

**ALASKA LEGISLATURE COMMITTEE FILES 1900-1900 00/2**  
**3923 SHES SB 94 - SB 109** 1999

STATE OF ALASKA  
THE LEGISLATURE

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May, 1988

Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS database CMPR. In order to save space copies of minutes have not been left in the files.

Mary Van Nimwegen

HESS      2-19-85      1:33pm  
            2-20-85      5:05pm

# THE HEALTHY ALASKA COALITION

Anne Morris, M.D.  
Chairperson

APR 22 1985  
NRN  
SB 94

April 17, 1985

Bettye Fahrenkamp  
Alaska State Legislature  
Pouch V (MS 3100)  
Juneau, AK 99811

Dear Senator Fahrenkamp:

The House version of S.B. 94, the Cigarette Excise Tax Bill, is expected to soon pass the House and return to the Senate for a vote.

The 33 statewide health-related, educational and environmental organizations comprising the Healthy Alaska Coalition strongly support the present House version in which the amendment tying Alaska's Tax changes to the Federal Tax changes has been removed. The facts of Alaska's current tax show that it:

- a) Ranks 5th lowest in the country, exceeding only four tobacco growing states.
- b) Has remained unchanged in twenty-three years, in spite of ever increasing proof of the economic and health burden caused by smoking and shared by all Alaskans.
- c) Will reduce the incidence of teenage smoking in Alaska. (Studies show a 10% increase in the cost of cigarettes leads to a 14% drop in the number of teenage smokers. Since most people start smoking as teenagers, these figures are even more significant in long term health impact.)

All of these facts justify an increase in the Alaska State Tax regardless of Federal tax changes.

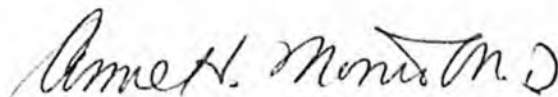
We also support the intent of the House version of the bill that these revenues be used to fund health care, health research

Bettye Fahrenkamp  
April 17, 1985  
Page 2

and health promotion and education Alaska could become a national leader in demonstrating the cost-effectiveness of health promotion and education regarding a healthy lifestyle and avoidance of unnecessary health risk behaviors that will decrease the need for major health care costs in the future.

One of our members will be contacting you in the next several days regarding your position on this bill and to answer any questions you may have on the Coalition's position in support of this bill. We hope we can count on your "yes" vote as indicated by your affirmative vote on the initial Senate version last month.

Sincerely yours,



Anne H. Morris, M.D.  
Coalition Chair

AHM/js/g

**"The Smoking Decision"****NEW COMPUTER PROGRAM  
TEACHES ABOUT THE RISKS  
OF SMOKING**

Sunburst Communications, Inc. has released an exciting new computer program that teaches students about the risks of smoking. *The Smoking Decision* was designed by David Levy, M.D., a family physician, and Andrew J. McLaren, an educator.

Intended for use at grades 6 through 12, the program alerts students to the hazards of cigarette smoking, assists students in developing decision-making skills, and helps students make a personal informed decision about whether or not to smoke cigarettes. It was designed to run on Apple II+, IIe, or IIc microcomputers with at least 48K of memory.

*The Smoking Decision* makes good use of the Apple's graphic capability. Colorful graphics and musical cues are used to capture the students' interests and illustrate important concepts. Students are encouraged to interact with the program and each student's responses are incorporated into the examples presented by the program.

For example, when learning about the health risks of smoking, students play a "gruesome game" where they "select" certain smokers in the "population" shown on the screen for observation. The program then compares smoker and non-smoker mortality rates by "killing-off" certain smokers and non-smokers in the population. Students can observe "their" smokers' chances of dying from a smoking-related illness.

The program is effective at countering student resistance to making a non-smoking decision. Should a student respond that he or she thinks that it is possible for a person to be a good athlete and still smoke, for example, the program responds "You're right. You can be good — but you can't be your best." It accepts any answer that the student gives it, and cleverly rebuts any pro-smoking answer without making the student feel stupid or foolish.

Although intended for use in grades six through twelve, we found that university students and adults were fascinated by it. So fascinated, in fact, that it was difficult to regain control of our microcomputer from them. It offers excellent potential for use as a patient education tool in office waiting rooms, and could be

useful in certain smoking cessation programs.

*The Smoking Decision* is one of the best smoking education microcomputer programs we have reviewed. It effectively uses the graphics and auditory capabilities of the Apple computer to make learning interesting and fun. Appropriate use of humor and attention-getting visuals keep the student's attention and aid the student in making an informed smoking decision.

*The Smoking Decision* includes a helpful Teacher's Guide that assists teachers in incorporating the program into their health education curriculum. A single copy-protected package, including a diskette, a backup copy, and teacher's guide costs \$55. A "computer lab package" that includes ten copies of the diskette is available for \$165. For further information, contact:

Sunburst Communications, Inc.  
Room SH31  
39 Washington Avenue  
Pleasantville, N.Y. 10570  
(800) 431-1934 or  
(914) 769-5030

**CIGARETTE TAX INCREASE  
STILL PENDING**

At press time for this issue of *Smoking and Health Reporter*, Congress had not acted upon the cigarette excise tax bills before it. Under existing law, the federal excise tax was set to drop from 16 cents per pack to 8 cents per pack. A new study from Harvard University projected that such a price cut could result in increasing the number of smokers in the U.S. by up to 2 million.

The American Association of Retired Persons (AARP) is strongly supporting several of the legislative proposals that would earmark the additional tax revenues to support Medicare. AARP has also joined the coalition of over 30 national organizations urging Congress to increase the cigarette excise tax to 32 cents per pack.

As Congress began final action on the excise tax proposals, the U. S. Office of Technology Assessment reported to Congress that cigarette smoking creates an additional \$65 billion per year in health-related expenses for the American public. Pro-rated, these expenses are equal to \$2.17 per pack of cigarettes. A very large proportion of these expenses are paid by taxpayers, since a disproportionate share of cigarette-related health care costs are incurred by Medicare and Medicaid patients.

**New Metropolitan Life Report  
LUNG CANCER DEATHS IN  
WOMEN JUMPS 300%+ FROM  
1960 TO 1982**

According to a report published in the July-September issue of the Metropolitan Life Insurance Company's *Statistical Bulletin*, lung cancer deaths among women have skyrocketed in the past two decades. Among women age 35 to 84, lung cancer mortality increased by 317.9% between 1960 and 1982.

Contrasting lung cancer mortality with breast cancer mortality, the report commented "In 1985 an estimated 119,000 new cases of invasive breast cancer will be detected with a projected five-year survival rate of 70%. At the same time, 46,000 new lung cancers will be diagnosed among women with an overall survival rate averaging 13%."

Among women 55 and older, lung cancer mortality quadrupled between 1960 and 1982. The investigators discovered that the greatest increases were found in the 55-64 and 65-74 age groups. They observed that "these last two rates are particularly significant because they are a true reflection of the popularity and acceptance of cigarette smoking established among women of that age cohort in the 1940s and 1950s."

"It is an unacceptable irony that as women have moved toward parity with men in civil and economic rights, they should also join men in the ranks of smokers dying of lung cancer. Here is one inequity that should have been preserved."

[*"Mortality Trends of Lung and Breast Cancer in Women," Metropolitan Life Insurance Company Statistical Bulletin 66(3):4-8, July-September, 1985.*]

**CHANGES OF ADDRESS & REQUESTS  
TO BE ADDED TO OUR MAILING LIST**

Please send all address changes and requests to be added to our mailing list to:

*Smoking and Health Reporter*  
HPER Building Room 116  
Indiana University  
Bloomington, IN 47405

Address changes should be accompanied by your current mailing label or a photocopy of one. We are unable to process address changes without the exact information that is contained on your label. Requests for addition to our mailing list should be sent on your letterhead. Due to postal regulations for third-class mail, we need your accurate zip code before we can process any mailing list request.

## RECOMMENDED READING

### "E.P.A. STUDY" ON PASSIVE SMOKING LUNG CANCER RISK PUBLISHED

The long-awaited "E.P.A. study" linking involuntary passive smoking to lung cancer in non-smokers was published in May, 1985 in the journal *Environment International*. Using data collected in previous studies, Environmental Protection Agency scientist James L. Repace and Naval Research Laboratory investigator Alfred H. Lowrey project up to 5000 deaths in the United States each year from involuntary passive smoking. The January, 1985 issue of *Smoking and Health Reporter* described the study in more detail.

[Repace, J. L., and Lowrey, A. H., "A Quantitative Estimate of Nonsmokers' Lung Cancer Risk from Passive Smoking," *Environment International* 11:3-22, 1985.]

### STILL MORE EVIDENCE

An article in the May 24, 1985 issue of *The Journal of the American Medical Association* describes the more than 100 papers published on the effects of involuntary passive smoking in humans. It cites, among others, the Repace EPA review [see above] of 14 epidemiologic studies of the effects of involuntary passive smoking in which 13 of the 14 studies showed elevated risks of lung cancer among non-smokers exposed to cigarette smoke."

[Marwick, C., "Effects of 'Passive Smoking' Lead Nonsmokers to Step Up Campaign," *Journal of the American Medical Association* 253:2937-2938, 1985.]

Another article in *American Journal of Epidemiology* adds more evidence to the cancer-passive smoking link. A North Carolina research project examined records of a hospital-based tumor registry and found that spouses of smokers had 1.6 times the cancer risk of spouses of non-smokers.

[Sandler, D. P., et al., "Passive Smoking in Adulthood and Cancer Risk," *American Journal of Epidemiology* 121:37-48, 1985.]

### Now Its Heart Attacks! NEW EVIDENCE AGAINST PASSIVE SMOKING

A new study published in *American Journal of Epidemiology* shows evidence that involuntary passive smoking presents a risk of heart disease to non-smokers forced to breathe smoke-filled air.

This new report follows several others which have shown a link between involuntary smoking and lung cancer.

The study, conducted by a research team from the University of California-San Diego, examined 695 non-smoking women who were classified according to their husband's smoking status. The women were followed for ten years and those exposed to involuntary pas-

sive smoking at home had higher total and age-adjusted death rates from ischemic heart disease than women who were not so exposed. The adjusted relative risk of ischemic heart disease for such exposure was 14.9. There was also a marked dose-response relationship, with higher rates for wives of men who smoked more than a pack of cigarettes per day.

"These data are compatible with the hypothesis that passive cigarette smoking carries an excess risk of fatal ischemic heart disease."

[Garland, C., et al., "Effects of Passive Smoking on Ischemic Heart Disease Mortality of Nonsmokers," *American Journal of Epidemiology* 121:645-650, 1985.]

### MEDICAL JOURNALS PUBLISH SPECIAL ISSUES ON SMOKING

Two important medical journals recently published special issues dealing with the health problems associated with cigarette smoking. In May, *The Journal of the American Medical Association* published a special issue devoted to smoking and health.

[*Journal of the American Medical Association* 253, May 24/31, 1985.]

Also of interest, the July, 1985 issue of the *New York State Journal of Medicine* was devoted, entirely, to "The World Cigarette Pandemic — Part II." The 200-page issue examines the ethical, social, political, and economic aspects of the smoking problem. Part I was published in the journal's December, 1983 issue.

[*The World Cigarette Pandemic, special issue of New York State Journal of Medicine* 83:12, December, 1983, and *The World Cigarette Pandemic — Part II, special issue of New York State Journal of Medicine* 85:7, July, 1985.]

### In Case You Missed Them SAT-EVE-POST ATTACKS SMOKELESS TOBACCO USE

In case you missed them the *Saturday Evening Post* recently published articles on tobacco use in three recent issues. The articles, intended for the lay reader, include an interview with Surgeon General Koop and describe the hazards of smokeless tobacco use and the trend toward litigation against the manufacturers of tobacco products.

In the Koop interview, the Surgeon General states "All of the things that you don't like in smoke are in chewing tobacco. The nicotine is there, and all the carcinogenic things are there. It is true you won't get cancer of the lung from chewing tobacco, but you can get cancer of the mouth....You can get the addiction to nicotine."

[SarVaas, Cory, "The Surgeon General is Determined," *The Saturday Evening Post* April, 1985, pp. 52-53, 108; White, Lawrence, "Suing the Tobacco Companies," *The Saturday Evening Post* July/August, 1985, pp. 58-61, 97-98; Myers, Hortense, "Getting Tough on Snuff," *The Saturday Evening Post* September, 1985, pp. 62-65, 110.]

### Nicorette<sup>®</sup> "Guide" NEW BOOK TELLS HOW TO STOP SMOKING USING NICOTINE GUM

A new book written by Walter S. Ross provides smokers with help in quitting their habit using Nicorette<sup>®</sup> chewing gum. *How to Stop Smoking Permanently: With the New Nicotine Gum* presents step-by-step assistance to the would-be non-smoker. It provides a scientifically accepted strategy in easy-to-read form, giving quitters needed support to make their attempt at quitting successful.

Research has shown that nicotine gum is most effective in helping people stop smoking when it is used as a part of a total program of smoking cessation. It clearly isn't a "magic bullet" that makes quitting easy — it may, however, make it easier. The Ross book gives physicians a powerful, easy-to-use program for their patients, without the need to schedule patients into support groups or group cessation "clinics."

According to Merrell Dow Pharmaceuticals Inc., manufacturer of Nicorette<sup>®</sup>, more than 4.5 million prescriptions for Nicorette<sup>®</sup> have been filled in the United States since it was approved for marketing in 1984. They estimate that about 2 million smokers have attempted to quit using the gum, and about "600,000 of these have already been successful in quitting." Use of *How to Stop Smoking Permanently: With the New Nicotine Gum* should make learning to use Nicorette<sup>®</sup> even easier.

### SMOKELESS TOBACCO & BLOOD PRESSURE

A recent letter to the *New England Journal of Medicine* reported a "direct and positive relation between smokeless tobacco use and higher blood pressure readings" in young men aged 18 to 25. The average blood pressure reading of the smokeless tobacco users was 143.7/80.7 mm Hg; among non-users it was 131.6/72.8.

[Schroeder, K.L., and Chen, M.S., "Smokeless Tobacco and Blood Pressure," *New England Journal of Medicine* 312(14):919, April 4, 1985.]

### BITS AND PIECES

Tobacco Institute Chairman, Horace R. Kornegay was presented with the "Americanism Award" from the B'nai B'rith at its recent meeting in Washington. Kornegay received a similar award last year from Catholic Charities.

