

ALASKA LEGISLATURE COMMITTEE FILES, 1989-1990 8672
5674 HOUSE HEALTH, EDUCATION & SOCIAL SERVICES 78

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION

(X1) PROVIDER NUMBER

02-A005

(X2) MULTIPLE CONSTRUCTION

A. BUILDING _____
B. WARD _____

(X3) DATE SURVEY COMPLETED

September 12-15, 1989

NAME OF PROVIDER OR SUPPLIER

STREET ADDRESS, CITY, STATE, ZIP CODE

(X4) ID PREFIX TAG	SUMMARY STATEMENT OF DEFICIENCIES (EACH DEFICIENCY SHOULD BE PRECEDED BY FULL REGULATORY OR LSC IDENTIFYING INFORMATION)	ID PREFIX TAG	PROVIDER'S PLAN OF CORRECTION (EACH CORRECTIVE ACTION SHOULD BE CROSS-REFERENCED TO THE APPROPRIATE DEFICIENCY)	(X5) COMPLETION DATE
	<u>405.1125 Dietetic Services (Condition Met)</u>			
	<u>(b) Menus and Nutritional Adequacy (Standard Met)</u>			
196	Please refer to F126 regarding menus planned to meet nutritional needs, in accordance with physician's orders.	F196	Please refer to response to F126	
	<u>(c) Therapeutic Diets (Standard Met)</u>			
F199	Please refer to F126 regarding therapeutic menus served as ordered with supervision from the dietician.	F199	Please refer to response to F126. Also, this area will be specifically reviewed by Dietician with inservice to staff. Dietician & Administration	10-20-89
	<u>(e) Preparation (Standard Met)</u>			
F207	Where residents refused food served, appropriate substitutes of similar nutritive value were not offered. For example: 1. During the dinner meal served on 9/13/89, it was observed that the meal served differed from the planned menu for that evening. Two residents complained to staff that they didn't like or want what was served. Neither resident was offered a substitute. Each ate two bites of their meal only.	F207	Substitutes will be offered and residents informed of their availability. Administration, Nursing & Dietary	10-05-89

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<u>F218</u>	<p>2. During the dinner meal served on 9/14/89, it was observed that the meal served differed from the planned menu. Two residents complained to staff that they "didn't want" what was served. Neither resident was offered a substitute. Surveyor asked residents if they knew a substitute could be requested. Both reported they had not been informed. Residents requested substitutes. Soup was provided.</p> <p>3. Interview with dietary staff on 9/13/89 revealed substitutes for main entree were consistently limited to soup or sandwiches. These substitutes do not provide the resident with food items of similar nutritive value.</p> <p><u>405.1126 Specialized Rehabilitative Services (Condition Met)</u></p> <p><u>(b) Plan of Care (Standard Met)</u></p> <p>Please refer to <u>F237</u> regarding therapy provided in accordance with accepted professional practices.</p>	<u>F218</u>	Please refer to response to <u>F237</u>	

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	<u>405.1127 Pharmaceutical Services</u> <u>(Condition Met)</u>			
	<u>(a) Supervision of Services (Standard Met)</u>			
F224	The pharmacist had not always reported irregularities to the physician and administrator. Please refer to F191.	F224	Pharmacist will routinely perform drug reviews and report irregularities to the physician, Head Nurse, DNS & Administrator. DNS & Administrator	10-30-89
F233	<u>405.1130 Social Services</u> <u>(CONDITION NOT MET)</u>	F233	Please note responses as follows:	
F234	<u>(a) Social Service Functions</u> <u>(STANDARD NOT MET)</u>	F234	Conformance will be assured by Social Services Coordinator	10-30-89
F236 F237	The medically related social and emotional needs and problems of residents were not identified. Services to meet the social and emotional needs of residents were not provided by the facility nor were referrals to an appropriate agency consistently made. The scope and severity of subsequent outcomes was found to limit the facility's capacity to provide adequate care and services to the residents. For example: 1. Nine of 13 records reviewed revealed an absence of Social Service assessments identifying residents' needs.	F236 F237	Social service assessments will be kept on the charts. Social and emotional needs and behavioral problems will be addressed and documented. Documentation of referrals will be maintained in chart. Referrals for medication review have been made or requested on all residents on psycho-tropic medications. Referrals to local mental health agencies for assistance in developing and delineating behavior mgmt. programs have been made. Behavior management programs will be reviewed by Social Services in conjunction with Nursing Service and Physicians to minimize the need for and use of physical and / or chemical restraints.	10-30-89

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FEB 13 1990 15:52 TOC ALH/CH/H

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	<p>2. Ten of 13 records reviewed revealed an absence of Social Services identification of residents' goals or approaches in interdisciplinary plans of care.</p> <p>3. Eleven of 13 records reviewed revealed the absence of current progress notes to reflect ongoing assessments of residents' needs, problems, evaluations of goals or interventions.</p> <p>4. Three of 13 residents were selected for an in-depth review of Social Services identification and response to residents' medically related social and emotional needs and problems. The following was noted:</p> <p>a. Resident #13:</p> <p>1. Review of resident's record revealed physician's order dated 9/87 for "behavior modification to correct disruptive behavior." Examples of unwanted behavior located in record included: "uncooperative and biting at staff"; "abusive verbally using foul language and obscene</p>		<p>Continued</p> <p>Nursing service and physicians have addressed the use of physical and chemical restraints.</p> <p>Social service goals and approaches as specified in the assessments and notes will be included in the plan of care.</p> <p>Social service notes have been moved from social service office to social service section in residents chart.</p> <p>Social service notes will reflect ongoing assessment of needs, problems, evaluations, and interventions including referrals for services and reviews of current programs.</p>	

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	<p>gestures;" "inappropriate sexual behavior towards another resident." These unwanted behaviors were not identified nor responded to by the facility. For example:</p> <p>a. Review of record revealed no Social Service assessment identifying these problems. Social history was dated 7/1/86 with no updates located. Social services progress notes were not current or informative. Note of 8/5/88 indicates a psychiatric evaluation was scheduled. No follow-up was located.</p> <p>b. Plan of care did not reflect any intervention being utilized in response to ongoing behavioral problems originally noted by physician in 1987.</p> <p>c. Plan of care did not address inappropriate sexual behavior by resident.</p>			

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FEB 13 '90 15:54 100 ALBERT

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2. Further review of resident's record revealed inappropriate use of restraints, resulting in decline of physical functioning and reinforcement of unwanted behaviors. For example:
- a. Note of 4/17/89: "Pt. was put to bed as a disciplinary measure following an episode of verbal abuse (and) threat of physical aggression.
 - b. Note of 6/9/89: "Due to (staff's) inability to observe his location (and) actions at all times, (resident) to be allowed in (wheelchair) only with direct supervision; re: to dining room (and) back". Resident was otherwise kept in a geri-chair even though "loss of ambulation" was identified as a problem in his record.
 - c. Nursing note of 7/26/89: "OT consultant stated that (Pt.) agreeable to ROM exercise while smoking at same time. RA's have (her) ok to use this

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FEB 13 '90 15:55:11.00 HLHSH

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	<p>technique to increase (Pt's) cooperation."</p> <p>d. Physician's order: "Haldol PRN."</p> <p>B. Resident #11:</p> <p>1. Review of resident's record reveals numerous behavioral problems reflected in the Nursing progress notes. For example: "awake and noisy during evening," "restless;" "loud and uncooperative;" "verbal abuse and aggressive towards patients and staff;" "sleeps during day and awake at night;" "sexual advances towards aides both physically and verbally." Problem behaviors noted in Nursing progress notes were not addressed in the resident's plan of care, assessment or intervention by Social Services.</p> <p>2. Observation and record review indicated interventions to reduce unwanted behaviors were primarily use of physical and chemical</p>			

