u>[Signature]</u>	<input checked="" type="checkbox"/>			
COCHAIR:				
COCHAIR:				

APR 16 2004

SENATE FINANCE  
COMMITTEE

# FISCAL NOTE

STATE OF ALASKA  
2004 LEGISLATIVE SESSION

Fiscal Note Number: 1  
Bill Version: SB 365  
(S) Publish Date: 4/2/04

Revision Date/Time (Note if correction):  
Title Speech-Language Pathologist Assistants  
Sponsor Senate Labor and Commerce  
Requester Senate Labor and Commerce  
Dept Affected: DCED  
RDU Occupational Licensing (117)  
Component Occupational Licensing  
Component No. 2360

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

Note: Amounts do not include inflation unless otherwise noted below.

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<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES (1156)</b>	<b>0.8</b>	<b>0.8</b>	<b>0.8</b>	<b>0.8</b>	<b>0.8</b>	<b>0.8</b>
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
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1037 GF/Mental Health						
Other 1156 - Receipt Supported Services	0.8	0.8	0.8	0.8	0.8	0.8
<b>TOTAL</b>	<b>0.8</b>	<b>0.8</b>	<b>0.8</b>	<b>0.8</b>	<b>0.8</b>	<b>0.8</b>

Estimate of any current year (FY2004) cost: 0.0  
Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

SB 365 creates registration for Speech-Language Pathologist Assistants. Currently there are 121 licensed Speech-Language Pathologists. Based on similar programs that register assistants, this fiscal note assumes that at least 10% of the current licensee number will register to become an Assistant (at least 12 registrants). The expenditure shown above is based on 10% of the FY03 Speech-Language Pathologist costs. Speech-Language Pathologist Assistants will be expected to cover these costs through registration fees.

Based on biennial costs of \$1.6, registrants can expect to pay a biennial registration fee of approximately \$133.00.

Prepared by: Jennifer Strickler, Administrative Manager Phone (907) 465-2144  
Division Occupational Licensing Date/Time 3/23/04 3:10 PM  
Approved by: Edgar Blatchford, Commissioner Date 3/23/2004  
Agency Department of Community and Economic Development

23-LS0540\Q  
Mischel  
4/8/04

CS FOR SENATE BILL NO. 365( )  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
TWENTY-THIRD LEGISLATURE - SECOND SESSION

BY

Offered:  
Referred:

Sponsor(s): SENATE LABOR AND COMMERCE COMMITTEE

A BILL  
FOR AN ACT ENTITLED

1 "An Act relating to the regulation of speech-language pathologist assistants; and  
2 providing for an effective date."

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

4 \* Section 1. AS 08.11.025(b) is amended to read:

5 (b) Subject to (c) and (d) of this section, the department may issue a temporary  
6 license to the following:

7 (1) a nonresident for the practice of speech-language pathology as a  
8 speech-language pathologist in the state for 60 days or less in a calendar year, if the  
9 individual is licensed to practice speech-language pathology in another state, territory  
10 of the United States, foreign country, or province that has requirements for a license to  
11 practice speech-language pathology that are substantially equivalent to or higher than  
12 the requirements of AS 08.11.015;

13 (2) a nonresident for the practice of speech-language pathology as a  
14 speech-language pathologist in the state for 60 days or less in a calendar year, if the

1 individual meets the qualifications and requirements for a license under AS 08.11.015  
2 [,] and resides in a state or territory of the United States or a foreign country or  
3 province that does not license individuals to practice speech-language pathology;

4 (3) a person, whether a resident or not, who is in the process of  
5 completing a year of supervised clinical experience required for a certificate of  
6 clinical competence in speech-language pathology from the American Speech-  
7 Language Hearing Association.

8 \* Sec. 2. AS 08.11.030(c) is amended to read:

9 (c) The department may reinstate a lapsed license or registration if the  
10 license or registration has lapsed for less than two years and if the individual submits  
11 to the department an application for renewal and pays a delinquency fee in addition to  
12 the renewal fee.

13 \* Sec. 3. AS 08.11.030(d) is amended to read:

14 (d) A suspended license or registration is subject to expiration and must be  
15 renewed as provided in AS 08.01.100, but the renewal does not entitle the individual  
16 while the license or registration remains suspended to practice audiology, [OR]  
17 speech-language pathology, or as a speech-language pathologist assistant, or to  
18 engage in other activity or conduct that violates the order or judgment that suspended  
19 the license.

20 \* Sec. 4. AS 08.11 is amended by adding new sections to read:

21 **Sec. 08.11.042. Activities of speech-language pathologist assistant.** (a) A  
22 person may not practice as a speech-language pathologist assistant in the state without  
23 registration under this chapter.