One of Frank Sinatra's favorite songwriters, Ervin Drake, wrote the music for "Relax, Enjoy A Cigar." A contest to write lyrics for the song began June 10 on 179 radio stations nationwide.

SB 94

TO: BETTYE  
FROM: SANDRA  
DATE: FEB. 18, 1985

SB 94 (V. FISCHER) INCREASES THE STATE EXCISE TAX ON CIGARETTES BY 4 MILLS (WHICH MEANS 8¢ PER PACK OF CIGARETTES).

CURRENT TAX:

AS 43.50.090 2.5 mills since before Statehood so grandfathered dedicated fund. Money goes to School Fund (each district gets annual amount based on number of professional personnel in the district).

AS 43.50.190 1.5 mills since 1961 to general fund

CURRENT FEDERAL TAX:

16¢ per pack, scheduled to be reduced by half October 1, 1985

Sen. Moynahan has introduced legislation to restore tax to 16¢; Sen. Hine has talked about introducing legislation to double the tax to 32¢ and earmark 16¢ to go to Medicare.

REVENUES:

\$5,081,730 from current State tax 1983. Estimate additional \$5 million if increase tax by 4 mills.

EVEN IF FEDERAL TAX IS NOT REDUCED, HEALTH COALITIONS WANT STATE

TAX RAISED:

1. ALASKA HAS HAD SAME CIGARETTE TAX FOR 23 YEARS.
2. OUR PRESENT 8¢ TAX IS 5th LOWEST IN THE NATION.
3. INTERESTED IN INCREASING FUNDING FOR HEALTH PROMOTION AND EDUCATION PROGRAMS.

NOTE: SB 94 DOES NOT ATTEMPT TO DEDICATE FUNDS FOR ANY SPECIFIC PURPOSE. HOWEVER, ITS INTENT LANGUAGE ASKS THAT FUNDS BE SPENT ON PROGRAMS TO ENHANCE WELLNESS, AND TO ENCOURAGE THE AVOIDANCE OF UNNECESSARY HEALTH RISKS (SMOKING, ALCOHOL, DRUGS).

cigarette # status?

letters 2 p.

FEB 21 1986

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# THE HEALTHY ALASKA COALITION

Anne Morris, M.D.  
Chairperson

February 18, 1986

Bettye M. Fahrenkamp  
State Legislature  
Box V  
Juneau, Alaska 99811

Dear Senator Fahrenkamp:

With the passage of non-smoking legislation in 1984 and the doubling of the cigarette tax in 1985, the Alaska Legislature recognized the importance of health promotion in preventing disease and enabling people to live longer, healthier, and more productive lives. This commitment to health promotion is making Alaska a national leader in the field.

A key issue the legislature has to deal with this year is how closely it will follow the intent language of the cigarette tax bill that new revenues generated go principally toward the support of health care, education, promotion, and research efforts in Alaska.

The Healthy Alaska Coalition wishes to stress how important this decision is. We believe that an opportunity exists to have a major impact on the health of this and future generations of Alaskans. More specifically, we would like to see the development of a long term health promotion policy that is comprehensive in nature, deals with the major health risk factors prevalent in Alaska, reaches people in various aspects of their lives, and builds a partnership between the public, private, and nonprofit sectors. Our thoughts are further detailed in the concept paper.

The Healthy Alaska Coalition is prepared to work with the legislature and the administration this year in following up on the health promotion concept. Presently, we are planning a major conference for the fall which will focus on health promotion in the workplace, school, media, community, and medical care delivery system. Task forces are now being formed in each of these areas to do advance work for the conference. The Alaska Lung Association, American Heart Association, and American Cancer society are jointly contracting with Rocky Plotnick-Weller of Juneau to serve as the conference coordinator as well as represent our interests in Juneau.

As the year progresses we will be contacting you regarding your feelings about the utilization of cigarette tax dollars, the conference, and the development of a State Health Promotion Policy. If you have any questions, please feel free to contact Rocky Plotnick-Weller at 586-6806 or me at 346-2879.

Sincerely,



Anne H. Morris, M.D.  
Chair, Healthy Alaska Coalition

AHM/lbs

Enclosures

# THE HEALTHY ALASKA COALITION

Anne Morris, M.D.  
Chairperson

September 30, 1985

THE CIGARETTE TAX AND HEALTH PROMOTION IN ALASKA  
A Concept Paper by the Healthy Alaska Coalition

## INTRODUCTION

During its 1985 session the Alaska Legislature passed and the Governor signed a law which will increase the State cigarette tax from eight to sixteen cents and generate some five to six million dollars annually in new revenues. In passing the law, the Legislature included intent language that the new funds be used principally to support health care, research, and promotion programs. The law goes into effect October 1, 1985.

Two key issues pertaining to the legislation still need to be resolved.

The first is how closely Legislative intent will be followed in allocating the new tax dollars. Will the income go principally toward the support of health related programs or will they go toward a variety of other projects? The continuing drop in State oil revenues suggests it will be quite tempting for the Governor and Legislature to regard any new funds as a way of shoring up ongoing programs...health related or not.

The second issue is how the dollars which actually are allocated to health related programs will be spent. Major options include health care and health promotion. Health care deals with immediate life, death, and illness issues while health promotion is more concerned with a long term process of preventing disease and enabling people to live longer, healthier, and more productive lives. Given the reality of tight budgeting, the tendency may be to focus on the immediate and ignore the long term.

The Healthy Alaska Coalition is concerned about both of these issues. Much of the community support for the cigarette tax was predicated on the revenues generated going toward the support of health related programs as is expressed in the legislative intent. Deviating extensively from the intent will detract from the law's potentially positive impact on health in Alaska.

An equal concern is that the possibility of funding a statewide and coordinated health promotion effort in Alaska may be lost. THE PURPOSE OF THIS PAPER IS TO OUTLINE THE CRITICAL IMPORTANCE OF DEVELOPING SUCH AN EFFORT AND SUGGEST SOME INITIAL STEPS TO BE TAKEN.

## THE NEED: A GROWING CRISIS IN HEALTH RISK BEHAVIOR

A recent national study identified approximately two thirds of deaths and 90% of potential years of life lost before the age of 65 were due to potentially preventable causes. Tobacco, alcohol abuse, and accidents lead the list of risk taking behavior considered preventable today, and Alaska ranks close to the top of national statistics in these areas. In the incidence of smoking and chronic drinking we rank third while our accident rate is nearly double the national average. Eventually these impersonal statistics translate into very personal human illness and death which, in turn, translate into millions of public and private dollars being spent on health care and lost productivity.

## HEALTH PROMOTION AS A TOOL IN DISEASE PREVENTION

Health promotion has become a major tool for preventing cardiovascular disease, accidents, cancer, chronic lung disease, and cirrhosis of the liver - the major current health problems in modern nations. In a sense, a lesson has been learned from the tobacco and liquor industries - promotion pays. If people can be persuaded to pursue habits injurious to their health, they can also be persuaded not to.

The task, however, is not easy. Changing behavior patterns is always difficult. If the behavior is tied to an addictive drug such as tobacco or alcohol whose use is reinforced by billion dollar advertising campaigns the difficulty is increased even more. When wide spread use, peer pressure, and role model identification are added to the equation the true magnitude of the task begins to emerge.

But it isn't impossible. Health promotion enables people to take responsibility for and control over their health as an important component of everyday life. This requires full and continuing access to information about health. With presently available information and support, millions of Americans have already chosen healthier life styles. They've quit smoking, reduced drinking, changed eating habits, and become fit. It is the job of health promotion to provide this information and support.

## MOVING TOWARD A STATE HEALTH PROMOTION POLICY

In supporting passage of the cigarette tax, the Healthy Alaska Coalition urged that a significant portion of the funds go toward the development of a State Health Promotion Policy. The Coalition also outlined a number of elements it felt might be included in such a policy. The following were included:

\*Several life style issues deserve attention. Among them are smoking, nutrition, alcohol and other drug use, safety, mental health, and fitness.

\*A long term commitment to the program is needed. Establishing lifelong positive health habits takes time. The best approach will be to develop a multi-year health promotion plan for the state. The plan should include specific goals and objectives that can be carefully evaluated during and at the completion of the program. A critical part of the process will be developing an adequate data base for establishing priorities and measuring results.

\*The health promotion effort must be designed to reach people in all aspects of their lives; at home, in school, in the community, at the workplace and through the medical care system. Continual reinforcement is critical in changing behavioral patterns. Reaching young people must be a particular priority. Providing comprehensive health education through all of our school systems is a proven approach. The media can also be a powerful tool for reaching young people and Alaskans of all ages.

\*Local initiative is critical. The key to health promotion lies in encouraging people to take responsibility for their own health. One way to encourage local initiative will be to make grants available to local communities and organizations to help carry out the multi-year plan.

\*Some type of structure will have to be created to oversee the Policy's implementation. While the Coalition does not believe a new State bureaucracy is necessary or desirable to carry out the State Health Promotion Policy, an office with minimal staffing will be essential. The best location would be within the Governor's office since coordination between various state departments, community organizations, local government, and the private sector will be necessary. It could also be located within an existing department, such as HSS or Education, however. An advisory board or commission should also be established to provide advice and or direction to the office and to help in developing and overseeing the implementation of the State Health Promotion Policy. The advisory board/commission is important for assuring the community involvement necessary to the success of the health promotion effort.

\*Adequate funding must be available and should be committed for at least the life of the health promotion plan. These funds may involve an expenditure of up to three million dollars annually depending upon the extent of programs including comprehensive school health education, media campaigns, and community grants. (Three million is approximately half of the revenues generated by the new cigarette tax.)

## THE NEXT STEP

The development of a viable State Health Promotion Policy calls for participation from a wide spectrum of the Alaska community. The Healthy Alaska Coalition is proposing to sponsor a conference in late spring to involve all interested parties and focus on the key elements of the Policy. State agencies, Coalition Members, Legislators, the private sector, and any other interested group or individuals will be invited to participate. Recommendations will then be forwarded to the Governor, Legislature, and other appropriate bodies.

## A HEALTHY ALASKA

Health is not a goal in itself. It is a resource for everyday life. Developing and funding a statewide health promotion policy with cigarette tax dollars can provide all Alaskans with the information and support necessary to choose a healthier, longer, and more productive life style.

This concept paper was drafted by Anne Morris, M.D., Chair of HAC, and Curtis Mekemson, Executive Director of the Alaska Lung Association. It is based on the Coalition's original statement supporting the cigarette tax. The following sources were utilized in its development.

Health Promotion: A Discussion Document on the Concept and Principles, World Health Organization Regional Office for Europe, Copenhagen, Sept. 1984

Document on Policy Issues in Health Promotion, R.A. Draper, Director General, Health Services and Promotion Branch, Health and Welfare, Canada, Dec. 1984

Closing the Gap, Report of the Carter Center Health Policy Consultation, Journal American Medical Association, Vol. 254 #10, Sept. 13, 1985

The Health of Alaskans: An Assessment of the Prevalence of Behaviors Posing Health Risks, The Alaska Department of Health and Social Services, Health Education Risk Reduction Project, Feb. 1983.

# THE HEALTHY ALASKA COALITION

Anne Morris, M.D.  
Chairperson

Alaska Center for the Environment  
Alaska Council on Prevention of  
Alcohol and Drug Abuse, Inc.  
Alaska Council on Smoking or Health, Inc.  
Alaska Dental Society  
Alaska Environmental Lobby, Inc.  
Alaska Federation of Natives  
Alaska Health Education Consortium  
Alaska Health Project  
Alaska Lung Association  
Alaska Native Health Board  
Alaska Psychological Association  
Alaska Public Health Association  
Alaska School Nurses Association  
Alaska State Medical Association  
Alaska State Parents and Teachers Association  
Alaska State Society for Respiratory Therapy  
American Academy of Pediatrics, Alaska Chapter  
American Cancer Society  
American Heart Association  
American Psychiatric Association  
Anchorage Commission on Youth  
Anchorage Medical Society  
Anchorage Neighborhood Health Center  
Anchorage Parents and Teachers Association  
Fairbanks Medical Association  
Kachemak Bay Conservation Society  
Kodiak Area Native Association  
Municipal Health Commission of Anchorage  
National Education Association  
North Slope Borough Cancer Research Project  
Providence Hospital  
School Administrators Association  
Seventh Day Adventist Churches  
Southcentral Health Planning and Development  
Southeast Alaska Health Systems Agency



# REGORDS CERTIFICATION



I, the undersigned, an employee of the State of Alaska, do hereby certify that the microfilm images on this microform are accurate reproductions of the original records of the State of Alaska as accumulated during the regular course of business, and that it is the established policy and practice of this State to microfilm its records and to dispose of the original records after microfilm reproductions have been made.

*James O. Smith*  
Signature of Camera Operator

*10/31/89*  
Date

S B

9 8

Senate Health, Education and Social Services Committee

Legislation Checklist

Bill number: SB 98

Sponsor: GOVERNOR

Date referred to committee: 1/25/85

Synopsis completed: 1/28

Fiscal note: Dept. of Corrections zero ✓ Dept. of Law zero ✓

Further referrals: Judiciary

CONTACTS:

✓ A.G. - Patrick Conheady 3677

Karla Forsythe, Courts 264-0634

Dana Tate, Public Defender 279-7541

Cindy Nelson, Corrections 3376



STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
JUNEAU

DL 98

January 25, 1985

The Honorable Don Bennett  
President of the Senate  
Alaska State Legislature  
Pouch V  
Juneau, AK 99811

Dear Senator Bennett:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to effects of certain criminal convictions. This bill addresses the uses of prior convictions that have been either set aside by a court under AS 12.55.085, or for which a pardon has been granted by the governor under art. III, sec. 21, of the Alaska Constitution and AS 33.20.070. The bill focuses on three distinct areas: the uses of a conviction that is set aside under the suspended-imposition-of-sentence statute; the uses of a pardoned conviction; and the effects of a pardoned or set-aside conviction on the records of the conviction.

Under current court interpretation of the suspended-imposition-of-sentence statute (AS 12.55.085), a conviction that has been set aside is not considered a prior conviction under AS 12.55.125 for purposes of presumptive sentencing. This interpretation belies the purposes underlying this statute. Theoretically, setting aside a conviction under this statute is intended to reward an offender who reforms subsequent to the conviction and after that leads a blameless life. It is presumed that, due to the nature of the offense and the likelihood of the offender's complete rehabilitation, further criminal conduct on the part of the offender is unlikely. Therefore, by setting aside the conviction, the offender will not be prejudiced in later life by collateral consequences that flow from the criminal conviction.