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	<p>restraints. The use of restraints resulted in increased loss of physical functioning resulting in numerous falls and injuries. For example:</p> <ul style="list-style-type: none"> a. Review of incident reports for March, April, and May, 1989, revealed resident, while in restraints, fell five times during three months. b. Note of 2/14/89: "(resident) suffered a Fx (R) shoulder about 2 weeks ago" during walk to bathroom assisted by aide. c. Note of 6/8/89: "Patient fell about 2 weeks ago when getting up by himself and Fx (L) clavicle". d. Physician order: Haldol 2.5 mg PO Bid. <p>In addition, the use of restraints was not an appropriate intervention to restrict unwanted behavior. For example, nursing note of 3/17/89 indicated "if can't observe at all</p>			

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	<p>times, might help to tie w/c to hall railing."</p> <p>C. Resident #12:</p> <ol style="list-style-type: none"> 1. Review of resident's record revealed resident admitted to facility April, 1989, with a primary diagnosis of a progressive, degenerative neurological disorder of unknown etiology. Review of record further revealed history of suicidal ideation with an active suicide attempt 2/89. Review of Nursing progress notes revealed progressive decline of resident's general health and level of physical functioning. Progress notes also revealed resident with suicidal ideation in May, June, and August, 1989. Interview with facility staff on 9/13 and 9/14/89, revealed the resident "wanting to die so won't be a financial burden on family." Staff further reported their belief that resident is "dying" and "getting ready to die." Observations of this 			

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	<p>resident during survey revealed significant decline in resident's physical energy and functioning. Interview with resident's wife on 9/14/89 revealed she may be having difficulty accepting resident's condition. In addition, she reported having transportation and financial difficulties. Social Services had not addressed these problems.</p> <p>Relative to the problems of death and dying, suicidality, degenerative illness, and family problems, Social Service assessment and intervention were limited to the following:</p> <ol style="list-style-type: none"> 1. Behavior: When he is depressed, he has talked of suicide and staff need to be alert to subtle shifts in his emotion. 2. Assist in filing Alaska Permanent Fund Dividend. Assist transfer to Pioneer Home. Encourage durable power of attorney. 			

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F747	<p><u>(b) Staffing (STANDARD NOT MET)</u></p> <p>The facility had not arranged for sufficient consultation and assistance by the social work consultant to meet resident needs. For example:</p> <ol style="list-style-type: none"> 1. Please refer to <u>F236</u> and <u>F237</u> regarding assessments not identifying resident's needs, interdisciplinary plans of care lacking resident's goals, progress notes not reflecting resident's needs, problems, goals, or interventions. 2. Please refer to <u>F236</u> and <u>F237</u> regarding examples from resident's #11, and #13. These resident examples indicate significant problems regarding lack of appropriate interventions to reduce unwanted behaviors. 	F747	<p>Additional training and consultant services have been scheduled, and received. Review of the services and documentation thereof including assessments, histories, roles and interventions of other Long Term Care Facilities Social Service Departments (via visits to other facilities) took place 9-19-89, 9-25-89 and 9-26-89. The MSW Consultant began chart review and will continue to provide training and chart review on a monthly basis to bring current charting into conformance, thereafter, consulting at such frequency to insure continued compliance.</p>	10-30-89 was put into place on 10/15-16/89
F239	405.1131 Activities (CONDITION NOT MET)	F239		
F240	<u>(b) Patient Activities Program (STANDARD NOT MET)</u>	F240		
F242 F243	An ongoing program of meaningful activities had not been provided based on identified needs and interests of each resident.	F242 F243	<p>New programs have been initiated which will meet the individual needs and interests of each individual resident.</p> <p style="text-align: right;">Activities Coordinator</p>	10-5-89

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	<p>Further, the facility's program of activities did not promote opportunities for engaging in normal pursuits of daily living, or the physical, social, and mental well being of each resident. For example:</p> <ol style="list-style-type: none"> 1. Ten of 13 records reviewed revealed the absence of Activities assessments which identified residents' problems or needs. 2. Thirteen of 13 records reviewed revealed the absence of current progress notes, to include ongoing evaluations and assessments of residents' needs or effectiveness of interventions. 3. The activities observed by surveyors were not appropriate to the resident participants in relation to the special needs resulting from cognitive, communicative, interactive and physical deficits with the addition of cultural diversities. For example: <ol style="list-style-type: none"> a. On 9/12/89 the "Native Culture" activity consisted of the showing of a film depicting a Greek tragedy. 		<p>Continued:</p> <p>A new, reorganized activities program has been initiated (after review of activities programs in other facilities via site visits to four other facilities by the Activities Coordinator and by review and input / consultation by the Activities Consultant and the Occupational Therapist as well as Speech Therapist and Speech Pathologist). This new activities program promotes opportunities for the residents to engage in normal daily living and is structured to reflect the individual physical, social and mental capability as well as plan and goal(s) for each individual resident.</p> <p>Activities assessments will be provided and documented identifying residents problems and needs and located on each resident chart. Activities Coordinator</p> <p>Current progress notes including ongoing evaluations, assessments, needs and interventions as well as the effectiveness of interventions will be documented on the interdisciplinary notes section of each residents chart. Activities Coordinator</p> <p>Multiple small group activities are now offered concurrently. Activities Coordinator</p>	<p>10-5-89</p> <p>10-30-89</p> <p>10-30-89</p> <p>10-05-89</p>

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	<p>b. Observation of an activity at 11:00 am on 9/13/89, which involved a "talking book" on the subject of classical musicians, indicated the following.</p> <ol style="list-style-type: none"> 1) No interaction occurred between staff and residents. 2) Five of 6 residents were in restraints and asleep. The 5 residents were Alaska Native. 3) The awake resident was not attending to the activity. <p>c. Observation of a movie activity at 3:00 pm on 9/13/89 indicated inappropriate placement of residents with a visual or hearing impairment. For example, residents with identified hearing and visual problems were placed 20-30 feet from the 19" television.</p> <p>4. The facility activities program did not provide all residents with an opportunity for community interaction. For example, an interview with activities staff on 9/13/89 revealed the following:</p>		<p>Continued:</p> <p>Increased community activities is integrated into the new activities program: ie: Senior Citizen potluck dinners, field trips, etc.</p>	ongoing

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	<p>a. Approximately 1 time per month, 4-5 residents attend a potluck outside the facility.</p> <p>b. Approximately the same number of residents go shopping in the community once per month.</p> <p>c. "Car rides" once per week allows only a small fraction of the resident population to get out of the facility.</p> <p>5. The facility did not provide meaningful activities for residents throughout each day. For example, review of the activities calendars for July, August, and September, 1989, revealed the following:</p> <p>a. Twenty-seven of 90 days did not have scheduled activities beyond 2:00 pm.</p> <p>b. Forty-four of 90 days did not have scheduled activities beyond 3:00 pm.</p>		<p>The newly reorganized activities program now provides activities for each day and each evening of the week. This has been accomplished by the addition of more staff as well as gaining additional community volunteers.</p> <p style="text-align: right;">Activities Coordinator</p>	10-05-89
F761	<p>(a) Staffing (STANDARD NOT MET)</p> <p>The facility did not arranged for sufficient consultation and assistance by</p>	F761	<p>The frequency of visits / consultation and input by Activities Consultant has been increased to provide adequate direction to insure conformance with guidelines.</p>	10-30-89

PROVIDER REPRESENTATIVE'S SIGNATURE

TITLE

(X6) DATE

25 of 31

Any deficiency statement ending with an asterisk (*) denotes a deficiency which the institution may be accused from correcting providing it is determined that other safeguards provide sufficient protection to the patients. (See reverse for further instructions.) The findings above are dischargeable 90 days following the date of survey whether or not a plan of correction is provided. If deficiencies are cited, an approved plan of correction is requisite to continued program participation.