24 (b) Except as provided in (c) of this section, a person registered under this  
25 chapter and who is under the immediate supervision of a person licensed as a speech-  
26 language pathologist in the state may perform treatment of a person who is medically  
27 fragile, as determined by the licensed speech-language pathologist, or who otherwise  
28 demonstrates a need for assistance with feeding or swallowing.

29 (c) Except as provided in (b) and (e) of this section, a person registered under  
30 this chapter and who is under the direct supervision of a person licensed as a speech-  
31 language pathologist in the state may perform screening and treatment techniques or

1 activities and assist the speech-language pathologist during assessments, research, in-  
2 service training, and public relations activities.

3 (d) Except as provided in (b), (c), and (e) of this section, a person registered  
4 under this chapter and who is under the indirect supervision of a person licensed as a  
5 speech-language pathologist in the state may

6 (1) perform screening and treatment activities, excluding  
7 interpretation, if the supervising speech-language pathologist has previously given  
8 instruction on the performance of those screening and treatment activities, has  
9 observed the assistant in the performance of those activities, and has determined that  
10 the speech-language pathologist assistant is competent to perform those activities;

11 (2) conduct clerical tasks, including record keeping, documentation of  
12 a person's progress toward meeting established objectives as stated in the treatment  
13 plan or individualized education plan, scheduling, and equipment maintenance;

14 (3) implement a documented treatment plan, individualized education  
15 plan, or protocol developed by the supervising speech-language pathologist;

16 (4) sign treatment notes if the note is reviewed and cosigned by the  
17 supervising speech-language pathologist; and

18 (5) discuss with the client and the client's family members or guardian  
19 behaviors observed by the speech-language pathologist assistant during treatment of  
20 the client when the behaviors are supported by documented objective data.

21 (e) A registered speech-language pathologist assistant may not

22 (1) administer diagnostic assessment tools, perform formal or informal  
23 evaluations, or interpret test or evaluation results;

24 (2) participate in family conferences, on an interdisciplinary team, at a  
25 staff meeting, or at an individualized education plan meeting in which diagnostic  
26 information is interpreted or in which plans for a client's treatment are developed or  
27 reviewed without the presence of a licensed speech-language pathologist;

28 (3) write, develop, or modify a client's treatment plan or individualized  
29 education plan;

30 (4) assist a client without following a documented treatment plan or  
31 individualized education plan that has been prepared by a licensed and adequately

1 trained speech-language pathologist;

2 (5) sign a client record or billing record that does not contain the  
3 signature of a licensed speech-language pathologist;

4 (6) select a person for speech-language pathology services;

5 (7) provide counseling to a client or a client's family or guardian;

6 (8) disclose clinical or confidential information, either orally, in  
7 writing, or by electronic means, to anyone not designated in writing to receive the  
8 communication by a licensed speech-language pathologist; or

9 (9) perform screening of feeding or swallowing functions.

10 **Sec. 08.11.043. Qualifications for speech-language pathologist assistant**  
11 **registration.** (a) The department shall register an individual as a speech-language  
12 pathologist assistant if the individual submits an application on a form approved by the  
13 department, pays the required fee, and

14 (1) submits proof satisfactory to the department that the individual has  
15 successfully completed

16 (A) an associate of applied science degree in disabilities with a  
17 speech-language support emphasis either from the University of Alaska  
18 Anchorage in affiliation with Prince William Sound Community College or  
19 from another approved program; or

20 (B) a bachelor's degree in speech-language pathology from an  
21 accredited institution;

22 (2) submits proof satisfactory to the department that the individual has  
23 successfully completed 100 hours of field work supervised by a licensed speech-  
24 language pathologist; and

25 (3) appears to the department to suffer from no mental illness or  
26 chemical or alcohol dependency that would interfere with the applicant's ability to  
27 perform safely as a speech-language pathologist assistant.

28 (b) Notwithstanding the requirements of (a) of this section, the department  
29 shall register an individual as a speech-language pathologist assistant if the individual  
30 provides proof satisfactory to the department that the individual has been employed in  
31 a position for at least one year preceding July 1, 2004, that includes the practice of

1 speech-language pathologist assistant as set out in AS 08.11.042 and if the individual  
2 (1) submits an application on a form approved by the department;  
3 (2) pays the required fee;  
4 (3) submits proof satisfactory to the department that the individual has  
5 passed a competency-based checklist examination adopted by the department; and  
6 (4) submits a written recommendation from a licensed speech-  
7 language pathologist in support of the application.

8 (c) The department shall maintain a registry of individuals registered under  
9 this section and shall notify an applicant in writing of a decision to approve or deny an  
10 application under this section. An approval is valid for two years, except as provided  
11 under AS 08.11.083.