However, in those instances in which subsequent criminal conduct occurs, it is evident that the offender has not reformed and thus should not benefit from this provision in the law. Rather, in spite of being given this second chance, the offender has demonstrated an habituation to criminal conduct. New AS 12.55.085(f), added in sec. 2 of

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the bill, makes clear that a set-aside conviction is a prior conviction if a sentence is being imposed for subsequent criminal conduct.

In sec. 2, this legislation also makes clear that a prior, set-aside conviction may be used in three other instances. First, it may be employed as a factor in aggravation under AS 12.55.155(c)(8) (a criminal history of assaultive behavior). Also, it may be used when an agency is called upon to determine how dangerous an offender is or to predict the offender's future criminal behavior, or when determining the offender's conditions of release from incarceration. Finally, in a licensing proceeding, the licensing authority may review the conduct involved in the prior offense when determining whether an individual is of good character. These three uses mirror existing court interpretations and common law applications of the law but are not currently codified.

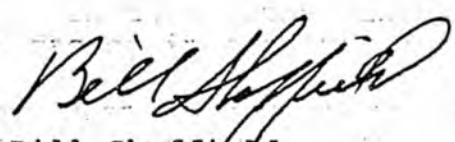
On the other hand, under this bill a pardoned conviction, although premised on the same factors as the suspended imposition of sentence, would not be considered a prior conviction for purposes of presumptive sentencing. This is due to the fact that a pardon is an extraordinary remedy, rarely granted, and generally employed after a significant period has elapsed since the prior offense. Because of the elapsed time, the pardoning authority has the benefit of not only the nature of the offense and the likelihood of the offender to rehabilitate, but also a demonstrable record of the offender's post-conviction conduct. The pardoning authority's decision is thus given greater effect, which, under new AS 33.20.090(b), may be specifically either limited or further extended. (Section 3 of the bill.) This latter ability to limit or extend the effects of the pardon enables the pardoning authority to fashion the pardon to the circumstances of the individual case. However, unless otherwise specified, a pardoned offense may still be used in the three other instances in which a set-aside conviction may be used.

Finally, the bill clarifies the effect of a pardoned or set-aside conviction upon the records of the criminal conviction. In that there are subsequent uses for the prior conviction, even under existing law, expunction or sealing the records is inappropriate. Naturally, when granting a pardon there may be reason to have the records expunged (e.g., uncontroverted evidence that the offender was erroneously convicted). Therefore, in new AS 33.20.090(b), the pardoning authority is granted the latitude to specifically order expunction of the records.

298

This bill makes much-needed clarifications of the law, and I urge its passage.

Sincerely,



Bill Sheffield  
Governor

STATE OF ALASKA 1985 LEGISLATIVE SESSION  
FISCAL NOTE

Revision Date: \_\_\_\_\_

**REQUEST:**

Bill/Resolution No.: \_\_\_\_\_  
 Title: "An Act related to the effects of  
 criminal convictions."  
 Sponsor: Governor  
 Requestor: Governor  
 Date of Request: 12-12-84

**FISCAL DETAIL:**

Agency Affected: DEPARTMENT OF CORRECTIONS  
 Program Category Affected: \_\_\_\_\_  
 Administration of Justice  
 BRU, Program or Subprogram(s) Affected:  
 Offender Confinement, Reformation and  
 Supervision

**EXPENDITURES/REVENUES: (Thousands of Dollars)**

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	*	*	*	*	*	*

CAPITAL	*	*	*	*	*	*
---------	---	---	---	---	---	---

REVENUE	*	*	*	*	*	*
---------	---	---	---	---	---	---

**FUNDING: (Thousands of Dollars)**

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	*	*	*	*	*	*

**POSITIONS:**

FULL-TIME						
PART-TIME						
TEMPORARY						

**ANALYSIS:** Attach a separate page if necessary.

Allowing a conviction previously set aside to be considered as a prior conviction at sentencing would create some fiscal impact. This impact should be negligible; however, no statistical data is available for an accurate analysis.

Prepared By: Robert Brown Budget Analyst

Phone: 465-3376

Division: Administration & Support

Date: 12-12-84

Approved by Commissioner: [Signature]

Date: 12-12-84

Agency: DEPARTMENT OF CORRECTIONS

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency (ies)

Fiscal Note  
Analysis

December 12, 1984

This bill sets out the uses of prior convictions that have been set aside by a court under AS 12.55.085 (suspended impositions of sentence) or for which a pardon has been granted. Under this bill, a conviction set aside by the court may be used as a prior conviction under presumptive sentencing, as an aggravating factor if the set aside conviction involved assaultive behavior, as a factor in predicting behavior in the correctional classification or parole decision process, and as an indicator of questionable character in a state licensing proceeding. If the conviction has been pardoned, it would not be considered a prior conviction under presumptive sentencing but the other uses applicable to a set aside conviction would apply. However, when granting a pardon, the governor would be permitted to specifically expand or limit these uses. Finally, the bill specifies that the records of a conviction that has been set aside or pardoned would not be sealed or expunged. Enactment of the bill will not result in a fiscal impact for the Department of Law because it clarifies how an offender's criminal record may be applied in sentencing after an offender has been convicted.

STATE OF ALASKA 1985 LEGISLATIVE SESSION  
FISCAL NOTE

Revision Date: \_\_\_\_\_

REQUEST

Bill/Resolution No.: SB 98  
 Title: "An Act relating to the effects of criminal convictions."  
 Sponsor: Sen. Rules/by req. of Gov.  
 Requirer: Governor's Office/OMB  
 Date of Request: 12/11/84

FISCAL DETAIL

Agency Affected: Department of Law  
 Program Category Affected: Administration of Justice  
 BRU, Program or Subprogram(s) Affected: Prosecution

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
<b>OPERATING</b>						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>

<b>CAPITAL</b>						
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<b>REVENUE</b>						
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FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>						

POSITIONS:

FULL-TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

Prepared By: Richard I. Pequec, Director Phone: 465-3672  
 Division: Administrative Services Date: 12/12/84  
 Approved by Commissioner: Richard I. Pequec / Norman C. Gorsuch Date: 12/12/84  
 Agency: Department of Law

Distribution (by Agency preparing fiscal note):  
 Legislative Finance  
 Legislative Sponsor  
 Requestor  
 Office of Management and Budget  
 Impacted Agency(ies)

7/1/84

1A11

Fiscal Note  
Analysis

December 12, 1984

\_\_\_\_\_ This bill sets out the uses of prior convictions that have been set aside by a court under AS 12.55.085 (suspended impositions of sentence, or for which a pardon has been granted. Under this bill, a conviction set aside by the court may be used as a prior conviction under presumptive sentencing, as an aggravating factor if the set aside conviction involved assaultive behavior, as a factor in predicting behavior in the correctional classification or parole decision process, and as an indicator of questionable character in a state licensing proceeding. If the conviction has been pardoned, it would not be considered a prior conviction under presumptive sentencing but the other uses applicable to a set aside conviction would apply. However, when granting a pardon, the governor would be permitted to specifically expand or limit these uses. Finally, the bill specifies that the records of a conviction that has been set aside or pardoned would not be sealed or expunged. Enactment of the bill will not result in a fiscal impact for the Department of Law because it clarifies how an offender's criminal record may be applied in sentencing after an offender has been convicted.

STATE OF ALASKA  
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY  
LEGISLATIVE REFERENCE LIBRARY

POUCH Y - STATE CAPITOL  
JUNEAU, ALASKA 99811  
907-465-3800

May, 1988

Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS database CMPR. In order to save space copies of minutes have not been left in the files.

Mary Van Nimwegen

*HESS 2-19-85 1:33pm*



# RECORDS CERTIFICATION



I, the undersigned, an employee of the State of Alaska, do hereby certify that the microfilm images on this microform are accurate reproductions of the original records of the State of Alaska as accumulated during the regular course of business, and that it is the established policy and practice of this State to microfilm its records and to dispose of the original records after microfilm reproductions have been made.

*James O. Smith*  
Signature of Camera Operator

*10/31/89*  
Date

S B

1 0 2

Senate Health, Education and Social Services Committee

Legislation Checklist

Bill number: SB 102

Sponsor: GOVERNOR

Date referred to committee: 1/25/85

Synopsis completed: 1/28

Fiscal note: Rept. of Law 2010 ✓

Further referrals: Judiciary

CONTACTS:

STATE OF ALASKA 1985 LEGISLATIVE SESSION  
FISCAL NOTE

Revision Date: \_\_\_\_\_

**REQUEST:**

Bill/Resolution No.: SB 102  
 Title: "An act relating to criminal sentences."  
 Sponsor: Rules/Governor  
 Requestor: Governor  
 Date of Request: 1/24/85

**FISCAL DETAIL:**

Agency Affected: DEPARTMENT OF CORRECTIONS  
 Program Category Affected: \_\_\_\_\_  
 Administration of Justice  
 BRU, Program or Subprogram(s) Affected: Northern Region, Southcentral Region, Southeast Region, Admin. & Support BRU's

**EXPENDITURES/REVENUES: (Thousands of Dollars)**

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
<b>OPERATING</b>						287.7
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL				29.6	41.4	54.3
400 SUPPLIES				24.2	33.9	47.5
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
<b>TOTAL OPERATING</b>	-0-	-0-	-0-	53.8	75.3	386.5

<b>CAPITAL</b>	-0-	-0-	-0-	1,515.9	-0-	-0-
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<b>REVENUE</b>						
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**FUNDING: (Thousands of Dollars)**

GENERAL FUND	-0-	-0-	-0-	1,569.7	75.3	386.5
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>	-0-	-0-	-0-	1,569.7	75.3	386.5

**POSITIONS:**

FULL-TIME				0		5
PART-TIME						
TEMPORARY						

**ANALYSIS:** Attach a separate page if necessary.

See Attached Narrative.

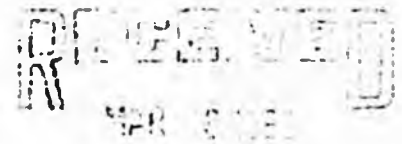
Prepared By: William W. Ladwig  
 Division: Deputy Commissioner for Administration

Phone: 465-3376  
 Date: February 26, 1985

Approved by Commissioner: [Signature]  
 Agency: DEPARTMENT OF CORRECTIONS

Date: February 27, 1985

Distribution (by Agency preparing fiscal note):  
 Legislative Finance  
 Legislative Sponsor  
 Requestor  
 Office of Management and Budget  
 Impacted Agency (ies)



HAND DELIVERED 7/1/84  
 GOVERNOR'S OFFICE

ANALYSIS:

Persons serving time for Attempt to Commit A Felony now have average jail sentences of five years. There are eight persons serving presumptive sentences and seven serving non-presumptive sentences for a total of 75 man-years. If the proposed sentencing sanctions were applied, a total of 101 additional man-years would be served. It would cost the State \$2,348,800 in operating expenditures to house these persons for the additional 101 man-years.

There is currently one person serving a three year jail sentence for Solicitation to Commit a Crime, under the proposed sentencing sanctions five additional years would be served for an operating cost of \$133,000.

Five persons are serving an average jail sentence of four years for Negligent Homicide. Twenty-four additional man-years would be served under the proposed sentencing sanctions for an operating cost of \$531,800.

Persons serving time for Manslaughter now have an average jail sentence of seven years. There are 12 persons serving presumptive sentences and 24 persons serving non-presumptive sentences. If the proposed sentencing sanctions were applied, a total of 60 additional man-years would be served at an operating cost of \$1,418,100.

If the profile of Alaska's prison population continues to evolve as it has over the last five years, it is estimated that it will cost the Department \$3,358,500 in capital expenditures if these sentencing changes are made. An additional twenty beds would have to be constructed, ten of which would need to be in place initially and the rest spread out over the remaining future years.

The total cost for housing these inmates the additional man-years would be approximately \$6,000,000.

Breakdown of costs are as follows (in thousands):

<u>Year</u>	<u>Operating</u>	<u>Capital</u>	<u>Total</u>
1986	-	-	-
1987	-	-	-
1988	53.8	1,515.9	1,569.7
1989	75.3	-	75.3
1990	386.5	-	386.5
1991	424.5	-	424.5
1992	467.5	1,842.6	2,310.1
1993	513.7	-	513.7
1994	587.5	-	587.5
TOTAL	2,508.8	3,358.5	5,867.3

ASSUMPTIONS:

- Assumes this bill takes effect July 1, 1985. This will cause inmates who would have been released in July 1988 being continued in custody.
- Assumes that these changes will cause an increase of 10 inmates by FY90 and an increase of an additional 10 inmates by FY94. These increases were prorated as follows: +6 in FY88, +2 in FY89, +2 in FY90, +2 in FY91, +2 in FY92, +2 in FY93, and +4 in FY94.
- The average cost per inmate for commodities, medical and education is \$22.28 per day (FY84 rate).
- Cost of new bed construction is \$137,500 per bed.
- Inmate costs in successive years assumes a 5% cost of living increase.
- In 1990 additional security staff would be required.

COMPUTATIONS:

Calculating operating costs for fiscal years are as follows:

Yearly Cost Formula = Inmate count X 365 days X average cost to house inmate/day plus any new position costs.