FEB 13 1990 10:00 AM

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION

(X1) PROVIDER NUMBER

02-A005

(X2) MULTIPLE CONSTRUCTION

A. BUILDING _____

B. WING _____

(X3) DATE SURVEY COMPLETED

September 12-15, 1989

NAME OF PROVIDER OR SUPPLIER

STREET ADDRESS, CITY, STATE, ZIP CODE

(X4)
ID
PREFIX
TAG

SUMMARY STATEMENT OF DEFICIENCIES
(EACH DEFICIENCY SHOULD BE PRECEDED
BY FULL REGULATORY OR LSC IDENTIFYING INFORMATION)

ID
PREFIX
TAG

PROVIDER'S PLAN OF CORRECTION
(EACH CORRECTIVE ACTION SHOULD BE CROSS-
REFERENCED TO THE APPROPRIATE DEFICIENCY)

(X5)
COMPLETION
DATE

a qualified Activities consultant to meet resident needs. For example, please refer to F240, F242, and F244 regarding examples of assessments, plans, and activities which do not meet the needs of each resident.

405.1132 Medical Records (Condition Met)

(c) Content (Standard Met)

F254

The medical records did not contain adequate physician documentation. For example:

1. Four of 4 discharge records did not have discharge summaries.
2. Two of 4 discharge records did not have a signed transfer record.
3. One of 4 discharge records did not have a signed statement of rehabilitation potential.
4. One of 4 discharge records did not have a statement of prognosis.

F254

Discharge summaries which historically, were promptly provided and made part of the residents chart will be made current. The physicians were temporarily hampered by time constraints due to large population increases experienced as a result of the oil spill. The physicians are fully aware of the importance of prompt documentation and are now expending the additional time necessary to bring charting, etc. current.
Physicians & Nursing

11-20-89

F255

The medical record did not have a physical examination report in 1 of 4 discharge records.

F255

Refer to response to F254

PROVIDER REPRESENTATIVE'S SIGNATURE

TITLE

(X6) DATE

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STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION

(X1) PROVIDER NUMBER

02-A005

(X2) MULTIPLE CONSTRUCTION

A. BUILDING _____

B. WING _____

(X3) DATE SURVEY COMPLETED

September 12-15, 1989

NAME OF PROVIDER OR SUPPLIER

STREET ADDRESS, CITY, STATE, ZIP CODE

(X4) ID PREFIX TAG	SUMMARY STATEMENT OF DEFICIENCIES (EACH DEFICIENCY SHOULD BE PRECEDED BY FULL REGULATORY OR LSC IDENTIFYING INFORMATION)	ID PREFIX TAG	PROVIDER'S PLAN OF CORRECTION (EACH CORRECTIVE ACTION SHOULD BE CROSS-REFERENCED TO THE APPROPRIATE DEFICIENCY)	(X5) COMPLETION DATE
<p>F260 F261 F263</p>	<p>The medical records in 10 of 10 active cases reviewed did not contain complete information regarding:</p> <ol style="list-style-type: none"> 1. An overall plan of care setting for goals to be accomplished through each service's designed activities, therapies and treatments. Please cross reference to <u>F233</u>, <u>F234</u>, <u>F236</u>, <u>F239</u>, and <u>F240</u>. 2. Progress notes of resident response to interventions in relation to goals. Please cross reference to <u>F233</u>, <u>F234</u>, <u>F237</u>, <u>F239</u>, <u>F240</u>, and <u>F244</u>. <p><u>405.1134 Physical Environment</u> (Condition Met)</p> <p><u>(e) Patient Rooms and Toilet Facilities</u> (Standard Met)</p>	<p>F260 F261 F263</p>	<p>Charts will reflect/contain complete information including reactions/response from residents. Please refer to responses to: F233, F234, F236, F239, F240, F237, & F244.</p> <p>Nursing, Social Services, Activities, Physicians, Consultants, Dietary and Administrator</p>	<p>10-30-89</p>
<p>F287</p>	<p>Mattresses were not always made available to residents which provide a safe and comfortable bed. Some residents' mattresses were found to be 12"-14" too short for the bed thereby exposing bed springs.</p>	<p>F287</p>	<p>Replacement mattresses have been ordered to insure that all beds have mattresses. 66 Administration</p>	<p>10-10-89</p>

PROVIDER REPRESENTATIVE'S SIGNATURE

TITLE

(X6) DATE

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STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION	(X1) PROVIDER NUMBER 02-A005	(X2) MULTIPLE CONSTRUCTION A. BUILDING _____ B. WING _____	(X3) DATE SURVEY COMPLETED September 12-15, 1989
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NAME OF PROVIDER OR SUPPLIER [REDACTED]	STREET ADDRESS, CITY, STATE, ZIP CODE [REDACTED]
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(X4) ID PREFIX TAG	SUMMARY STATEMENT OF DEFICIENCIES (EACH DEFICIENCY SHOULD BE PRECEDED BY FULL REGULATORY OR LSC IDENTIFYING INFORMATION)	ID PREFIX TAG	PROVIDER'S PLAN OF CORRECTION (EACH CORRECTIVE ACTION SHOULD BE CROSS-REFERENCED TO THE APPROPRIATE DEFICIENCY)	(X5) COMPLETION DATE
	<u>405.1135 Infection Control (Condition Met)</u>			
	<u>(b) Aseptic and Isolation Techniques (Standard Met)</u>			
<u>F340</u>	Please cross reference to F102 regarding proper handwashing techniques.	<u>F340</u>	Please refer to response to F102	
	<u>(c) Housekeeping (Standard Met)</u>			
<u>F342</u>	The facility had not always maintained a safe and clean interior. For example:	<u>F342</u>	Ceiling tile will be replaced in areas where missing and / or damaged. Maintenance	10-19-89
	1. Ceiling tile in the freight receiving area was missing and/or water damaged.		Painting and repairs to gauged walls is now on an on-going revolving preventative maintenance schedule which is supplemented by work requisitions to bring to the attention of maintenance any areas of repair. Maintenance	10-30-89
	2. Ceiling tile had been removed above the microwave in the medication storage room.		Request has been made to Seward Cablevision TV cable service to address the tv cables throughout the facility. Seward Cablevision & Maintenance	10-30-89
	3. Bathroom ceiling tile in rooms 33, 39, 42, and 43, were damaged by water, cracked and broken.			
	4. Paint on bathroom walls in rooms 39, 42, and 44 was peeling off wall and stained in some cases.			
	5. Dirty utility room paint was chipped.			

PROVIDER REPRESENTATIVE'S SIGNATURE	TITLE	(X6) DATE
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STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION

(X1) PROVIDER NUMBER

02-A005

(X2) MULTIPLE CONSTRUCTION

A. BUILDING _____

B. WING _____

(X3) DATE SURVEY COMPLETED

September 12-15, 1989

NAME OF PROVIDER OR SUPPLIER

STREET ADDRESS, CITY, STATE, ZIP CODE

ID PREFIX TAG	SUMMARY STATEMENT OF DEFICIENCIES (EACH DEFICIENCY SHOULD BE PRECEDED BY FULL REGULATORY OR LSC IDENTIFYING INFORMATION)	ID PREFIX TAG	PROVIDER'S PLAN OF CORRECTION (EACH CORRECTIVE ACTION SHOULD BE CROSS- REFERENCED TO THE APPROPRIATE DEFICIENCY)	(X5) COMPLETION DATE
	<p>6. Paint was chipped around the 2nd floor nurses station.</p> <p>7. Floor coving on 1st and 2nd floors was cracked allowing for potential bacteria build-up.</p> <p>8. Paint on door jams was chipped.</p> <p>9. Gouged walls were found in room 31 and on the 1st floor hallway.</p> <p>10. The antenna cord in room 31 was observed hanging down and out onto the floor between the hall and the resident's bed.</p> <p>11. Room #5 had a seam in the flooring which was separating.</p> <p>12. The dirty linen cart on the 3rd floor old section was left open.</p> <p>13. Room #12 had broken flooring and the toilet paper holder was off the wall.</p>		<p>Continued:</p> <p>Flooring will be addressed on an ongoing maintenance requisition/preventative maintenance program to insure proper repairs.</p> <p style="text-align: right;">Maintenance</p> <p>This linen cart is located on the section where ambulatory male MI residents are located. These residents often place their dirty linen (socks, underwear, etc) in this linen cart for washing. (they do this on their own) We will remind the residents to please close the lid on the dirty linen cart; as well as to remind them that they do not need to put their linen in the cart, our staff will do it for them.</p> <p style="text-align: right;">Nursing</p>	<p>10-30-89</p> <p>10-30-89</p>