12 (d) The department shall renew a valid registration issued under this chapter if  
13 the speech-language pathologist assistant submits a timely application on a form  
14 approved by the department accompanied by a sworn statement that the applicant has  
15 available documentation of approved continuing education consisting of 15 clock  
16 hours for the preceding two years. The department shall approve continuing education  
17 if the education is provided at state or regional conferences, workshops, formal in-  
18 service training, independent study programs, or a combination of these, and pertains  
19 to communication disorders.

20 **Sec. 08.11.045. Supervision of speech-language pathologist assistant.** (a)  
21 A speech-language pathologist qualified under (b) of this section shall design and  
22 implement a plan for supervision of a speech-language pathologist assistant that  
23 protects the client and that maintains the highest possible standard of care. The  
24 amount of supervision required in the plan must be documented and must take into  
25 account the experience and skills of the speech-language pathologist assistant, the  
26 client's needs, the service setting, the tasks assigned, and the laws governing the  
27 activities of the speech-language pathologist assistant. A plan for supervision must  
28 provide for direct supervision of the speech-language pathologist assistant for at least  
29 50 percent of the speech-language pathologist assistant services during the first 90  
30 days of employment of the speech-language pathologist assistant and, after the first 90  
31 days of employment, for at least 20 percent of the speech-language pathologist

1 assistant services.

2 (b) A speech-language pathologist is qualified to supervise a speech-language  
3 pathologist assistant only if the speech-language pathologist is familiar with all  
4 applicable laws and

5 (1) is licensed under this chapter; or

6 (2) has a valid Type A or Type C teaching certificate issued under  
7 AS 14.20 with an endorsement in speech-language pathology, speech and hearing  
8 sciences, or communication disorders.

9 (c) A speech-language pathologist qualified under (b) of this section who  
10 agrees to supervise a speech-language pathologist assistant shall

11 (1) monitor and evaluate the services provided and documentation  
12 completed by the speech-language pathologist assistant, including the competency  
13 level for the type of client and service site and compliance with all applicable laws;

14 (2) assist the speech-language pathologist assistant in the development  
15 of a professional development plan that includes at least 15 clock hours of approved  
16 continuing education under AS 08.11.043(d) biennially; and

17 (3) direct the handling of emergencies by the speech-language  
18 pathologist assistant.

19 (d) A speech-language pathologist may not supervise more than two  
20 individuals or carry a higher caseload of clients while supervising a speech-language  
21 pathologist assistant than when the speech-language pathologist was not supervising a  
22 speech-language pathologist assistant.

23 \* Sec. 5. AS 08.11.050 is amended to read:

24 **Sec. 08.11.050. Fees.** The department shall set fees under AS 08.01.065 for  
25 each of the following:

26 (1) application;

27 (2) credential review;

28 (3) audiologist license and speech-language pathologist license;

29 (4) temporary license;

30 (5) renewal of license;

31 (6) delinquency;

1 (7) reinstatement;

2 (8) duplicate license;

3 (9) speech-language pathologist assistant registration application

4 and renewal.

5 \*Sec. 6. AS 08.11 is amended by adding a new section to read:

6 **Sec. 08.11.083. Grounds for imposition of disciplinary sanctions on a**  
7 **speech-language pathologist assistant.** After a hearing, the department may impose  
8 a disciplinary sanction on a registered speech-language pathologist assistant when the  
9 department finds that the registrant

10 (1) secured a registration through deceit, fraud, or intentional  
11 misrepresentation;

12 (2) fraudulently or deceptively used a registration;

13 (3) altered a registration;

14 (4) sold, bartered, or offered to sell or barter a registration;

15 (5) engaged in deceit, fraud, or intentional misrepresentation in the  
16 course of assisting in the practicing of speech-language pathology;

17 (6) advertised speech-language services in a manner that is false,  
18 misleading, or deceptive;

19 (7) has been convicted of a felony or other crime that affects the  
20 person's ability to continue to practice competently and safely, including a crime  
21 involving drugs or alcohol;

22 (8) engaged in unprofessional conduct, in sexual misconduct, or in  
23 lewd or immoral behavior in connection with the delivery of professional services to  
24 clients;

25 (9) continued to practice speech-language pathology after becoming  
26 unfit due to

27 (A) professional incompetence or gross negligence;

28 (B) use of drugs or alcohol in a manner that affects the person's  
29 ability to practice speech-language pathology competently and safely;

30 (C) a physical or mental disability;

31 (10) permitted another person to use the registrant's registration;

1 (11) has been disciplined by an official government body with  
2 jurisdiction over licensure, certification, or registration of a health care or teaching  
3 practice; a certified copy of the final disciplinary action constitutes conclusive  
4 evidence against the person;

5 (12) failed to maintain confidentiality except as otherwise required or  
6 permitted by law;

7 (13) failed to comply with a provision of this chapter or a regulation  
8 adopted under this chapter, or an order of the department.