1988	-	6	X	365	X	24.56		=	53.8
1989	-	8	X	365	X	25.79		=	75.3
1990	-	10	X	365	X	37.08	+ 287.7	=	386.5
1991	-	12	X	365	X	28.43	+ 300.0	=	424.5
1992	-	14	X	365	X	29.85	+ 315.0	=	467.5
1993	-	16	X	365	X	31.34	+ 330.7	=	513.7
1994	-	20	X	365	X	32.90	+ 347.3	=	587.5

1.	POSITION TITLE Correctional Officers II (5)                      FY90			RANGE/STEP 13 B	BARG. UNIT G	PAGE/LINE	APPROV	DISAPP		
2.	TYPE OF POSITION PFT	STAFF MONTHS 60	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION	ELECTION DISTRICT	GOV.  LEG.		
3.	CONTINUATION LEVEL			ADDITION						
4.	TYPE OF EXPENDITURE			AMOUNT		JUSTIFICATION  These positions are the working level class performing the full range of security duties in an adult correctional institution. It is estimated that if the proposed sentencing sanctions were applied, a total of five (5) correctional officers would be required in FY88.  It is assumed that salary will go up 5% per year. The costs displayed at the left are based on the individual components of salary calculated for FY88 and adjusted to FY90. For example, FY87 salary \$32,232 X 1.05 X 1.05 X 1.05 = \$37,312 for assumed FY90 base salary.				
	1	2	3							
	PERSONAL SERVICES									
5.	Salary	186,560	Shift Diff.							
6.	Benefits	50,791	\$ 6,998							
7.	Supplemental Benefits	12,693	Overtime							
8.	Fixed Benefits	15,223	\$13,475							
9.	TOTAL PERSONAL SERVICES	01	285,740							
10.	Travel	02								
11.	Contractual	03								
12.	Commodities	04	2,000							
13.	Equipment	05								
14.	Other	06								
15.	TOTAL COST		287,740							
	RECEIPT CODE	FUNDING SOURCE								
16.		Federal Receipts 1002								
17.		G.F. Match 1003								
18.		General Funds 1004		287.7						
19.		I-A Receipts 1005								
20.		Program Receipts 1006								
21.		Other								
For B&M USE ONLY KEY NUMBER -----										

REQUEST FOR  
NEW POSITION

AGENCY Department of Corrections  
Offender Confinement, Reformation  
PROGRAM and Supervision  
BRU \_\_\_\_\_  
COMPONENT \_\_\_\_\_

FY 90

Page 1 of 1

STATE OF ALASKA 1985 LEGISLATIVE SESSION  
FISCAL NOTE

Revision Date: \_\_\_\_\_

**REQUEST:**

Bill/Resolution No.: SB102  
 Title: "An Act relating to criminal sentences."  
 Sponsor: By Request of the Governor  
 Requestor: Governor's Ofc./OMB  
 Date of Request: 12/19/84

**FISCAL DETAIL**

Agency Affected: Department of Law  
 Program Category Affected: Administration of Justice  
 BRU, Program or Subprogram(s) Affected: Prosecution

**EXPENDITURES/REVENUES: (Thousands of Dollars)**

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
<b>OPERATING</b>		-				
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
<b>TOTAL OPERATING</b>	-0-	-0-	-0-	-0-	-0-	-0-

<b>CAPITAL</b>						
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<b>REVENUE</b>						
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**FUNDING: (Thousands of Dollars)**

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>						

**POSITIONS:**

FULL-TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART-TIME						
TEMPORARY						

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

This bill would amend existing sentencing laws by raising the criminal penalties for attempted murder, solicitation to commit murder, manslaughter, and criminally negligent homicide, and it would make some badly needed "housekeeping" amendments to sentencing laws. Because the bill affects sentencing and not the number of prosecutions, it will not have a fiscal impact on the Department of Law's operations.

*Richard I. Pegues*

Prepared By: Richard I. Pegues, Director Phone: 465-3672  
 Division: Administrative Services Date: 12/19/84

*Richard I. Pegues / JCR*

Approved by Commissioner: Norman C. Gorsuch Date: 12/19/84  
 Agency: Department of Law

**Distribution (by Agency preparing fiscal note):**

Legislative Finance  
 Legislative Sponsor  
 Requestor  
 Office of Management and Budget  
 Impacted Agency(ies)

7/1/84



STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
JUNEAU

January 25, 1985

The Honorable Don Bennett  
President of the Senate  
Alaska State Legislature  
Pouch V  
Juneau, AK 99811

Dear Senator Bennett:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill that will increase the penalties for the crimes of attempted murder, solicitation to commit murder, manslaughter, and criminally negligent homicide. The bill also makes some badly needed "housekeeping" changes to existing sentencing laws.

Under present law, a person who attempts to commit or solicits another to commit murder, an unclassified felony, is guilty of only a class A felony. If it is the defendant's first felony conviction, he will be subject to a presumptive term of either five or seven years imprisonment, depending upon the facts of the offense. (AS 12.55.125(c)(1), (c)(2).)

A deliberate, intentional attempt to kill another person, or the deliberate, intentional solicitation of someone else to commit a murder, are among the most heinous crimes that a person can commit. Only the completed murder itself could be more serious. The penalties prescribed under existing law do not reflect the seriousness of this conduct. Under present law, for example, a parent who improperly touches his eight-year-old child's genitals receives a more severe sentence than that imposed upon a person who deliberately, but unsuccessfully, attempted to kill the child. Sections 1 -- 4 and 10 of this bill cure this anomaly by raising the crimes of attempted murder and solicitation to commit murder to the "unclassified" level. The crimes will carry a presumptive sentence equal to that now provided for the unclassified felonies of sexual assault in the first degree or sexual abuse of a minor in the first degree. (See AS 12.55.125(i).)

Manslaughter is a class A felony. Under current law, a person convicted of a first offense class A felony faces a presumptive term of seven years if the person knowingly directed his conduct to a uniformed police officer, possessed a firearm, used a dangerous instrument, or caused serious physical injury during the crime, unless the conviction was for manslaughter. AS 12.55.125(c)(2). A defendant convicted of manslaughter is subject to a presumptive term of only five years.

This sentencing "exception" for manslaughter has created an incredible anomaly in existing law. For example, an intoxicated driver who causes a traffic accident in which another person is seriously injured has committed assault in the first degree under AS 11.41.200(a)(1), a class A felony. The drunk driver, if convicted for the assault, faces a presumptive term of seven years. If, however, the victim dies, and the drunk driver is convicted of manslaughter, the defendant's presumptive sentence decreases to five years. This result is one that is difficult to understand, and even more difficult to explain to a deceased victim's family. Section 8 of this bill removes this "exception", and treats manslaughter the same as any other class A felony.

Section 5 of the bill reclassifies the crime of criminally negligent homicide from a class C to a class B felony level. This raises the maximum possible penalty from five years to 10. (Before the new criminal code took effect in 1980, negligent homicide was considered a form of manslaughter, and carried a penalty of up to 20 years imprisonment). Under present law, the disparity between manslaughter (a class A felony with a maximum term of 20 years) and criminally negligent homicide (a C felony, five year maximum) is too great. The difference between the two crimes is the defendant's mental state at the time of the killing -- "reckless" for manslaughter, "criminally negligent" for criminally negligent homicide. These mental states are defined in AS 11.81.900(a), and the difference between them is not great. Criminally negligent homicide is the unlawful killing of another. Reclassification of this crime to the B felony level will bring the penalty level in line with the seriousness of the offense. In appropriate cases a sentencing court could decide not to impose any jail sentence at all, as a first offense B felony conviction does not carry a presumptive term.

Sections 6 and 7 make some badly needed "housekeeping" amendments to the sentencing laws. When the present criminal code was enacted in 1978, there were only three "un-

classified" offenses: murder in the first degree, murder in the second degree, and kidnapping. These three crimes were originally listed, by name, in several places in the code as exceptions to the general classification and sentencing scheme. In the intervening years, other crimes have been raised to the unclassified level, including sexual assault in the first degree, sexual abuse of a minor in the first degree, and misconduct involving a controlled substance in the first degree. In addition, this bill raises attempted murder and solicitation to commit murder to the unclassified level.

It has become increasingly impractical to list all unclassified offenses by name whenever the statutory reference is to the group of offenses. The present system presents the danger that necessary conforming amendments will inadvertently be overlooked when a new crime is added to the unclassified group. This is exactly what happened when the legislature amended the criminal code in 1983 to strengthen the laws against sexual abuse of children. A new unclassified crime, sexual abuse of a minor in the first degree, was created (AS 11.41.434). Through a drafting oversight, however, a reference to this crime was not added to AS 12.55.035, the general provision that specifies the fines authorized for given offenses. Thus, although a person convicted of sexual abuse in the first degree faces a presumptive term of eight years in prison under AS 12.55.125(i), existing penalty provisions do not include a fine for this offense.

To remedy this oversight, and to ensure that similar errors do not occur in the future, this bill substitutes a reference to unclassified crimes as a group wherever the offenses in this group are now specifically listed by name in the statutes.

The amendments contained in secs. 9, 11, 13, and 15 of the bill are needed for a similar reason. Presumptive terms under the new criminal code were originally imposed under a few subsections of AS 12.55.125. These few subsections were specifically cited in many general provisions that dealt with some aspect of presumptive sentencing (in, for example, the list of aggravating or mitigating factors and the section creating the three-judge sentencing panel). As the criminal code has been amended over the years, however, and presumptive penalties have been added or changed, necessary conforming amendments were not always made, or were not always made completely. This bill cures past discrepancies, and eliminates the problem for the future, by simply substituting a general reference to

"presumptive terms" in statutes that now refer to specific subsections under which a presumptive sentence is imposed.

In 1982 the language of AS 12.55.145(a) was amended to provide that a criminal conviction in another jurisdiction would be considered a "prior conviction" for presumptive sentencing purposes in this state if the out-of-state offense had elements "similar to" those of a crime defined as a felony in Alaska. As the result of a drafting oversight, the language of a companion subsection dealing with procedural matters was not amended. Section 12 of this bill cures this discrepancy by amending AS 12.55.145(c).

The amendments included in this bill are needed to improve existing sentencing laws, and to recognize the seriousness of taking a human life.

Sincerely,

A handwritten signature in cursive script that reads "Bill Sheffield".

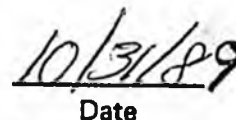
Bill Sheffield  
Governor



# RECORDS CERTIFICATION

I, the undersigned, an employee of the State of Alaska, do hereby certify that the microfilm images on this microform are accurate reproductions of the original records of the State of Alaska as accumulated during the regular course of business, and that it is the established policy and practice of this State to microfilm its records and to dispose of the original records after microfilm reproductions have been made.

  
Signature of Camera Operator

  
Date

S B

1 0 9

Senate Health, Education and Social Services Committee

Legislation Checklist

Bill number: SB 109  
Sponsor: Josephson  
Date referred to committee: 1/30/85  
Synopsis completed: 1/30/85  
Fiscal note:  
Further referrals: Finance

CONTACTS:

- ✓ Bill Sumner 561-2488, 561-0843
- ✓ Dr. <sup>John</sup> Godfrey 563-4353 Pres, AK Chiro-  
practor Assoc.
- ✓ Josephson
- ✓ Rod Petit, DHA SS 3355  
Kim Barbara Bish

# COMMITTEE REPORT SENATE

FURTHER: FINANCE

1/30/85

Date 1/30/85

Mr. President

The Committee on HESS considered SB 109

related to provision of chiropractic services under the medicaid program,

and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass
- do pass with attached amendment(s)
- replace with/or adopt CS for SB 109
- new title
- same title and recommends \_\_\_\_\_
- and attached a "LETTER OF INTENT"  NEW FISCAL NOTE
- reports it back without recommendation
- recommends referral to \_\_\_\_\_ Committee

MEMBERS SIGNING  
DO PASS

MEMBERS HAVING  
OTHER RECOMMENDATIONS

[Handwritten signatures]  
\_\_\_\_\_  
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Chairman

[Handwritten signature]  
Chairman recommendation

TO: BETTYE  
FROM: SANDRA

SB 109 PROVISION OF CHIROPRACTIC  
SERVICES UNDER MEDICAID.

-----  
*Josephson is sponsor; Bill Sumner requested the bill be heard.*

ALLOWABLE SERVICES UNDER MEDICAID ARE ESTABLISHED BY FEDERAL GOV.  
STATE HAS OPTION TO PARTICIPATE - REQUIRES THAT WE PASS LEGISLATION  
TO DO SO. STATE CURRENTLY PARTICIPATES IN 18 SERVICES. COST OF  
CARE IS SHARED ON A 50-50 BASIS WITH THE FED. GOV. STATE'S ANNUAL  
BUDGET FOR MEDICAID (A NEEDS-BASED INSURANCE PROGRAM) IS ROUGHLY  
\$68 MILLION. *(Standards set by feds.)*

DEPT. H&SS ESTIMATES CHIROPRACTIC COVERAGE WILL COST THE STATE  
~~\$170,000~~ <sup>\$87,000</sup> ANNUALLY (THIS INCLUDES ADMINISTRATIVE COSTS). WHAT  
THEIR FISCAL NOTE DOESN'T REFLECT IS THAT IF COVERAGE IS AVAILABLE,  
PEOPLE MAY OPT FOR THE LESS EXPENSIVE CHIROPRACTIC CARE, THUS  
REDUCING THE MEDICAID PAYMENTS TO STANDARD PHYSICIANS.

OUR STATUTE PRIORITIZES THE SERVICES COVERED. CHIROPRACTIC WOULD  
BE PLACED AT THE BOTTOM (#19), SO IF FUNDING TO MEDICAID WAS  
INADEQUATE, NO MONEY WOULD GO FOR CHIROPRACTIC SERVICES. THERE HAS  
NEVER YET BEEN A NEED TO PRIORITIZE PAYMENTS.

ESTIMATED SAVINGS  
TO STATE OF  
\$1.5 MILLION. →  
PHARMACISTS  
OPPOSE.  
THE GOVERNOR HAS INTRODUCED HB 209, WHICH WOULD ADD PRESCRIPTION  
DRUGS TO THE MEDICAID PROGRAM. THE GOVERNOR'S COUNCIL ON THE GIFTED  
AND HANDICAPPED WOULD LIKE TO SEE PERSONAL CARE SERVICES (AS AN  
ALTERNATIVE TO INSTITUTIONALIZATION FOR DEVELOPMENTALLY DISABLED  
PERSONS) ADDED TO THE MEDICAID PROGRAM (ESTIMATED COST \$1.2 MILLION).

CHIROPRACTORS ARE LICENSED UNDER CURRENT LAW, EVEN THOUGH THE  
MEDICAL PROFESSION IS NOT COMPLETELY CONVINCED OF THEIR PROFESSIONALISM.

# Alaska State Legislature

BETTYE FAHRENKAMP, Chairman  
ARLISS STURGULEWSKI, Vice Chairman  
JOE JOSEPHSON  
PAUL FISCHER  
EDNA ARMSTRONG-DE VRIES



POUCH V  
STATE CAPITAL  
JUNEAU, ALASKA 99511  
(907) 465-3834  
(907) 465-3835

## Senate Committee on Health, Education and Social Services

### MEMORANDUM

TO: Members, Senate Committee on Health, Education and Social Services

FROM: Committee Staff

RE: Committee Meeting, February 28, 1985  
TELECONFERENCE

DATE: February 26, 1985

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On Thursday, February 28, at 1:30 pm in the Beltz Room, the Senate Committee on Health, Education and Social Services will hear the following bills:

SB 109, Provision of chiropractic services under the Medicaid program.