PROVIDER REPRESENTATIVE'S SIGNATURE

TITLE

(X6) DATE

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STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION

(X1) PROVIDER NUMBER

02-AD05

(X2) MULTIPLE CONSTRUCTION

A. BUILDING _____

B. WING _____

(X3) DATE SURVEY COMPLETED

September 12-15, 1989

NAME OF PROVIDER OR SUPPLIER

ADDRESS, CITY, STATE, ZIP CODE

ID PREFIX TAG	SUMMARY STATEMENT OF DEFICIENCIES (EACH DEFICIENCY SHOULD BE PRECEDED BY FULL REGULATORY OR LSC IDENTIFYING INFORMATION)	ID PREFIX TAG	PROVIDER'S PLAN OF CORRECTION (EACH CORRECTIVE ACTION SHOULD BE CROSS- REFERENCED TO THE APPROPRIATE DEFICIENCY)	(X4) COMPLETION DATE
	<p><u>405.1136 Disaster Preparedness</u> <u>(Condition Met)</u></p> <p><u>(a) Disaster Plan (Standard Met)</u></p>			
<u>F355</u>	<p>Facility staff were not aware of their specific responsibilities with regard to evaluation and protection of residents. Please refer to <u>F358</u> and <u>F359</u> regarding lack of staff training.</p>	<u>F355</u>	<p>Staff training will be provided, and documentation of this training maintained for review. (Please note response to F102(2))</p> <p>Fire Marshall _____ Department, Administration & DNS</p>	11-30-89
<u>F357</u>	<p><u>(b) Staff Training and Drills</u> <u>(STANDARD NOT MET)</u></p>	<u>F357</u>	<p>Please refer to response to F358</p>	
<u>F358</u>	<p>All employees were not trained, as part of their employment orientation in all aspects of preparedness for any disaster. For example:</p> <ol style="list-style-type: none"> Documentation in 4 of 10 staff records reviewed had no disaster plan or fire safety policy and procedure training. Seven of 10 staff records reviewed had no record of fire inservice training. 	<u>F358</u>	<p>All new employees, as part of their documented orientation program will be trained in areas including but not limited to: Infection Control, Safety, Sanitation, Fire Drills, Disaster preparedness. Thereafter, refresher inservices will be provided on an annual basis. Administration</p>	11-30-89
<u>F359</u>	<p>Facility staff did not participate in ongoing training and drills in all procedures so that each employee promptly and correctly carries out a specific role in</p>	<u>F359</u>	<p>Please refer to response to F358 and F102</p>	

PROVIDER REPRESENTATIVE'S SIGNATURE

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2.18

FEB 13 '90 16:04 TCC HLR/SH

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION

(X1) PROVIDER NUMBER

02-A005

(X7) MULTIPLE CONSTRUCTION

A. BUILDING _____
B. WING _____

(X2) DATE SURVEY COMPLETED

September 12-15, 1989

NAME OF PROVIDER OR SUPPLIER

STREET ADDRESS, CITY, STATE, ZIP CODE

ID PREFIX TAG	SUMMARY STATEMENT OF DEFICIENCIES (EACH DEFICIENCY SHOULD BE PRECEDED BY FULL REGULATORY OR LSC IDENTIFYING INFORMATION)	ID PREFIX TAG	PROVIDER'S PLAN OF CORRECTION (EACH CORRECTIVE ACTION SHOULD BE CROSS- REFERENCED TO THE APPROPRIATE DEFICIENCY)	(X3) COMPLETION DATE
	<p>case of fire or disaster. Fire drills were not held as required. For example:</p> <ol style="list-style-type: none"> 1. 4th quarter, 1988: No fire drill held for night shift. 2. 1st quarter, 1989: No fire drill held for any shift. 3. 2nd quarter, 1989: No fire drill on day shift or night shift. 4. 3rd quarter, 1989: No fire drill on day shift or night shift. See also, <u>F102</u>. 			

PROVIDER REPRESENTATIVE'S SIGNATURE

TITLE

(X4) DATE

31 of 31

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FEB 13 '90 16:04 Fed. Health

2. Excerpts from OBRA '87 regarding resident's rights to information.
 - a. Sec. 4211(c)(1)(B) - Notice of Rights.
 - b. Sec. 4202 (c) and Sec 4212 (b) - Posting of Survey Results.

OBRA 187 excerpt - Notice of Rights

retary or a State with respect to the facility and any plan of correction in effect with respect to the facility.

"(xi) OTHER RIGHTS.—Any other right established by the Secretary.

Clause (iii) shall not be construed as requiring the provision of a private room.

→ "(B) NOTICE OF RIGHTS.—A nursing facility must—

"(i) inform each resident, orally and in writing at the time of admission to the facility, of the resident's legal rights during the stay at the facility;

"(ii) make available to each resident, upon reasonable request, a written statement of such rights (which statement is updated upon changes in such rights);

"(iii) inform each resident who is entitled to medical assistance under this title—

"(I) at the time of admission to the facility or, if later, at the time the resident becomes eligible for such assistance, of the items and services (including those specified under section 1902(a)(28)(B)) that are included in nursing facility services under the State plan and for which the resident may not be charged (except as permitted in section 1916), and of those other items and services that the facility offers and for which the resident may be charged and the amount of the charges for such items and services, and

"(II) of changes in the items and services described in subclause (I) and of changes in the charges imposed for items and services described in that subclause; and

"(iv) inform each other resident, in writing before or at the time of admission and periodically during the resident's stay, of services available in the facility and of related charges for such services, including any charges for services not covered under title XVIII or by the facility's basic per diem charge.

The written description of legal rights under this subparagraph shall include a description of the protection of personal funds under paragraph (6) and a statement that a resident may file a complaint with a State survey and certification agency respecting resident abuse and neglect and misappropriation of resident property in the facility.

"(C) RIGHTS OF INCOMPETENT RESIDENTS.—In the case of a resident adjudged incompetent under the laws of a State, the rights of the resident under this title shall devolve upon, and, to the extent judged necessary by a court of competent jurisdiction, be exercised by, the person appointed under State law to act on the resident's behalf.

"(D) USE OF PSYCHOPHARMACOLOGIC DRUGS.—Psychopharmacologic drugs may be administered only on the orders of a physician and only as part of a plan included in the written plan of care described in paragraph (2) designed to eliminate or modify the symptoms for which the drugs are prescribed and only if, at least annually an independent,

OBRA '87 excerpt - Posting Survey Results

"(ii) copies of cost reports of such facilities filed under this title or title XIX,

"(iii) copies of statements of ownership under section 1124, and

"(iv) information disclosed under section 1126.

"(B) NOTICE TO OMBUDSMAN.— Each State shall notify the State long-term care ombudsman (established under section 307(a)(12) of the Older Americans Act of 1965) of the State's findings of noncompliance with any of the requirements of subsections (b), (c), and (d), with respect to a skilled nursing facility in the State.

"(C) NOTICE TO PHYSICIANS AND SKILLED NURSING FACILITY ADMINISTRATOR LICENSING BOARD.— If a State finds that a skilled nursing facility has provided substandard quality of care, the State shall notify—

"(i) the attending physician of each resident with respect to which such finding is made, and

"(ii) the State board responsible for the licensing of the skilled nursing facility administrator at the facility.

"(C) ACCESS TO FRAUD CONTROL UNITS.— Each State shall provide its State medicare fraud and abuse control unit (established under section 1903(q)) with access to all information of the State agency responsible for surveys and certifications under this subsection."