9 \* Sec. 7. AS 08.11.090(a) is amended to read:

10 (a) When it finds that an audiologist has committed an act listed in  
11 AS 08.11.080, [OR] that a speech-language pathologist has committed an act listed in  
12 AS 08.11.085, or that a speech-language pathologist assistant has committed an  
13 act listed in AS 08.11.083, the department may impose the following sanctions singly  
14 or in combination:

15 (1) permanently revoke a license or registration to practice;

16 (2) suspend a license or registration for a determinate period of time;

17 (3) censure a licensee or registrant;

18 (4) issue a letter of reprimand;

19 (5) place a licensee or registrant on probationary status and require  
20 the licensee or registrant to

21 (A) report regularly to the department on matters involving the  
22 basis of probation;

23 (B) limit practice to those areas prescribed;

24 (C) continue professional education until a satisfactory degree  
25 of skill has been attained in those areas determined by the department to need  
26 improvement;

27 (6) impose limitations or conditions on the practice of a licensee or  
28 registrant.

29 \* Sec. 8. AS 08.11.090(c) is amended to read:

30 (c) The department may summarily suspend a license or registration before  
31 final hearing or during the appeals process if the department finds that the licensee or

1 registrant poses a clear and immediate danger to the public welfare and safety if the  
2 licensee or registrant continues to practice. An individual whose license or  
3 registration is suspended under this subsection is entitled to a hearing by the  
4 department no later than seven days after the effective date of the order. The  
5 individual may appeal the suspension after the hearing to the superior court.

6 \* **Sec. 9.** AS 08.11.090(d) is amended to read:

7 (d) The department may reinstate a license or registration that has been  
8 suspended or revoked if the department finds after a hearing that the individual is able  
9 to practice with reasonable skill and safety.

10 \* **Sec. 10.** AS 08.11.090(e) is amended to read:

11 (e) One year after revocation of a license or registration issued under this  
12 chapter, the individual whose license or registration was revoked may reapply for the  
13 license or registration. The department may require an examination for  
14 reinstatement.

15 \* **Sec. 11.** AS 08.11.090 is amended by adding new subsections to read:

16 (f) The department may place a registrant on probation, with the costs of  
17 probation to be born by the registrant

18 (1) in lieu of revocation or suspension;

19 (2) upon the issuance of a registration to an individual who has been  
20 found guilty of unprofessional conduct but who otherwise qualifies for registration  
21 under this chapter; or

22 (3) as a condition upon the reissuance or reinstatement of any  
23 registration that has been suspended or revoked by the department.

24 (g) The department may require a registrant who has been placed on probation  
25 or who has been suspended to obtain additional professional training, including  
26 continuing education or clinical or field work.

27 \* **Sec. 12.** AS 08.11.200 is amended by adding new paragraphs to read:

28 (8) "direct supervision" means supervision that is on-site or available  
29 by visual or real-time electronic means through which a supervising speech-language  
30 pathologist observes and guides a speech-language pathologist assistant while the  
31 assistant performs a clinical activities; "direct supervision" may include

1 demonstration, coaching, and observation to the extent that the demonstration,  
2 coaching, or observation otherwise meets the requirements of this paragraph;

3 (9) "immediate supervision" means supervision in the physical  
4 presence of the speech-language pathologist assistant during the provision of client  
5 services by the speech-language pathologist assistant;

6 (10) "indirect supervision" means supervision by telephonic or  
7 electronic means or by intermittent on-site visits while located either inside or outside  
8 of the facility in which the speech-language pathologist assistant is located; "indirect  
9 supervision" may include demonstrations, record review, evaluation of audiotaped or  
10 videotaped client services, or communication by telephone or electronic mail to the  
11 extent that these activates otherwise meet the requirements of this paragraph;

12 (11) "screening" means a procedure in which a client is identified by  
13 either "pass" or "fail" for purposes of necessitating further evaluation of speech,  
14 language, or hearing;

15 (12) "supervision" means the provision of direction and evaluation of  
16 the tasks assigned.

17 \* Sec. 13. This Act takes effect July 1, 2004.



Official Business

# Alaska State Senate

## Senate Finance Committee

Mail Stop 3100  
State Capitol  
Juneau, Alaska 99801-1182

### FAX COVER SHEET

DATE: 16 April 2004 TIME: 9:40 am

TO: Legal Services

NUMBER OF PAGES, INCLUDING COVER SHEET: 1

FROM: MINDY ROWLAND  
SENATE FINANCE COMMITTEE SECRETARY  
PHONE: 465-4935  
FAX: 465-2187

NOTES: Final Please CS SB 365 (FIN)

23-LS0540\Q 4/8/04

Miscel

no changes

deliver to me Rm 520

call w/ any questions

The Mundy