SB 109 would modify the state's Medicaid program to include chiropractic services. Medicaid eligibility is based on need. Allowable services are determined by the federal government with state participation provided through legislative approval. SB 109 provides that if funding in a fiscal year is inadequate to finance the total Medicaid program, chiropractic services would be the lowest priority for funding.

Legislation that would add pharmaceuticals to the Medicaid program currently rests in the House Committee on Health, Education and Social Services.

POSITION PAPER  
Senate Bill No. 109

"An act relating to provision of chiropractic services under the Medical Assistance program".

I. Background

SB 109 would modify the Medicaid program to add chiropractic services. Currently, approximately 29 states include chiropractic services in their Medicaid program. In addition, many major private insurance programs also include chiropractic coverage. Generally, chiropractors and advocates of their services contend that chiropractic services are an alternative to other, potentially more costly medical treatments.

If chiropractic services are added to Medicaid, they should be limited to the two services covered under federal Medicaid rules i.e., manual manipulation of the spine and x-rays necessary for treatment. The added FY86 costs to include chiropractic services if limited to these two services is anticipated to be \$174.0, (\$87.0 in state funds).

II. Departmental Position:

Chiropractic services would be a good addition to the medical services currently offered under Medicaid, but the added cost associated with this new service is not affordable at the present time. However, if SB 109 is adopted it should be modified to limit chiropractic services to manual manipulation of the spine and x-ray.

Recommended By: \_\_\_\_\_

Rod Betit  
Rod Betit, Director  
Division of Medical Assistance

Date: \_\_\_\_\_

2/6/85

Approved By: \_\_\_\_\_

John R. Pugh  
John R. Pugh, Commissioner  
Department of Health & Social  
Services

Date: \_\_\_\_\_

2/14/85

**STATE OF ALASKA 1985 LEGISLATIVE SESSION  
FISCAL NOTE**

Revision Date: \_\_\_\_\_

**REQUEST**

Bill/Resolution No.: SB109  
 Title: An Act relating to provision of chiropractic services under Med.  
 Sponsor: Josephson, Abood, Fahrenkamp  
 Requestor: \_\_\_\_\_  
 Date of Request: 2/6/85

**FISCAL DETAIL**

Agency Affected: Health & Social Services  
 Program Category Affected: \_\_\_\_\_  
 BRU, Program or Subprogram(s) Affected: Medical Assistance

**EXPENDITURES/REVENUES: (Thousands of Dollars)**

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
<b>OPERATING</b>						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL	-0-	20.0	-0-	-0-	-0-	-0-
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS	-0-	154.0	160.0	166.4	173.0	180.0
800 MISCELLANEOUS						
<b>TOTAL OPERATING</b>	-0-	174.0	160.0	166.4	173.0	180.0
<b>CAPITAL</b>		-0-	-0-	-0-	-0-	-0-
<b>REVENUE</b>		-0-	-0-	-0-	-0-	-0-

**FUNDING: (Thousands of Dollars)**

GENERAL FUND		87.0	80.0	83.2	86.5	90.0
FEDERAL FUNDS		87.0	80.0	83.2	86.5	90.0
OTHER						
<b>TOTAL</b>		174.0	160.0	166.4	173.0	180.0

**POSITIONS:**

FULL-TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART-TIME	-0-	-0-	-0-	-0-	-0-	-0-
TEMPORARY	-0-	-0-	-0-	-0-	-0-	-0-

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

Please see attached analysis for method used to determine FY86 cost of \$174.0. A 4% inflator was used to estimate cost for FY87 and each year thereafter.

Prepared By: Rod Betit, Director *R. Betit*  
 Division: Medical Assistance

Phone: 465-3355  
 Date: 2/6/85

Approved by Commissioner: J. A. P.  
 Agency: DEPT. OF HEALTH & SOCIAL SERVICES

Date: 2/14/85 *JCC*

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget

## Cost Analysis for Chiropractic Services

### Additional Contractual Costs

The Alaska Medical Payments System will require modification to pay chiropractors as a new services. The contractual costs include the following: provider manuals, training, a new claims form, tables included in the system for chiropractic services, computer programming, computer reports, the addition of collocation codes, the provision of notice to providers, provider relations, and a computer system test.

### Additional Grants/Claims Costs

These figures were adjusted by an inflation factor of 4%. This is the average percent increase experienced during the past two years in chiropractic services. These costs are for only manual manipulation of the spine and the x-rays necessary for diagnosis. Again, these are the only chiropractic services for which federal reimbursement is available. The federal match for Medicaid is 50%.

We did not develop a fiscal note for the full range of chiropractic services included in SB 109. We used the following formula to develop our cost estimates:

$$\left( \frac{\# \text{Recipients}}{\text{Month}} \times \frac{\# \text{Services}}{\text{Month}} \times \frac{\text{Cost/Service}}{\text{Month}} + \frac{\# \text{Recipients}}{\text{mth}} \times \frac{\# \text{X-Rays}}{\text{Month}} \times \text{Cost/X-Ray} \times 12 \text{ mths} \right)$$

$$[50 \times \$30 \times 2] + [\$65 \times 50 \times 3] \times 12 = \$154.0 + 1 \text{ time Administrative Cost } \$20 = \$174.0$$

### Assumption #1:

Alaska's ratio of recipients to eligibles is similar to the ratio of recipients to eligibles in Idaho.

Idaho averaged 75 chiropractic recipients and 30,000 eligibles per month. Therefore we estimate Alaska would average 50 chiropractic recipients out of 20,000 eligibles per month.

### Assumption #2:

Services would be limited to 2 visits per month per recipient.

### Assumption #3:

X-rays would be limited to three x-ray per month per recipient.

### Assumption #4:

Manual manipulation of the spine costs \$30. An x-ray costs \$65.55.

ANCHORAGE CENTER FOR CHIROPRACTIC, INC.  
KENNETH O. KETZ, D.C., AND ASSOCIATES  
3126 SEWARD HIGHWAY  
ANCHORAGE, ALASKA 99503  
PHONE 274-7621

To date there are twenty-eight states which have chiropractic care covered in their medicaid programs, and one state pending.

They are as follows:

- |               |                          |
|---------------|--------------------------|
| 1. Arkansas   | 15. New Hampshire        |
| 2. California | 16. New Nersey           |
| 3. Kentucky   | 17. North Carolina       |
| 4. Idaho      | 18. North Dakota         |
| 5. Illinois   | 19. Ohio                 |
| 6. Indiana    | 20. Oregon               |
| 7. Iowa       | 21. Pennsylvania         |
| 8. Kansas     | 22. South Carolina       |
| 9. Louisiana  | 23. South Dakota         |
| 10. Maine     | 24. Texas                |
| 11. Michigan  | 25. Utah                 |
| 12. Minnesota | 26. Washington           |
| 13. Nebraska  | 27. West Virginia        |
| 14. Nevada    | 28. Wisconson            |
|               | * 29. New York - Pending |

More information will be forwarded to you as I receive and segregate it.

Sincerely,

*Francis L. Corbin D.C.*

F. L. (Butch) Corbin, D.C.

FLC/dh

2259 (File Nos. 4163, 4176), 623 P.2d 291 (1981).

### Chapter 20. Chiropractors.

#### Article

1. Board of Chiropractic Examiners (§§ 08.20.010 — 08.20.090)
2. Licensing and Regulation (§§ 08.20.100 — 08.20.190)
3. Unlawful Acts and Penalties (§§ 08.20.200 — 08.20.210)
4. General Provisions (§ 08.20.220)

#### NOTES TO DECISIONS

Cited in Allison v. State, Sup. Ct. Op. No. 1703 (File No. 3716), 583 P.2d 813 (1978).

Collateral references. — 61 Am. Jur. 2d, Physicians, Surgeons and Other Healers. §§ 19, 23, 41.  
 70 C.J.S., Physicians and Surgeons, §§ 1, 8-15.  
 Constitutionality of statute prescribing

conditions of practicing medicine as affected by discrimination against chiropractors. 37 ALR 680; 54 ALR 600.  
 Kind or character of treatment which may be given by one licensed as chiropractor. 86 ALR 630.

#### Article 1. Board of Chiropractic Examiners.

##### Section

10. Creation and membership of Board of Chiropractic Examiners
20. Members of board
25. Removal of board members
30. Members' terms; vacancies
40. Organization of board

##### Section

50. Power of officers to administer oaths and take testimony
55. Board regulations
60. Power of board to adopt seal
- 70 — 80. [Repealed]
90. Quorum of board

Sec. 08.20.010. Creation and membership of Board of Chiropractic Examiners. There is created the Board of Chiropractic Examiners consisting of five members appointed by the governor. (§ 35-3-23 ACLA 1949; am § 2 ch 102 SLA 1976)

Cross references. — As to notes to AS 09.55.536 and Alas. Const., constitutionality of ch. 102, SLA 1976, see art II, § 14.

Sec. 08.20.020. Members of board. Four members of the board shall be licensed chiropractic physicians who have practiced chiropractic in this state not less than two years. One member of the board shall be a person with no direct financial interest in the health care industry. Each member serves without pay but is entitled to per diem and travel expenses allowed by law. (§§ 35-3-23, 35-3-30 ACLA 1949; am § 3 ch 102 SLA 1976; am § 2 ch 162 SLA 1980)

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TO: BETTYE  
FROM: SANDRA  
RE: SB 109 - CHIROPRACTIC (JOSEPHSON)  
DATE: APRIL 2, 1985

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BILL WOULD ADD CHIROPRACTIC SERVICES TO THOSE COVERED BY MEDICAID (50-50 MATCH WITH FEDERAL GOVERNMENT). ADDED AT BOTTOM OF PRIORITY LIST, WHICH MEANS THAT IN THE EVENT OF A FUNDING SHORTFALL, CHIROPRACTIC WOULD BE THE FIRST SERVICE DELETED FROM THE STATE PROGRAM. THE DEPT. INTERPRETS THIS PRIORITIZATION LANGUAGE IN A LONG TERM, FUTURE BUDGETING PERSPECTIVE -- NOT DAILY AS MEDICAL BILLS COME IN FOR PAYMENT. DEPARTMENT IS OPPOSED TO BILL UNLESS FUNDING IS PROVIDED, BECAUSE THEIR CURRENT BUDGET IS BASED ON THE SERVICES THEY ANTICIPATED PROVIDING AT THE TIME THEIR BUDGET REQUEST WAS SUBMITTED. THE ANTICIPATED SERVICES DID NOT INCLUDE CHIROPRACTIC.

HESS, C.S.

AMENDS DEFINITION OF "CHIROPRACTIC" (AND HENCE THE SERVICES THAT WILL BE COVERED) TO INCLUDE ONLY SERVICES PROVIDED BY A CHIROPRACTOR LICENSED BY THE STATE AND CONSISTING OF MANUAL MANIPULATION OF THE SPINE AND X-RAYS NECESSARY FOR TREATMENT.

draft

Introduced: 1/30/85  
Referred: Health, Education and  
Social Services and  
Finance

See p. 3, line 23

1 IN THE SENATE

BY JOSEPHSON, ABOOD  
AND FAHRENKAMP

2

CS SENATE BILL NO. 109 (HESS)

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6

For an Act entitled: "An Act related to provision of chiropractic services  
under the medicaid program."

7

8

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

9

\* Section 1. AS 47.07.030 is amended to read:

10

Sec. 47.07.030. MEDICAL SERVICES TO BE PROVIDED. Medical ser-

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vices to be offered to eligible persons include inpatient hospital,

12

outpatient hospital, rural health clinic, outpatient surgical care

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centers, laboratory and X-ray, refractions and eye examinations by

14

ophthalmologists or optometrists, eyeglasses prescribed by a physician

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skilled in diseases of the eye or by an optometrist, inpatient psy-

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chiatric hospital for persons age 65 or older and persons under age

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21, skilled and intermediate nursing home, physician, nurse midwife,

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home health care services, early periodic screening diagnosis and

19

treatment of persons under 21 years of age, clinic services, treatment

20

of speech, hearing and language disorders, physical therapy, occupa-

21

tional therapy, chiropractic services, prosthetic devices and medical

22

supplies, long-term care noninstitutional services, and reasonable

23

transportation to and from the point of medical care. Additional

24

services may not be provided unless approved by the legislature.

25

\* Sec. 2. AS 47.07.035 is amended to read:

26

Sec. 47.07.035. PRIORITY OF SERVICES. If the funding in a

27

fiscal year is inadequate to finance the total medical assistance

28

program under this chapter, the department shall, to the extent that

29

federal law and funding permits, provide medical assistance in the

1 following order:

2 (1) aged, blind, or disabled persons who

3 (A) do not receive supplemental security income under  
4 42 U.S.C. 1381 - 1383c (Title XVI, Social Security Act) because  
5 they do not meet income and resources requirements; and

6 (B) are eligible to receive an optional state supple-  
7 mentary payment;

8 (2) persons in a medical or intermediate care facility

9 (A) whose income while in the facility does not exceed  
10 300 percent of the supplemental security income benefit rate  
11 under 42 U.S.C. 1381 - 1383c (Title XVI, Social Security Act);  
12 and

13 (B) who would not be eligible for an optional state  
14 supplementary payment if they left the facility;

15 (3) persons under 21 years of age

16 (A) who are under the supervision of the department;

17 (B) whose maintenance is paid in whole or in part from  
18 public funds; and

19 (C) who are in foster homes or private child-care  
20 institutions;

21 (4) persons under 21 years of age who

22 (A) receive treatment in a psychiatric hospital; and

23 (B) are financially eligible as determined by the  
24 standards of 42 U.S.C. 601 - 615 (Title IV-A, Social Security  
25 Act, Aid to Families with Dependent Children);

26 (5) persons under 21 years of age who are

27 (A) in an institution designated by the department as  
28 an intermediate care facility for the mentally retarded; and

29 (B) financially eligible as determined by the

1 standards of the federal aid to families with dependent children  
2 program;

3 (6) women who are pregnant;

4 (7) persons under 21 years of age who do not qualify for  
5 benefits under the federal aid to families with dependent children  
6 program because they are not dependent children;

7 (8) intermediate nursing home services;

8 (9) eye examinations by an ophthalmologist or optometrist;  
9 or eyeglasses prescribed by a physician skilled in the diseases of the  
10 eye or by an optometrist;

11 (10) treatment of speech, hearing, or language disorders;

12 (11) physical or occupational therapy;

13 (12) care at an intermediate care facility for the mentally  
14 retarded;

15 (13) care at an inpatient psychiatric facility;

16 (14) community mental health clinic services;

17 (15) surgical care center services;

18 (16) nurse midwife services;

19 (17) medical supplies and equipment;

20 (18) long-term care noninstitutional services;

21 (19) chiropractic services.