(c) POSTING SURVEY RESULTS.— Section 1864(a) of such Act (42 U.S.C. 1395ac(c)) is amended by inserting, after "readily available form and place" in the fifth sentence, the following: ", and require (ii) the case of skilled nursing facilities) the posting in a place readily accessible to patients (and patients' representatives),"

SEC. 4203. ENFORCEMENT PROCESS.

(a) STATE REQUIREMENT.— Title XVIII of the Social Security Act is amended—

(1) in section 1864(d) (42 U.S.C. 1395c(d)), as added by section 4201(a)(2) and as amended by section 4202(a)(1) of this Act, by inserting before the period at the end the following: "and the establishment of remedies under sections 1819(h)(2)(B) and 1819(h)(2)(C) (relating to establishment and application of remedies)"; and

(2) by adding at the end of section 1819 of such Act, as added by section 4201(a)(3) and as amended by section 4202(a)(2), the end the following new subsection:

"(h) ENFORCEMENT PROCESS.—

"(i) IN GENERAL.— If a State finds, on the basis of a standard, extended, or partial extended survey under subsection (g)(2) or otherwise, that a skilled nursing facility no longer meets a requirement of subsection (b), (c), or (d), and further finds that the facility's deficiencies—

"(A) immediately jeopardize the health or safety of its residents, the State shall recommend to the Secretary that the Secretary take such action as described in paragraph (2)(A)(i); or

3. Excerpts from the Interpretive Guidelines for the new regulations for Skilled and Intermediate Care Facilities. These guidelines provide clearer interpretation of the OBRA '87 requirements for resident's rights to information.

a. Tag #F154 to F163 - Notice of Rights and Services.

b. Tag #F177 to F180 - Examination of Survey Findings.

1/ Except from Interpretive Guidelines for new regulations
tag # F154 to F163 - Notice of rights

INTERPRETIVE GUIDELINES - SKILLED NURSING FACILITIES AND INTERMEDIATE CARE FACILITIES

TAG NUMBER	REGULATION	GUIDANCE TO SURVEYORS
		<p><u>Survey Procedure and Probes: 483.10(a)(2)</u> Attend to resident or staff remarks and staff behavior that may represent deliberate actions to promote or to limit a resident's autonomy or choice, particularly in ways that affect independent functioning.</p> <ul style="list-style-type: none"> • (Group) How does the facility help you exercise your rights?
F153	<p>(3) In the case of a resident adjudged incompetent under the laws of a State by a court of competent jurisdiction, the rights of the resident are exercised by the person appointed under State law to act on the resident's behalf.</p>	<p><u>Interpretive Guideline: 483.10(n)(5)</u> Defer entirely to State law regarding adjudicated cases. State law takes into account the fact that gradations of incapability exist to which graduated remedies can be adapted.</p> <p><u>Survey Procedure and Probes: 483.10(o)(3)</u> For residents in the sample adjudicated incompetent, is there clear documentation as to whom rights and responsibilities have been assigned? Are pertinent consents and documents signed by appointed guardians? How does the facility and guardians interact in behalf of the rights of a resident adjudged incompetent?</p>
F154	<p><u>(b) Level B requirement: Notice of rights and services.</u></p> <p>(1) The facility must inform the resident both orally and in writing in a language that the resident understands of his or her rights and all rules and regulations governing resident conduct and responsibilities during the stay in the facility.</p> <p>Such notification must be made prior to or upon admission and during the resident's stay. Receipt of such information, and any amendments to it, must be acknowledged in writing;</p>	<p><u>Interpretive Guideline: 483.10(b)(1)</u> "In a language that the resident understands" means that communication of information concerning rights and responsibilities must be both clear and understandable to the resident and, if the resident's knowledge of English is inadequate for comprehension, in the foreign language familiar to the resident.</p> <p>For foreign languages commonly encountered in the facility locale, the facility must have written translations of its statements of rights and responsibilities, and should make the services of an interpreter available. In the case of less commonly encountered foreign languages, however, a representative of the resident may sign that he or she has interpreted the statement of rights to the resident prior to the resident's acknowledgment of receipt. For hearing impaired residents who communicate by signing, the facility is expected to provide an interpreter. Large print texts of the facility's statement of resident rights and responsibilities should also be available.</p> <p>"Both orally and in writing," means if a resident can read and understand written materials without assistance, an oral summary along with the written document is acceptable.</p> <p>"During the resident's stay" means that if the rules and regulations governing residents' conduct or rights change, the facility updates residents about these changes.</p>

Rev. 232

REV. 2/77

TAG NUMBER	REGULATION	GUIDANCE TO SURVEYORS
		<p><u>Survey Procedures and Probes: 485.10(b)(1)</u></p> <ul style="list-style-type: none"> • (Group and Individual) How did you find out about the facility's rules? About your rights here? What did staff say to you about rules? Did you have an opportunity to ask questions? • (Group and Individual) Do you know what the rules are here? Do you know what you can and cannot do? What rules are not clear to you? How do you learn of changes in facility rules and your rights here? <p>If residents are unclear about facility rules, or are unclear about what rights they have in the facility, interview staff to determine their knowledge about residents' rights and responsibilities and their ability to communicate it in a language or methods understood by residents.</p>
F155	(2) The resident has the right to inspect and purchase photocopies of all records pertaining to the resident, upon written request and 48 hours notice to the facility;	<p><u>Interpretive Guidelines: 485.10(b)(2)</u></p> <p>"Purchase" means that residents may be charged for photocopy costs at prevailing community rates.</p> <p>"Records" includes all records pertaining to the resident.</p> <p>"The right to inspect" is conferred to individuals other than the resident based on State law. See 485.10(a)(3).</p> <p>"48 hours notice" means two business days, i.e., excluding weekends and holidays.</p> <p><u>Survey Procedure and Probes: 485.10(b)(2)</u></p> <ul style="list-style-type: none"> • (Group) Are residents able to look at their records if they want to? Are there any delays in the facility honoring these requests? • (Group) Are residents able to get photocopies of something in their records if they offer to pay for these copies? Are there any delays, of more than 48 hours, in the facility honoring these requests?
F156	(3) The resident has the right to be fully informed in language that he or she can understand of his or her total health status, including but not limited to, his or her medical condition;	<p><u>Interpretive Guideline: 485.10(b)(3)</u></p> <p>"Total health status" includes functional status, medical care, nursing care, nutritional status, rehabilitation and restorative potential, activities potential, cognitive status, oral health status, psychosocial status, and sensory and physical impairments. The resident should be involved in the assessment and care planning process, including the discussion of diagnoses, treatment options, risks, and prognosis. These discussions should be presented in language that the resident can be</p>

P-31

INTERPRETIVE GUIDELINES • SKILLED NURSING FACILITIES AND INTERMEDIATE CARE FACILITIES

2-32

TAG NUMBER	REGULATION	GUIDANCE TO SURVEYORS
		<p>expected to understand, and the resident must be allowed to make choices based upon the information provided.</p> <p><u>Survey Procedure and Probes: 483.10(b)(3)</u></p> <ul style="list-style-type: none"> • [(Individual)] When staff or physician, as appropriate, provide care, what are you told about your treatments? Are you told about how this treatment affects your condition? • [(Individual)] If your treatment is stopped, are you told how this may affect your condition? • [(Individual)] How do you find out what medications you receive, what they're for, and what their side effects are? • [(Individual)] Are you asked for your consent before treatment or tests are started or stopped?
1157	(4) The resident has the right to refuse treatment, and	<p><u>Interpretive Guideline: 483.10(b)(4)</u></p> <p>A resident's refusal of treatment must be persistent and consistently documented in the resident's record. Refusals of treatment should also be countered by discussions with the resident of the health and safety consequences of the refusal and the availability of any therapeutic alternatives that might exist. If a resident consistently refuses all treatment, discharge on the grounds that the resident's welfare cannot be met in the facility may be the ultimate outcome. Transfer and discharge rights are dealt with under 483.12.</p> <p><u>Survey Procedure and Probes: 483.10(b)(4)</u></p> <ul style="list-style-type: none"> • [(Individual)] Have you ever refused a medication or a treatment? What happened? How did the staff react? • [(Individual)] Has the facility offered alternative treatments to the ones you've refused? <p>• [()]: "[(Individual)]" in a probe indicates its inclusion as a probe for individual interview.</p>

Rev. 232

INTERPRETIVE GUIDELINES • SKILLED NURSING FACILITIES AND INTERMEDIATE CARE FACILITIES

Rev.