22 \* Sec. 3. AS 47.07.900 is amended by adding a new paragraph to read:

23 (7) "chiropractic" [has the meaning given in AS 08.20.220.]

services" include only services that are provided by a chiropractor, <sup>licensed</sup> under AS 08.20, and consists of treatment by means of manual manipulation of the spine and X-rays necessary for treatment.

2259 (File Nos. 4163, 4176), 623 P.2d 291 (1981).

### Chapter 20. Chiropractors.

#### Article

- 1. Board of Chiropractic Examiners (§§ 08.20.010 — 08.20.090)
- 2. Licensing and Regulation (§§ 08.20.100 — 08.20.190)
- 3. Unlawful Acts and Penalties (§§ 08.20.200 — 08.20.210)
- 4. General Provisions (§ 08.20.220)

#### NOTES TO DECISIONS

Cited in Allison v. State, Sup. Ct. Op. No. 1703 (File No. 3716), 583 P.2d 813 (1978).

Collateral references. — 61 Am. Jur. 2d, Physicians, Surgeons and Other Healers, §§ 19, 23, 41.  
 70 C.J.S., Physicians and Surgeons, §§ 1, 8-15.  
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conditions of practicing medicine as affected by discrimination against chiropractors. 37 ALR 680; 54 ALR 600.  
 Kind or character of treatment which may be given by one licensed as chiropractor. 86 ALR 630.

#### Article 1. Board of Chiropractic Examiners.

##### Section

- 10. Creation and membership of Board of Chiropractic Examiners
- 20. Members of board
- 25. Removal of board members
- 30. Members' terms; vacancies
- 40. Organization of board

##### Section

- 50. Power of officers to administer oaths and take testimony
- 55. Board regulations
- 60. Power of board to adopt seal
- 70 — 80. [Repealed]
- 90. Quorum of board

**Sec. 08.20.010. Creation and membership of Board of Chiropractic Examiners.** There is created the Board of Chiropractic Examiners consisting of five members appointed by the governor. (§ 35-3-23 ACLA 1949; am § 2 ch 102 SLA 1976)

**Cross references.** — As to notes to AS 09.55.536 and Alas. Const., constitutionality of ch. 102, SLA 1976, see art. II, § 14.

**Sec. 08.20.020. Members of board.** Four members of the board shall be licensed chiropractic physicians who have practiced chiropractic in this state not less than two years. One member of the board shall be a person with no direct financial interest in the health care industry. Each member serves without pay but is entitled to per diem and travel expenses allowed by law. (§§ 35-3-23, 35-3-30 ACLA 1949; am § 3 ch 102 SLA 1976; am § 2 ch 162 SLA 1980)

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Effect of amendments. — The 1980 amendment substituted "Four" for "Three," at the beginning of the first sentence, and "One member" for "Two members," and "a person" for "persons" in the second sentence.

**Sec. 08.20.025. Removal of board members.** A member of the board may be removed from office by the governor for cause. The board may by regulation provide that unexcused absences from meetings constitute cause for removal. (§ 3 ch 162 SLA 1980)

**Sec. 08.20.030. Members' terms; vacancies.** (a) Members serve for staggered terms of four years. Vacancies on the board shall be filled for the unexpired term.

(b) A member who has served two successive four-year terms may not be reappointed until four years after the expiration of the second term. (§ 35-3-23 ACLA 1949; § 4 ch 102 SLA 1976; am § 4 ch 162 SLA 1980)

Effect of amendments. — The 1980 amendment, in present subsection (a), substituted "four" for "three," and deleted the former second sentence, which read: "The terms of the public members of the board may not expire at the same time," and added subsection (b).

**Sec. 08.20.040. Organization of board.** Every two years, the board shall elect from its membership a president, vice president and secretary. (§ 35-3-24 ACLA 1949)

**Sec. 08.20.050. Power of officers to administer oaths and take testimony.** The president and the secretary may administer oaths in conjunction with the business of the board. (§ 35-3-24 ACLA 1949)

**Sec. 08.20.055. Board regulations.** The board shall adopt substantive regulations necessary to effect the provisions of this chapter. (§ 1 ch 102 SLA 1966)

**Sec. 08.20.060. Power of board to adopt seal.** The board shall adopt a seal and affix it to all licenses issued. (§ 35-3-24 ACLA 1949)

**Sec. 08.20.070 — 08.20.080. Secretary; records, reports and accounts of board.**

Repealed by § 3 ch 59 SLA 1966.

Editor's notes. — The repealed sections derived from §§ 35-3-24 ACLA 1949.

**Sec. 08.20.090. Quorum of board.** A majority of the board constitutes a quorum for the transaction of business (§ 35-3-24 ACLA 1949)

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Article 2. Licensing and Regulation.

Section	Section
100. Practice of chiropractic without license prohibited	150. Recording of license
110. Application for license	160. Temporary permits
115. [Repealed]	170. Grounds for suspension, revocation or refusal to issue a license
120. Qualifications for license	175. Disciplinary sanctions
130. Examinations	180. Fees
135. Associate	190. Disposition of fees
140. Licensure by credentials	

Sec. 08.20.100. Practice of chiropractic without license prohibited. A person may not practice chiropractic in the state without a license. (§ 35-3-21 ACLA 1949)

Cross references. — For professional designation requirements for chiropractors, see AS 08.02.010.

NOTES TO DECISIONS

Cited in Territory of Alaska v. Hawkins, 9 Alaska 573 (1939).

Sec. 08.20.110. Application for license. A person desiring to practice chiropractic shall apply in writing to the board. (§ 35-3-26 ACLA 1949)

Sec. 08.20.115. Malpractice insurance. Repealed by § 40 ch 177 SLA 1978.

Editor's notes. — The repealed section derived from § 5, ch. 102, SLA 1976. For purpose of repealing act, see § 1; ch. 177, SLA 1978 as amended by § 7, ch. 46, SLA 1982, in the 1982 Temporary and Special Acts and Resolves.

Sec. 08.20.120. Qualifications for license. (a) An applicant shall be issued a license to practice chiropractic if the applicant

- (1) Repealed by § 25 ch 245 SLA 1970.
- (2) has had a high school education or its equivalent;
- (3) has successfully completed at least two academic years of study in a college of liberal arts or sciences or has engaged in the active practice of chiropractic for three of the four years preceding the filing of the application;
- (4) is a graduate of a legally chartered accredited school or college of chiropractic, approved by the board, which requires for graduation a residence course of instruction of not less than four years of nine months each;
- (5) passes an examination given by the board;
- (6) Repealed by § 8 ch 32 SLA 1971.

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(7) passes to the satisfaction of the board Part I and Part II of the examination of the National Board of Chiropractic Examiners.

(b) The board may issue a license without examination to an applicant under AS 08.20.140. (§ 35-3-25 ACLA 1949; am § 1 ch 53 SLA 1955; am § 1 ch 91 SLA 1965; am § 25 ch 245 SLA 1970; am § 8 ch 32 SLA 1971; am § 1 ch 84 SLA 1972; am §§ 5, 6 ch 162 SLA 1980)

**Effect of amendments.** — The 1980 amendment added "or has engaged in the active practice of chiropractic for three of the four years preceding the filing of the application" at the end of paragraph (3) of subsection (a), and added subsection (b).

**Editor's notes.** — This section was redrafted by the revisor of statutes to remove personal pronouns in conformity

with AS 01.05.031(c) and § 4, Chapter 58, SLA 1982.

**Legislative committee reports.** — Chapter 245, SLA 1970 (HCSSB 399 am H), was identical to CSHB 406 (Jud.). For report on CSHB 406 (Jud.), see 1970 House Journal Supplement No. 6. For report on ch. 32, SLA 1971 (HB 111 am), see 1971 House Journal, p. 138.

**Sec. 08.20.130. Examinations.** (a) Examinations for a license to practice chiropractic may be held in the time and manner fixed by the board.

(b) The examination may include practical demonstration and oral and written examination in those subjects usually taught in accredited chiropractic schools.

(c) A general average rating of 75 per cent is a passing grade on the examination.

(d) An applicant may take a re-examination within one year after failing the examination upon payment of a fee of \$10. (§ 35-3-27 ACLA 1949; am § 2 ch 91 SLA 1965)

**Sec. 08.20.135. Associate.** [Repealed effective July 1, 1983]. (a) A person who complies with AS 08.20.120(1), (2), (4), (5), and (6) shall, pending compliance with (3) of AS 08.20.120, be licensed to serve as an associate in an existing chiropractic clinic or office under the direct supervision of a licensed chiropractor for a period not to exceed three years.

(b) A license may not be issued under (a) of this section after July 1, 1980. (§ 3 ch 91 SLA 1965; am § 7 ch 162 SLA 1980)

**Section repealed effective July 1, 1983.** — Section 13, ch. 162, SLA 1980, repeals this section, effective July 1, 1983.

**Effect of amendments.** — The 1980 amendment added subsection (b).

**Editor's notes.** — AS 08.20.120(1) and (6), referred to in subsection (a), were repealed by § 25, ch. 245, SLA 1970 and § 8, ch. 32, SLA 1971, respectively.

**Sec. 08.20.140. Licensure by credentials.** The board may issue a license without examination to an applicant presenting satisfactory proof of the possession of a license or certificate of registration in good standing in a state or territory of the United States, or a foreign country, if the requirements for registration at the date of the applicant's license are essentially equivalent to those in this chapter. (§ 35-3-25 ACLA 1949; am § 1 ch 53 SLA 1955; am § 8 ch 162 SLA 1980)

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**Effect of amendments.** — The 1980 amendment inserted, "in good standing," substituted "essentially" for "considered by the board as," and deleted "and if the licensing jurisdiction extends the same privilege to those holding a license from this date" following "in this chapter" at the end of the section.

**Sec. 08.20.150. Recording of license.** Each licensee shall record the license with the clerk of the superior court in the judicial district in which the licensee is practicing chiropractic. (§ 35-3-28 ACLA 1949)

**Editor's notes.** — This section was redrafted by the revisor of statutes to remove personal pronouns in conformity

**Editor's notes.** — This section was redrafted by the revisor of statutes to remove personal pronouns in conformity with AS 01.05.031(c) and § 4, Chapter 58, SLA 1982.

with AS 01.05.031(c) and § 4, Chapter 58, SLA 1982.

**Sec. 08.20.160. Temporary permits.** Temporary permits may be issued to persons apparently qualified until the next regular meeting of the board. (§ 35-3-28 ACLA 1949)

**Sec. 08.20.170. Grounds for suspension, revocation or refusal to issue a license.** (a) The board may, after a hearing, impose a disciplinary sanction on a person licensed under this chapter when the board finds that the licensee

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

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

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

(4) has been convicted of a felony or other crime which affects the licensee's ability to continue to practice competently and safely;

(5) intentionally or negligently engaged in or permitted the performance of patient care by persons under the licensee's supervision which does not conform to minimum professional standards established by regulation regardless of whether actual injury to the patient occurred;

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

(7) continued to practice after becoming unfit due to

(A) professional incompetence;

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

(C) physical or mental disability;

(8) engaged in lewd or immoral conduct in connection with the delivery of professional service to patients.

(b) The Administrative Procedure Act (AS 44.62) applies to any action taken by the board for the suspension or revocation of a license.

(c) An two year board is r: nstate

(d) Tho license is ner. (§ 3: 162 SLA

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(c) Any person whose license is suspended or revoked may within two years from date of suspension apply for reinstatement, and if the board is satisfied that the applicant should be reinstated, it shall order reinstatement.

(d) The board shall adopt regulations which insure that renewal of license is contingent on proof of continued competency by a practitioner. (§ 35-3-29 ACLA 1949; am § 25 ch 177 SLA 1978; am §§ 9, 10 ch 162 SLA 1980)

**Effect of amendments.** — The 1978 amendment added the language beginning "including but not limited to" to the end of paragraph (3) of subsection (a).

The 1980 amendment rewrote subsection (a), and added subsection (d).

**Editor's notes.** — This section was redrafted by the revisor of statutes to remove personal pronouns in conformity with AS 01.05.031(c) and § 4, Chapter 58, SLA 1982.

For the purpose of the 1978 amendatory

act, see § 1, ch. 177, SLA 1978 as amended by § 7, ch. 46, SLA 1982, in the 1982 Temporary and Special Acts and Resolves.

**Collateral references.** — Cancellation or suspension irrespective of licensee's personal fault, validity of statute or rule making specified conduct or condition the ground for. 3 ALR2d 107.

*Nolo contendere* or *non vult*, statute authorizing revocation of license upon conviction as applicable to conviction based on plea of. 89 ALR2d 606.

**Sec. 08.20.175. Disciplinary sanctions.** (a) When it finds that a chiropractor is guilty of an offense under AS 08.20.170, the board may impose the following sanctions singly or in combination:

- (1) permanently revoke the chiropractor's license to practice;
- (2) suspend the chiropractor's license for a determinate period of time;
- (3) censure the chiropractor;
- (4) issue a letter of reprimand to the chiropractor;
- (5) place the chiropractor on probationary status and require the chiropractor to
  - (A) report regularly to the board upon matters involving the basis of probation;
  - (B) limit practice to those areas prescribed;
  - (C) continue professional education until a satisfactory degree of skill has been attained in areas determined by the board to need improvement;
  - (6) impose limitations or conditions on the practice of the chiropractor.

(b) The board may withdraw probationary status of a chiropractor if it finds that the deficiencies which required the sanction have been remedied.

(c) The board may summarily suspend a chiropractor's license before final hearing or during the appeals process if the board finds that the chiropractor poses a clear and immediate danger to the public health and safety if the chiropractor continues to practice. A chiropractor whose license is suspended under this section is entitled to a hearing by the board no later than seven days after the effective date of the

order. The chiropractor may appeal the suspension after a hearing to a court of competent jurisdiction.

(d) The board may reinstate a license which has been suspended or revoked if the board finds after a hearing that the applicant is able to practice with skill and safety.