TAG NUMBER	REGULATION	GUIDANCE TO SURVEYORS
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Rev. 232

TAG NUMBER	REGULATION	GUIDANCE TO SURVEYORS
F158	to refuse to participate in experimental research;	<p><u>Interpretive Guideline: 483.10(b)(6)</u> Experimental research means using residents to develop and test clinical treatments, such as a new drug or therapy, that involves treatment and control groups. For example, a clinical trial of a new drug would be experimental research.</p> <p>A resident being considered for participation in experimental research must be fully informed of the nature of the experiment (e.g., medication, treatment) and understand the possible consequences of participating. The individual's or legal representative's written consent must be received prior to participation. Experimental research must respect the privacy of the resident. Any direct observation or use of resident-specific data requires the resident's consent, or for residents adjudicated incompetent under State law, that of the resident's legal representative or family member. Aggregated resident statistics, that do not identify individual residents, may be used for studies without obtaining residents' permission.</p> <p><u>Survey Procedure and Probes: 483.10(b)(6)</u> During the Entrance Conference, ask if the facility participates in any experimental research involving residents as subjects since the last standard survey. If so, <u>does the facility have an Institutional Review Board or other committee that reviews and approves research protocols?</u> In this regard, 483.75(d) <u>Relationship to Other HHS Regulations</u> applies (i.e., the facility must adhere to 45 CFR Part 46, protection of human subjects of research). Also, look for documentation of informed consent.</p>
F159	<p>(5) the facility must--</p> <p>(1) Inform each resident who is entitled to Medicaid benefits, in writing, at the time of admission to the nursing facility or when the resident becomes eligible for Medicaid of--</p> <p>(A) the items and services that are included in nursing facility services under the State plan and for which the resident may not be charged;</p>	<p><u>Interpretive Guideline: 483.10(b)(5) and (6)</u> Periodically means as often as the facility changes its services or the charges for these services.</p> <p>If a Medicare SIF provider believes, on admission or during a resident's stay, that Medicare will not pay for skilled nursing or specialized rehabilitative services, then the facility must inform the resident or their legal representative in writing why these specific services may not be covered. The provider must keep a copy of this letter on file.</p> <p>If the resident requests that the bill be submitted to the intermediary or coverage carrier for a Medicare decision then evidence that this submission has occurred should also appear in the resident's record.</p> <p>Advance notice to the resident of changes in services or charges is not required. Whenever possible, however, advance notification should be given in order to be consistent with the intent of the law, which is to allow residents to be fully</p>

P-33

INTERPRETIVE GUIDELINES - SKILLED NURSING FACILITIES AND INTERMEDIATE CARE FACILITIES

P-34

TAG NUMBER	REGULATION	GUIDANCE TO SURVEYORS
	(B) Those other items and services that the facility offers and for which the resident may be charged, and the amount of charges for those services; and	<p>Informed of what they owe the facility. Providers must make a good faith effort to inform the resident fully of services and charges and related charges.</p> <p><u>Survey Procedures and Probes: 485.10(b)(5) and (6)</u></p> <ul style="list-style-type: none"> • (Individual) Do you know what things or services you pay for out of your own pocket? Who handles the payment for these items? • (Individual) How do you find out how much these services or things cost? • (Group) Do you or your family receive an explanation of any charges or monthly bills? • (Group) Have there been any changes in the charges since you've been here? How do you find out about those changes? • (Group) How does the facility give you information about your Medicare or Medicaid benefits?
F160	(ii) Inform each resident when changes are made to the items and services specified in paragraphs (5)(i)(A) and (B) of this section.	
F161	(6) The facility must inform each resident before, or at the time of admission, and periodically during the resident's stay, of services available in the facility and of charges for those services, including any charges for services not covered under Medicare or by the facility's per diem rate.	<p>If residents are not clear about the scope of services they are entitled to or the additional services provided by the facility and the cost of these services, <u>interview</u> administrative staff to determine how the facility informs residents about their Medicare and Medicaid benefits, the non-covered services the facility provides, and the facility's charges for these services.</p>
	(7) The facility must furnish a written description of legal rights which includes--	<p><u>Survey Procedure and Probes: 485.10(b)(7)</u></p> <ul style="list-style-type: none"> • (Group) Do you know how to contact the State Survey Agency or certifier?
F162	(i) A description of the manner of protecting personal funds, under paragraph (c) of this section; and	<p>If residents do not know how to contact the State Survey Agency or certifier in the event of a complaint, <u>interview</u> administrative staff to determine how the facility informs residents of their legal rights.</p> <p>See 485.10(c) regarding protection of resident funds.</p>
F163	(ii) A statement that the resident may file a complaint with the State survey and certification agency concerning resident abuse, neglect, and misappropriation of resident property in the facility.	

Rev. 2/81

Rev.

TAG

Excerpt from Int. Guidelines - Exam. of survey results.

INTERPRETIVE GUIDELINES - SKILLED NURSING FACILITIES AND INTERMEDIATE CARE FACILITIES

Rev. 232

TAG NUMBER	REGULATION	GUIDANCE TO SURVEYORS
		<p>+ (Individual) Has the facility ever asked you to allow them to release your clinical records to someone other than another health care institution like a hospital or to a health care insurer and you objected? What happened?</p> <p>If residents indicate there is a problem related to release of records, are there blanket consent forms in the record or individual consents?</p>
	<p>(f) <u>Level II requirement: Grievances.</u> A resident has the right to--</p>	<p><u>Survey Procedure and Probes: 483.10(f)(1)-(2)</u></p> <ul style="list-style-type: none"> + (Individual and Group) Have you ever complained formally about anything here? + (Individual and Group) Who did you complain to? What did you complain about? + (Individual and Group) If you submitted a written complaint, how did the facility respond? + (Individual and Group) Was your complaint resolved? Were you satisfied with the facility's resolution of the problem? If the facility could not resolve the problem, did they explain why?
F175	<p>(1) Voice grievances with respect to treatment or care that is, or fails to be furnished, without discrimination or reprisal for voicing the grievances; and</p>	<p>If residents' responses indicate problems in voicing grievances and getting grievances resolved, determine how the facility deals with and resolves resident complaints and grievances. Examine facility policies.</p>
F176	<p>(2) Prompt efforts by the facility to resolve grievances the resident may have, including those with respect to the behavior of other residents.</p>	
	<p>(g) <u>Level II requirement: Examination of survey results.</u> A resident has the right to--</p>	<p><u>Interpretive Guidelines: 483.10(g)(1)-(2)</u> "Survey results" means the Statement of Deficiencies (NCFR 2567) and plan of correction, if required. A "place readily accessible to residents" means at eye-level in a central, public space in the facility, such as a lobby, in areas frequently visited by most residents.</p>
F177	<p>(1) Examine the results of the most recent survey of the facility conducted by Federal or State surveyors and any plan of correction in effect with respect to the facility.</p>	<p><u>Survey Procedures and Probes: 483.10(g)(1)-(2)</u> Are survey results posted in a place readily accessible to residents?</p> <ul style="list-style-type: none"> + (Group) Have you wanted to see the results of the most recent State or Federal survey? Did the facility provide you with this information? + (Group) Do you know where the survey results are posted?