(e) The board shall seek consistency in the application of disciplinary sanctions, and significant departure from earlier decisions involving similar situations shall be explained in findings of fact or orders. (§ 6 ch 102 SLA 1976; am § 11 ch 162 SLA 1980)

**Effect of amendments.** — The 1980 amendment rewrote the section.

**Editor's notes.** — This section was redrafted by the revisor of statutes to remove personal pronouns in conformity with AS 01.05.031(c) and § 4, Chapter 58, SLA 1982.

**Sec. 08.20.180. Fees.** The board shall impose and collect the following fees:

- (1) upon the filing of an application for examination, \$50;
  - (2) upon application for re-examination, \$20;
  - (3) for issuance of temporary permit, \$50;
  - (4) initial and renewal license, due every four years, \$200.
- (§ 35-3-30 ACLA 1949; am § 1 ch 13 SLA 1968; am § 12 ch 162 SLA 1980)

**Effect of amendments.** — The 1980 amendment substituted "\$50" for "\$25" in paragraphs (1) and (3), "\$20" for "\$10" in paragraph (2), and "due every four years, \$200" for "\$50." in paragraph (4), deleted "biennial" following "initial and renewal" in paragraph (4), and deleted former paragraph (5), which read: "associate license, \$30."

**Sec. 08.20.190. Disposition of fees.** All fees collected by the board shall be paid into the general fund of the state. (§ 35-3-30 ACLA 1949)

**Article 3. Unlawful Acts and Penalties.**

**Section**

- 200. Unlicensed practice a misdemeanor
- 210. Fraudulent certificates

**Sec. 08.20.200. Unlicensed practice a misdemeanor.** A person who practices chiropractic in the state without a license in violation of AS 08.20.100 is guilty of a misdemeanor, and upon conviction is punishable by a fine of not more than \$1,000, or by imprisonment for not more than a year, or by both. In prosecutions under this section, evidence that the defendant has failed to file the defendant's certificate of registration with the board is prima facie evidence that the defendant is not a licensed chiropractor. (§ 3 ch 53 SLA 1955)

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Revisor's notes. — This section introduces a requirement which does not exist in this chapter, viz., filing a certificate with the board. It is the board's duty to keep a registry.

Editor's notes. — This section was redrafted by the revisor of statutes to remove personal pronouns in conformity

with AS 01.05.031(c) and § 4, Chapter 58, SLA 1982.

Collateral references. — Practicing medicine, surgery, dentistry, optometry, podiatry, or other healing arts without license as a separate or continuing offense. 99 ALR2d 654.

Sec. 08.20.210. Fraudulent certificates. Any person who obtains or attempts to obtain a chiropractic certificate by dishonest or fraudulent means, or who forges, counterfeits, or fraudulently alters any such certificate is punishable by a fine of not more than \$500, or by imprisonment for not more than six months, or by both. (§ 4 ch 53 SLA 1955)

Article 4. General Provisions.

Section

220. Chiropractic defined

Sec. 08.20.220. Chiropractic defined. Chiropractic is the science of locating and correcting interference with nerve energy transmission and expression within the human body, and the employment and practice of drugless therapeutics, including physiotherapy, hydrotherapy, mechanotherapy, phytotherapy, electrotherapy, chromotherapy, thermotherapy, thalmotherapy, correcting and orthopedic gymnastics, and dietetics which includes the use of foods and those biochemical tissue building products and cell salts found within the normal human body, without the use of drugs or surgery. (§ 35-3-22 ACLA 1949)

Opinions of Attorney General. — It is illegal and criminal for a chiropractor, without additional qualifications, to prescribe drugs or medicine to sick or injured persons. 1961 Op. Att'y Gen., No. 23.

Money cannot be expended from the fishermen's fund for the payment of charges for medicines prescribed by chiropractors. 1961 Op. Att'y Gen., No. 23.

Collateral references. — Chiropractors as within term "physician" in rule as to privileged communications. 68 ALR 177.

Kind or character of treatment which may be given by one licensed as chiropractic. 86 ALR 630.

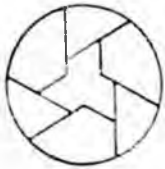
Chapter 24. Collection Agencies.

Article

- 1. Collection Agency Board (§§ 08.24.011 — 08.24.031)
- 2. Powers and Duties of Department of Commerce and Economic Development (§ 1 — 08.24.071)
- 3. Licensing (§§ 08.24.090 — 08.24.380)

Revisor's notes. — The Collection Agency Board has been terminated under the provisions of AS 08.03 and AS 44.66.

AS 08.03.010(b)(3) established a termination date of June 30, 1980.



# AMERICAN PUBLIC HEALTH ASSOCIATION

1015 Fifteenth Street, N.W., Washington, D.C. 20005 • (202) 789-5600

WILLIAM H. McBEATH, M.D., M.P.H., *Executive Director*

January 17, 1985

*Copies to:*  
*Kim*  
*ogden*  
*Connie*

Mr. Rod Betit  
Director  
Division of Public Asst.  
Dept. of Health & Social Svcs.  
Pouch H-07  
Juneau, AK 99811

Dear Mr. Betit:

At its 111th Annual Meeting, the American Public Health Association, representing a combined national and affiliate membership of more than 50,000 public health professionals and community health leaders adopted a resolution entitled, "The Appropriate Role of Chiropractic in Patient Care." A copy is enclosed for your information.

APHA believes that available scientific evidence makes it reasonable to assume that spinal manipulation performed by chiropractors can be a safe and effective service treatment in the clinical management of certain disorders of the neuro-musculo-skeletal system.

The Association also expressed its opinion that additional reliance upon chiropractic care as safe or potentially effective elements of personal health services is without supportive scientific evidence at this time. It calls on chiropractors, their professional organizations, and their colleagues to focus their practice exclusively upon those elements of clinical care objectively demonstrated and scientifically accepted as safe and efficacious.

The resolution further urges responsible licensure authorities to recognize qualified chiropractic professionals only as limited practitioners, with their clinical performance restricted by definition to scope and circumstances of service scientifically demonstrated safe and effective in their hands.

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DIV. OF MEDICAL ASSISTANCE  
OFFICE OF THE DIRECTOR

Mr. Rod Betit  
January 17, 1985  
page 2

The Association also asks those responsible for governmental medical care programs which either employ chiropractors as clinicians, or purchase their professional services, to work to assure that public funds expended for chiropractic patient care are strictly limited to those services, conditions, and circumstances with reasonable assurance of safety, efficiency, and quality.

Thank you for your consideration of this resolution.

Very truly yours,

  
William H. McBeath, MD, MPH  
Executive Director

10. Tuberculous patients from medical surveillance. *Am Rev Respir Dis* 1976; 113:709-710.
5. Lowell AM, Edwards LB, Palmer CE. *Tuberculosis*. Cambridge, MA: Harvard University Press, 1969, 35.
  6. Dundey S. Current status of general hospital use for patients with tuberculosis in the United States. *Am Rev Respir Dis* 1982; 126:270-273.
  7. *Tuberculosis in the United States-1979*. Atlanta, GA: Centers for Disease Control, 1981.
  8. *Tuberculosis Program Evaluation*. Atlanta, GA: Center for Disease Control, 1971.
  9. Weg JG. *Treatment and control of tuberculosis*. New York: National Tuberculosis and Respiratory Disease Association, 1972.
  10. American Thoracic Society and Centers for Disease Control. Guidelines for short-course tuberculosis chemotherapy. *MMWR* 1980; 29:97-105.

#### ACKNOWLEDGMENTS

The authors gratefully acknowledge the many state and local tuberculosis control programs which have compiled and shared these data with us, and Dixie E. Snider, MD, for his constructive review of the manuscript.

## Erratum: Association News

The following policy statement was inadvertently omitted from the APHA Policy Statements published in the March 1984 issue of the *Journal*. This policy statement was adopted by the APHA Governing Council at the 1983 Annual Meeting in Dallas.

### 8331: The Appropriate Role of Chiropractic in Patient Care

The American Public Health Association.

Considering that a substantial, and growing, number of American health care consumers continue to choose chiropractors' services for relief from selected complaints (particularly spinal manipulation for discomfort and/or dysfunction associated with or attributed to the back), without obvious widespread ill effect; and

Observing that all American states now license chiropractors as health care providers, some with significant (and often appropriate) practice restrictions; and

Acknowledging that several controlled clinical trials now reputedly published have seemingly demonstrated the relative safety and efficacy of manual manipulation of the spine at the hands of certain health practitioners in selected patients with back pain (and related neuro-musculo-skeletal complaints); but also

Noting that the practitioners involved in these studies have usually been allopathic or osteopathic physiatrists and physiotherapists, and only rarely chiropractors; and

Recognizing the need for further research; now therefore

Concludes that available scientific evidence makes it rea-

sonable to assume that spinal manipulation performed by chiropractors (and other licensed practitioners) can be a safe and effective service modality in the clinical management of certain disorders of the neuro-musculo-skeletal system, particularly low back pain; and

Shares the judgment that only in this restricted area of clinical care (i.e., manual spinal manipulation for back pain and related neuro-musculo-skeletal complaints) is it warranted to assume that chiropractic professional services have demonstrated potential for a positive contribution to the health care of Americans; and

Records our opinion that additional reliance upon chiropractic care as safe or potentially effective elements of personal health services is without the support of scientific evidence at this time; and

Calls upon chiropractors, their professional organizations, and their colleges to focus the practice of chiropractic exclusively upon those elements of clinical care objectively demonstrated and scientifically accepted as safe and efficacious; and

Urges responsible licensure authorities to recognize qualified chiropractic professionals only as limited practitioners, with their clinical performance restricted by definition to scope and circumstances of service scientifically demonstrated safe and effective in their hands; and

Asks those responsible for governmental medical care programs which either employ chiropractors as clinicians, or purchase their professional services, to work to assure that public funds expended for chiropractic patient care are strictly limited to those services, conditions, and circumstances with reasonable assurance of safety, efficacy, and quality; and

Acknowledges that this resolution supersedes resolution no. 6903.

(2) *Limits on ambulance transportation.* Medicare Part B pays for transportation by ambulance only if other means of transportation would endanger the beneficiary's health and if the beneficiary is transported—

(i) To an institution;

(ii) To his or her home from an institution; or

(iii) Round trip from a hospital or a Medicare-certified skilled nursing facility to another hospital or non-hospital treatment facility, such as a clinic, therapy center, or physician's office, to obtain medically necessary diagnostic or therapeutic services not available at the institution where the beneficiary is an inpatient.

(3) *Limits on payment.* Medicare payments for the ambulance services specified in paragraph (1)(2) of this section are limited to the payment which would have been made for each of the following types of transportation:

(i) To an institution in whose locality the beneficiary is located or, if the beneficiary is not in the locality of an institution that has appropriate facilities, to the nearest institution that does;

(ii) To the beneficiary's home from an institution in whose locality the home is located, or from the nearest institution with appropriate facilities; and

(iii) For a hospital inpatient or skilled nursing facility patient, round trip to the nearest hospital or non-hospital treatment facility capable of providing medically necessary diagnostic or therapeutic services not available at the institution where the beneficiary is an inpatient.

(j) *Outpatient speech pathology services.* There shall be excluded from the outpatient speech pathology services described in § 405.231(m) (1) and (2) any item or service which:

(1) Is furnished before January 1, 1973 (with respect to services furnished before such date—see § 405.231(c)); or

(2) Would not be included as inpatient hospital services if furnished to an inpatient of a hospital.

[36 FR 16647, Aug. 25, 1971, as amended at 40 FR 44321, Sept. 25, 1975; Redesignated at

42 FR 52826, Sept. 30, 1977, and amended at 43 FR 49722, Oct. 24, 1978; 46 FR 48554, Oct. 1, 1981; 46 FR 54744, Nov. 4, 1981; 45 FR 4429, Feb. 2, 1978; 43 FR 49722, Oct. 24, 1978; 47 FR 40300, Sept. 16, 1982]

#### § 405.232a Physician defined.

(a) The term "physician," when used in connection with the performance of any function or action means:

(1) A doctor of medicine or osteopathy legally authorized to practice medicine and surgery by the State in which he performs such function or action (including a physician within the meaning of section 1101(a)(7) of the Act);

(2) A doctor of dentistry or of dental oral surgery who is legally authorized to practice dentistry by the State in which he performs such function but only with respect to surgery related to the jaw or any structure contiguous to the jaw, or the reduction of any fracture of the jaw or any facial bone, or the certification required by section 1814(a)(2)(E) of the Act;

(3) Except for the purposes of section 1814(a), section 1835, and subsections (j), (k), (m), and (o) of section 1861 of the Act, a doctor of podiatry or surgical chiropody, but (unless paragraph (a)(1) of this section also applies to him) only with respect to functions which he is legally authorized to perform as such by the State in which he performs them;

(4) A doctor of optometry who is legally authorized to practice optometry by the State in which he performs such function, but only for the purpose of attesting to the necessity for prosthetic lenses; or

(5) A chiropractor who is licensed as such by the State (or in a State which does not license chiropractors as such, is legally authorized to perform the services of a chiropractor in the jurisdiction in which he performs such services), and who meets uniform minimum standards set forth in § 405.232(b), but only for the purpose of sections 1861 (s) (1) and 1861 (s) (2) (A) of the Act and only with respect to treatment by means of manual manipulation of the spine (to correct a subluxation demonstrated by X-ray to exist) which he is legally authorized to perform by the State or jurisdiction in which such treatment is provided.

(b) For the purposes of section 1862(a)(4) of the Act and subject to the limitations and conditions provided in paragraphs (a)(1) through (a)(5) of this section, the term "physician" includes a doctor of one of the arts, specified in paragraphs (a)(1) through (a)(5) of this section legally authorized to practice such art in the country in which the inpatient hospital services (referred to in such section 1862 (a) (4) of the Act) are furnished.

[39 FR 28624, Aug. 9, 1974. Redesignated at 42 FR 52826, Sept. 30, 1977]

#### § 405.232b Chiropractors.

(a) *Licensure and authorization to practice.* A chiropractor must be licensed or legally authorized to furnish chiropractic services by the State or jurisdiction in which he provides them. Reimbursement may not be made for chiropractic services rendered in the State of Louisiana where the practice is not legal.