INTERPRETIVE GUIDELINES - SKILLED NURSING FACILITIES AND INTERMEDIATE CARE FACILITIES

P-40

TAG NUMBER	REGULATION	GUIDANCE TO SURVEYORS
F178	The results must be posted by the facility in a place readily accessible to residents; and	<ul style="list-style-type: none"> * [Group] How do residents communicate with advocacy agencies in the community? For example, can residents meet with the local nursing home ombudsman when they choose to do so?
F179	(2) Receive information from agencies acting as client advocates, and	
F180	be afforded the opportunity to contact agencies.	
	(h) <u>Level B requirement: Work.</u> The resident has the right to--	<p><u>Interpretive Guideline: 483.10(h)(1)-(2)</u> "Prevailing rate" is the wage paid to non-disabled workers in the community surrounding the facility for essentially the same type, quality, and quantity of work requiring comparable skills.</p>
F181	(1) Refuse to perform services for the facility;	<p>All resident work, whether of a voluntary or paid nature, must be part of the plan of care. A resident's desire for work is subject to discussion of medical appropriateness. As part of the plan of care, a therapeutic work assignment must be formally agreed to by the resident. The resident also has the right to refuse such treatment at any time that he or she wishes. At the time of development or review of the plan, the voluntary or paid nature of the work can be negotiated.</p>
F182	<p>(2) Perform services for the facility, if he or she chooses, when--</p> <p>(i) the facility has documented the need or desire for work in the plan of care;</p> <p>(ii) the plan specifies the nature of the services performed and whether the services are voluntary or paid;</p> <p>(iii) Compensation for paid services is at or above prevailing rates; and</p> <p>(iv) the resident agrees to the work arrangement described in the</p>	<p><u>Survey Procedure and Probes: 483.10(h)(1)-(2)</u> Are residents engaged in what may be paid or volunteer work (e.g., doing housekeeping, doing laundry, preparing meals, cottage industry). Pay special attention to the possible work activities of residents with mental retardation or mental illness. If you observe such a situation, determine if the resident is in fact performing work and, if so, is this work, whether voluntary or paid, described in the plan of care?</p> <ul style="list-style-type: none"> * [Group] Do any residents have other types of chores or unpaid duties which they perform here?

Rev. 2/32

Re

TAG

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THE LEGISLATURE

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Mary Van Nimwegen

H. HESS 2-13-90

H. HESS 2-15-90

HB

419

HOUSE COMMITTEE REPORT

3/15

(7)

Date Referred: January 17, 1990

FURTHER REFERRALS: JUDICIARY

Date of Committee Action: 3/14/90

The HEALTH, EDUCATION, & SOCIAL SERVICES Committee considered: HB 419

HOUSE BILL NO. 419

CRIME STATISTICS RELATING TO MINORS

"An Act relating to the recording and collection of statistics relating to minors."

RECOMMENDATIONS:

- be replaced with CS HB 419 (HESS) the same title
- have attached amendment(s) a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(S):
(Dept)

APPROVES PREVIOUS: (Date/Dept)

- fiscal impact 6,000,000 fiscal note(s) _____
- zero fiscal note Pub Safety zero fiscal note(s) _____
- zero with analysis D HESS zero fn/analysis _____

SIGNING DO PASS:

SIGNING:
(check/approp. column)

Do Not Pass No Rec Amend

<u>Ellis</u> <u>JACKSON</u>	<u>Ellis</u>	<u>GOLL</u>	<u>X</u>	
<u>Quarley</u> <u>GREENBERG</u>	<u>Quarley</u>			
<u>Jacko</u> <u>JACKO</u>				

J. H. Ellis
Chairman's Signature

POSITION PAPER
House Bill 419

"An Act relating to the recording and collection of statistics relating to minors."

The purpose of this legislation is to help assure that city and municipal jails, rural lock-ups, and adult correctional facilities collect data on admission of minors sufficient to meet the requirements of the Juvenile Justice and Delinquency Prevention Act of 1984. In order to maintain eligibility for Federal Formula Grant Funds under PL93-415 Alaska must annually report the number of children detained in adult facilities and the reason and circumstances for the detention of a minor to an adult jail. The information to be recorded at each admission is specified and limited to the information required by federal law. The bill protects the confidentiality of these records and exempts them from public disclosure.

HB419 authorizes the Department of Health and Social Services to require state and local law enforcement agencies to use a standardized form to record each admission.

The Department of Health and Social Services is currently hampered in its effort to collect the annual data required for federal reporting. There are ninety-five (95) identified city or municipal adult jails, rural lock-ups, and adult correctional facilities which might under some circumstances admit a minor. Over half of those facilities either do not maintain any record when a juvenile is admitted or do not record sufficient data to determine the nature and circumstance of juvenile admissions. Without adequate data, the department is unable to clearly assess Alaska's level of compliance with federal law requiring removal of children from adult jail and lock-ups. Further, the department cannot adequately analyze the factors contributing to non-compliance and develop successful strategies to end the practice of confining children in adult jails.

It is proposed that HB419 be amended as follows: "(b) For the purpose of collecting statistics, the department shall establish and require state and local agencies which operate a jail or similar adult facility to use a standardized form to record and report each admission of a minor. The record shall include the name of the minor admitted, the minor's age and date of birth, the specific offense for which the minor was admitted, the date and time admitted, the date and time released, the sex of the minor, the ethnic origin of the minor, and other information required by federal law. Except for the notation of the date

CS House Bill 419 (HESS)

In the Legislature of the State of Alaska

Sixteenth Legislature - Second Session

A Bill

For an Act entitled: "An Act relating to the recording and collection
of statistics relating to minors."

Be it enacted by the Legislature of the State of Alaska:

* Section 1. AS 47.10.160 is amended by adding a new subsection to
read:

(b) For the purpose of collecting statistics, the department shall establish and require state and local agencies, which operate a jail or other detention facility, to use a standardized form to keep a record and report each admission of a minor. The record shall be limited to the name of the minor admitted, the minor's date of birth, the specific offense for which the minor was admitted, the date and time admitted, the date and time released, the sex of the minor, the ethnic origin of the minor, and other information required by federal law. Except for the notation of the date and time of the minor's release, the record shall be prepared at the time of the minor's admission. Information and records obtained under this subsection are confidential and are not public records. They may be disclosed only for the purpose of compiling statistics and in a manner that does not reveal the identity of the minor.

CORRECTION

**THIS DOCUMENT
HAS BEEN REPHOTOGRAPHED
TO ASSURE LEGIBILITY**

POSITION PAPER
House Bill 419

"An Act relating to the recording and collection of statistics relating to minors."

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and time of the minor's release, the record shall be prepared at the time of the minor's admission. Information and records obtained under this subsection are confidential and are not public records. They may be disclosed only for the purpose of compiling statistics and to carry out the requirements of federal law.

RECOMMENDED: *Russ Webb*
Russ Webb, Director
Division of Family and
Youth Services

DATE: 3/10/90

APPROVED: *Myra M. Munson*
Myra M. Munson, Commissioner
Department of Health and
Social Services

DATE: 3/10/90

CS House Bill 419 (HESS)

In the Legislature of the State of Alaska

Sixteenth Legislature - Second Session

A Bill

For an Act entitled: "An Act relating to the recording and collection
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Be it enacted by the Legislature of the State of Alaska:

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read:

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FISCAL NOTE

REQUEST:

Revision Date: _____ Agency Affected: Public Safety
 Title: Recording and collection of
crime statistics relating to minors
 Sponsor: House Judiciary BRU: _____
 Requestor: House HESS Component: _____

EXPENDITURES/REVENUES: (Thousands of Dollars) (Inflation not included)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
---------	-----	-----	-----	-----	-----	-----

REVENUE	-0-	-0-	-0-	-0-	-0-	-0-
---------	-----	-----	-----	-----	-----	-----

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER/PROG RCPT						
TOTAL	-0-	-0-	-0-	-0-	-0-	-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)

Passage of this legislation is not expected to have any fiscal impact on the Department of Public Safety.