(b) *Uniform minimum standards.* (1) Chiropractors licensed or authorized to practice prior to July 1, 1974, and those individuals who commence their studies in a chiropractic college before that date must meet all of the following minimum standards to render reimbursable services under the program:

(i) Preliminary education equal to the requirements for graduation from an accredited high school or other secondary school; and

(ii) Graduation from a college of chiropractic approved by the State's chiropractic examiners which included the completion of a course of study covering a period of not less than 3 school years of 6 months each year in actual continuous attendance covering adequate courses of study in the subjects of anatomy, physiology, symptomatology and diagnosis, hygiene and sanitation, chemistry, histology, pathology, and principles and practice of chiropractic, including clinical instruction in vertebral palpitation, nerve tracing and adjusting; and

(iii) Passage of an examination prescribed by the State's chiropractic examiners covering the subjects listed in paragraph (b)(1)(ii) of this section.

(2) Individuals commencing their studies in a chiropractic college after June 30, 1974, must meet all of the following *additional* requirements:

(i) Satisfactory completion of 2 years of pre-chiropractic study at the college level;

(ii) Satisfactory completion of a 4-year course of 8 months each year (instead of a 3-year course of 6 months each year) at a college or school of chiropractic which includes not less than 4,000 hours in the scientific and chiropractic courses specified in paragraph (b)(1)(ii) of this section plus courses in the use and effect of X-ray and chiropractic analysis; and

(iii) The practitioner must be over 21 years of age.

(c) *Coverage of chiropractic services.* Payment may be made only for the chiropractor's manual manipulation of the spine to correct a subluxation (demonstrated by X-ray to exist) which has resulted in a neuromusculoskeletal condition for which such manipulation is appropriate treatment. No reimbursement may be made for X-rays or other diagnostic or therapeutic services.

[39 FR 28624, Aug. 9, 1974. Redesignated at 42 FR 52826, Sept. 30, 1977]

§ 405.232c Optometrists.

The prescription or order of a doctor of optometry will be accepted as evidence of the medical need for prosthetic lenses. However, optometric examinations for any purpose are not covered.

[39 FR 28624, Aug. 9, 1974. Redesignated at 42 FR 52826, Sept. 30, 1977]

HOME HEALTH SERVICES

§ 405.233 Home health services; general.

Home health service benefits are provided under both the supplementary medical insurance plan described in this Subpart B and also under the hospital insurance benefits plan described in Subpart A of this part. Home health services qualify for payment under the supplementary medical insurance plan even though the individual has not been an inpatient of a hospital or skilled nursing facility. Payments for home health services for up to 100 visits (as defined in

§ 405.238) in a calendar year may be made under the supplementary medical insurance plan. This is entirely separate from the 100 health visits available (after the beginning of a spell of illness and before the beginning of the next) under the hospital insurance plan during the 1-year period after the individual's latest discharge from a qualifying inpatient stay.

§ 405.234 Home health services; conditions.

The items and services described § 405.236 are "home health services" (unless excluded under § 405.237) such items and services are furnished

(a) To an individual who is under the care of a physician (other than a doctor of podiatry or surgical chiropody) and confined to his home;

(b) By a participating home health agency (see Subpart L of this Part 405) or by others under arrangements with them made by such agency;

(c) Under a written plan designed for such individual, established by a physician (other than a doctor of podiatry or surgical chiropody) and periodically reviewed by a physician (other than a doctor of podiatry or surgical chiropody); and

(d) At a place as described § 405.235.

§ 405.235 Home health services; places where items and services must be furnished.

To be considered "home health services," items and services described § 405.236 must be:

(a) Furnished on a visiting basis to the individual in a place of residence used as his home. The term "home" does not include an institution which meets the requirements of section 1861(e)(1) or 1861(j)(1) of the Act (see §§ 405.1001 and 405.1101); or

(b) Provided on an outpatient basis at a hospital or skilled nursing facility or at a rehabilitation center if such items or services:

(1) Are furnished under arrangements made by a participating home health agency and such arrangements provide that payment to the agency discharges the liability of the patient

## § 440.50

nish skilled nursing facility services in the Medicare program; and

(iii) Ordered by and provided under the direction of a physician.

(2) Skilled nursing facility services includes services provided by any facility located on an Indian reservation and certified by the Secretary as meeting the requirements of Subpart K of Part 405 of this chapter.

(b) *EPSDT*. "Early and periodic screening and diagnosis and treatment" means—

(1) Screening and diagnostic services to determine physical or mental defects in recipients under age 21; and

(2) Health care, treatment, and other measures to correct or ameliorate any defects and chronic conditions discovered. (See Subpart B of Part 441 of this subchapter.)

(c) *Family planning services and supplies for individuals of child-bearing age*. [Reserved]

[43 FR 45224, Sept. 29, 1978, as amended at 47 FR 31532, July 20, 1982; 48 FR 12551, Mar. 25, 1983]

## § 440.50 Physicians' services.

"Physicians' services," whether furnished in the office, the recipient's home, a hospital, a skilled nursing facility, or elsewhere, means services provided—

(a) Within the scope of practice of medicine or osteopathy as defined by State law; and

(b) By or under the personal supervision of an individual licensed under State law to practice medicine or osteopathy.

[43 FR 45224, Sept. 29, 1978, as amended at 47 FR 31532, July 20, 1982]

## § 440.60 Medical or other remedial care provided by licensed practitioners.

(a) "Medical care or any other type remedial care provided by licensed practitioners" means any medical or remedial care or services, other than physicians' services, provided by licensed practitioners within the scope of practice as defined under State law.

(b) Chiropractors' services include only services that—

(1) Are provided by a chiropractor who is licensed by the State and meets standards issued by the Secretary under § 405.232b of this chapter; and

## Title 42—Public Health

(2) Consists of treatment by means of manual manipulation of the spine that the chiropractor is legally authorized by the State to perform.

## § 440.70 Home health services.

(a) "Home health services" means the services in paragraph (b) of this section that are provided to a recipient—

(1) At his place of residence, as specified in paragraph (c) of this section; and

(2) On his physician's orders as part of a written plan of care that the physician reviews every 60 days.

(b) Home health services include the following services and items. Those listed in paragraphs (b) (1), (2) and (3) of this section are required services; those in paragraph (b)(4) of this section are optional.

(1) Nursing service, as defined in the State Nurse Practice Act, that is provided on a part-time or intermittent basis by a home health agency as defined in paragraph (d) of this section, or if there is no agency in the area, a registered nurse who—

(i) Is currently licensed to practice in the State;

(ii) Receives written orders from the patient's physician;

(iii) Documents the care and services provided; and

(iv) Has had orientation to acceptable clinical and administrative record-keeping from a health department nurse.

(2) Home health aide service provided by a home health agency.

(3) Medical supplies, equipment, and appliances suitable for use in the home, and

(4) Physical therapy, occupational therapy, or speech pathology and audiology services, provided by a home health agency or by a facility licensed by the State to provide medical rehabilitation services. (See § 441.15 of this subchapter.)

(c) A recipient's place of residence, for home health services, does not include a hospital, skilled nursing facility, or intermediate care facility except for home health services in an intermediate care facility that are not required to be provided by the facility

Introduced: 2/28/84  
Referred: Health, Education and  
Social Services and  
Finance

1 IN THE SENATE

BY THE HEALTH, EDUCATION AND  
SOCIAL SERVICES COMMITTEE

2

SENATE BILL NO. 510

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

THIRTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

6 For an Act entitled: "An Act related to provision of chiropractic services  
7 under the medicaid program."

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

9 \* Section 1. AS 47.07.030 is amended to read:

10 Sec. 47.07.030. MEDICAL SERVICES TO BE PROVIDED. Medical ser-  
11 vices to be offered to eligible persons include inpatient hospital,  
12 outpatient hospital, rural health clinic, outpatient surgical care  
13 centers, laboratory and X-ray, refractions and eye examinations by  
14 ophthalmologists or optometrists, eyeglasses prescribed by a physician  
15 skilled in diseases of the eye or by an optometrist, inpatient psy-  
16 chiatric hospital for persons age 65 or older and persons under age  
17 21, skilled and intermediate nursing home, physician, nurse midwife,  
18 home health care services, early periodic screening diagnosis and  
19 treatment of persons under 21 years of age, clinic services, treatment  
20 of speech, hearing and language disorders, physical therapy, occupa-  
21 tional therapy, chiropractic services, rosthetic devices and medical  
22 supplies, long-term care noninstitutional services, and reasonable  
23 transportation to and from the point of medical care. No additional  
24 services may be provided unless approved by the legislature.

25 \* Sec. 2. AS 47.07.035 is amended to read:

26 Sec. 47.07.035. PRIORITY OF SERVICES. If the funding in a  
27 fiscal year is inadequate to finance the total medical assistance  
28 program under this chapter, the department shall, to the extent that  
29 federal law and funding permits, provide medical assistance in the

following order:

(1) aged, blind, or disabled persons who

(A) do not receive supplemental security income under Title XVI of the Social Security Act because they do not meet income and resources requirements; and

(B) are eligible to receive an optional state supplementary payment;

(2) persons in a medical or intermediate care facility

(A) whose income while in the facility does not exceed 300 percent of the supplemental security income benefit rate under Title XVI of the Social Security Act; and

(B) who would not be eligible for an optional state supplementary payment if they left the facility;

(3) persons under 21 years of age

(A) who are under the supervision of the department;

(B) whose maintenance is paid in whole or in part from public funds; and

(C) who are in foster homes or private child-care institutions;

(4) persons under 21 years of age who

(A) receive treatment in a psychiatric hospital; and

(B) are financially eligible as determined by the standards of Part A of Title IV of the Social Security Act;

(5) persons under 21 years of age who are

(A) in an institution designated by the department as an intermediate care facility for the mentally retarded; and

(B) financially eligible as determined by the standards of the federal aid to families with dependent children program;

- 1 (6) women who are pregnant;
- 2 (7) persons under 21 years of age who do not qualify for  
3 benefits under the federal aid to families with dependent children  
4 program because they are not dependent children;
- 5 (8) intermediate nursing home services;
- 6 (9) eye examinations by an ophthalmologist or optometrist;  
7 or eyeglasses prescribed by a physician skilled in the diseases of the  
8 eye or by an optometrist;
- 9 (10) treatment of speech, hearing, or language disorders;
- 10 (11) physical or occupational therapy;
- 11 (12) care at an intermediate care facility for the mentally  
12 retarded;
- 13 (13) care at an inpatient psychiatric facility;
- 14 (14) community mental health clinic services;
- 15 (15) surgical care center services;
- 16 (16) nurse midwife services;
- 17 (17) medical supplies and equipment;
- 18 (18) long-term care noninstitutional services;
- 19 (19) chiropractic services.

20 \* Sec. 3. AS 47.07.900 is amended by adding a new paragraph to read:

- 21 (7) "chiropractic" has the meaning given in AS 08.20.220.

ADOPTED  
Conf Comm

file

Chapter 26  
SLA 86

STATE OF ALASKA 1986 LEGISLATIVE SESSION  
FISCAL NOTE

Revision Date: 2/11/86

REQUEST

Bill/Resolution No.: CS8B109 (HESS)  
Title: An Act relating to provision  
of chiropractic services under Med.  
Asst.  
Sponsor: Josephson, Abood, Fahrenkamp  
Requestor:  
Date of Request: 2/86

FISCAL DETAIL

Agency Affected: Health & Social Services  
BRU: Medical Assistance -  
Non Facility  
Components: Medicaid Non-Facility

EXPENDITURES/REVENUES : (Thousands of Dollars)

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL	-0-	20.0	-0-	-0-	-0-	-0-
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS	-0-	153.0	160.0	166.4	173.0	180.0
MISCELLANEOUS						
TOTAL OPERATING	-0-	173.0	160.0	166.4	173.0	180.0
CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
REVENUE	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING : (Thousands of Dollars)

GENERAL FUND	-0-	86.5	80.0	83.2	86.5	90.0
FEDERAL FUNDS	-0-	86.5	80.0	83.2	86.5	90.0
OTHER						
TOTAL	-0-	173.0	160.0	166.4	173.0	180.0

POSITIONS :

FULL-TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART-TIME	-0-	-0-	-0-	-0-	-0-	-0-
TEMPORARY	-0-	-0-	-0-	-0-	-0-	-0-

ANALYSIS : Attach a separate page if necessary

Please see attached analysis for method used to determine FY87 cost of \$173.0. A 4% inflator was used to estimate cost for FY88 and each year thereafter.

Prepared by: Rod Betit, Director  
Division: DIVISION OF MEDICAL ASSISTANCE

Phone: 465-3355  
Date:

Approved by Commissioner: [Signature]  
Agency: Department of Health & Social Services

Date: 2/11/86

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

CSSB 109  
Fiscal Note Attachment  
Cost Analysis for Chiropractic Services

Additional Contractual Costs

The Alaska Medical Payments System will require modification to pay chiropractors as a new services. The contractual costs include the following: provider manuals, training, a new claims form, tables included in the system for chiropractic services, computer programming, computer reports, the addition of collocation codes, the provision of notice to providers, provider relations, and a computer system test.

Additional Grants/Claims Costs

These figures were adjusted by an inflation factor of 4%. This is the average percent increase experienced during the past two years in chiropractic services. These costs are for only manual manipulation of the spine and the x-rays necessary for diagnosis. Again, these are the only chiropractic services for which federal reimbursement is available. The federal match for Medicaid is 50%.

We did not develop a fiscal note for the full range of chiropractic services included in SB 109. We used the following formula to develop our cost estimates:

$$\left( \frac{\# \text{Recipients}}{\text{Month}} \times \frac{\# \text{Services}}{\text{Month}} \times \frac{\text{Cost/Service}}{\text{Month}} + \frac{\# \text{Recipients}}{\text{mth}} \times \frac{\# \text{X-Rays}}{\text{Month}} \times \frac{\text{Cost/X-Ray}}{\text{Month}} \times 12 \text{ mths} \right)$$

$$[50 \times 2 \times \$30) + (50 \times 3 \times \$65)] 12 = \$153.0 + 1 \text{ time Administrative Cost } \$20.0 = \$173.0$$

Assumption #1:

Alaska's ratio of recipients to eligibles is similar to the ratio of recipients to eligibles in Idaho.

Idaho averaged 75 chiropractic recipients and 30,000 eligibles per month. Therefore we estimate Alaska would average 50 chiropractic recipients out of 20,000 eligibles per month.

Assumption #2:

Services would be limited to 2 visits per month per recipient.

Assumption #3:

X-rays would be limited to three x-ray per month per recipient.

Assumption #4:

Manual manipulation of the spine costs \$30. An x-ray costs \$65.00.

*This is all that's in the C.S.*

*R. P. Allen  
2/10/86*