Mick
1/24/90

Prepared by: Capt. C. Roger McCoy, Special Assistant Phone: 465-4322
 Division: Office of the Commissioner Date: 1/24/90

Approved by Commissioner: Arthur English Date: 1-24-90
 Agency: Department of Public Safety Page 1 of 1

FISCAL NOTE

REQUEST:

Revision Date: _____ Agency Affected: DH & SS
 Title: An act relating to the recording and collection of statistics relating to minors and BRU: Purchased Services and Youth Services
 Sponsor: Judiciary Committee Components: Preventative Services and Probation Services
 Requestor: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
---------	-----	-----	-----	-----	-----	-----

REVENUE	-0-	-0-	-0-	-0-	-0-	-0-
---------	-----	-----	-----	-----	-----	-----

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	-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)

This bill has no fiscal impact on the Department of Health and Social Services in FY 90. The bill will require the promulgation of regulation by the Department. That requirement was anticipated by the Department and resources have been identified from federal formula grant receipts that the Department is already required by the federal government to allocate to jail monitoring and removal efforts. 465-3170

Prepared by: Russ Hobb, Director Phone: _____

Division: Family and Youth Services Date: 3/5/90

Approved by Commissioner: Mura M. Minson Date: 2/15/90

Agency: Department of Health and Social Services

Distribution (by preparer):

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Mary Van Nimwegen

A. HESS 3-11-90

HB

423

HOUSE COMMITTEE REPORT

3/12

(1)
(9)

Date Referred: January 18, 1990

FURTHER REFERRALS:

FINANCE

Date of Committee Action: 3-8-90

The ~~HEALTH, EDUCATION & SOCIAL SERVICES~~ Committee considered: HB 423

~~HOUSE BILL NO. 423~~

APPROP: FAIRBANKS SCHOOL CONSTRUCTION

"An Act making a special appropriation for payment as a grant to the Fairbanks North Star Borough School District for construction and rehabilitation of certain schools; and providing for an effective date."

RECOMMENDATIONS:

- be replaced with _____ the same title
- have attached amendment(s) a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(S): (Dept) APPROVES PREVIOUS: (Date/Dept)

- fiscal impact _____ fiscal note(s) _____
- zero fiscal note _____ zero fiscal note(s) _____
- zero with analysis _____ zero fn/analysis _____

SIGNING DO PASS:

H. Ellis

Mark Boyer

~~_____~~

SIGNING: (Check approp. column)

	Do Not Pass	No Rec	Amend
<i>Peter Jace</i>		<input checked="" type="checkbox"/>	
<i>George J. Kelly</i>		<input checked="" type="checkbox"/>	

H. Ellis

Chairman's Signature



FAIRBANKS NORTH STAR BOROUGH SCHOOL DISTRICT

P.O. Box 1250 Fairbanks, Alaska 99707-1250 (907) 452-2000 FAX (907) 451-6160

February 6, 1990

RECEIVED

FEB 3 1990

The Honorable Mike Davis
Alaska State Legislature
PO Box V
Juneau, AK 99811

Dear Representative Davis:

Attached are the latest editions of the Military Schools Condition Survey and Enrollment Projection/Capacity Report. Both reports confirm the significant problem we have with substandard facilities and lack of capacity to handle enrollments next year on Fort Wainwright.

Beginning in fall 1990, students will have to be bussed off Fort Wainwright into the Badger Road/North Pole attendance area, which is the only area in the district with classroom capacity to handle the problem. This situation highlights the immediate need for funding and construction of two new elementary schools on Fort Wainwright.

We are pleased with the introduction of House Bill 423 by Representative Davis, which proposes state funding for new schools on Fort Wainwright and Eielson Air Force Base. At the same time, we will continue pursuing federal participation in a solution to the problems of our military schools.

If you have any questions or suggestions for resolving this situation, please let me know.

Sincerely yours,

Richard S. Cross
Superintendent of Schools

RSC/pkr
Enclosure
cc: Fairbanks Board of Education

Comparitive Analysis: Facilities options for each program underwent comparative analysis based on the following evaluation criteria:

- Initial Costs
- Life Cycle Costs
- Initial Disruption of Educational Programs
- Long Term Disruption of Educational Programs
- Quality of Educational Environment and Systems

C. Overview of Existing Facilities

The eight base/post schools currently accommodate students from Pre-kindergarten (special education) through the twelve grade. Table I-1 contains a breakdown of current and projected enrollments by grade level and program.

Table I-1
 Projected Base/Post School Enrollments

FT. WAINWRIGHT ELEMENTARY PROGRAM ENROLLMENTS (Full Time Equivalent)

Grade	Current		Projected				
	1989-90	1990-91	1991-92	1992-93	1993-94	1994-95	
Pre-Kg	6	6	5	6	6	6	
Kg	80	89	95	95	95	95	
1st	140	185	198	198	198	198	
2nd	138	143	179	178	178	178	
3rd	134	148	149	172	171	171	
4th	108	144	154	145	167	166	
5th	87	117	147	146	138	159	DOE
6th	108	98	122	141	140	132	Capacity
Base Totals	801	930	1050	1081	1093	1105	956

EIELSON AFB ELEMENTARY PROGRAM ENROLLMENTS (Full Time Equivalent)

Grade	Current		Projected				
	1989-90	1990-91	1991-92	1992-93	1993-94	1994-95	
Pre-Kg	1	1	1	1	2	2	
Kg	76	74	74	74	74	74	
1st	141	156	155	155	155	155	
2nd	157	124	140	140	140	140	
3rd	131	147	119	134	134	134	
4th	117	124	143	115	130	130	
5th	111	108	118	136	109	124	DOE
6th	109	105	104	113	131	105	Capacity
Base Totals	843	839	854	868	875	864	864

EIELSON AFB JR/SR HIGH PROGRAM ENROLLMENTS

Grade	Current		Projected				
	1989-90	1990-91	1991-92	1992-93	1993-94	1994-95	
7th	110	100	123	115	125	135	
8th	103	103	96	118	110	120	
9th	95	110	113	106	130	121	
10th	91	80	95	97	91	112	
11th	73	77	70	93	84	79	DOE
12th	61	57	72	56	74	73	Capacity
Base Totals	533	537	569	585	613	646	663

Based on the evaluation criteria and comparative analysis process established in this report, the following facilities options are recommended for each program:

Ft. Wainwright Elementary Program

Option No. 4: Construct two new 600 student prototypical elementary schools to replace all five existing facilities.

Total Estimated Project Costs: \$17,945,973

Eielson AFB Elementary Program

Option No. 2: Rehabilitate Anderson Elementary School and construct a new 600 student prototypical elementary school to replace Pennell and Taylor Elementary schools.

Total Estimated Project Costs: \$10,737,760

Eielson AFB Junior/Senior High School Program

Correction of identified deficiencies should be initiated as soon as possible.

Total Estimated Project Costs: \$4,984,658

Although initial costs are highest for each selected option, the life cycle costs in terms of annual equivalent dollar costs are the lowest. Additionally, implementation of the recommended options will minimize disruption to the on-going educational programs, and will provide a higher level of quality in the educational environment than the other options.

The continuation of quality educational programs at Ft. Wainwright and Eielson AFB is dependent on a major expenditure of capital to modernize an aging and outdated physical plant. Current base/post facilities are below the general standards throughout the remainder of the District.

Further delay in the implementation of a modernization plan will correspondingly increase both initial and long term costs, as well as increase the potential for program disruption. The District's abilities to provide an educational program that is commensurate with non-on base facilities have already been compromised, and deferment of facilities upgrades will eventually place the District in jeopardy of default on its agreement to provide an educational program comparable to that of non-on base schools.

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THE LEGISLATURE

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Mary Van Nimwegen

H. HESS 2-15-90

H. HESS 3-8-90

HB

438

HOUSE COMMITTEE REPORT

(7)

Date Referred: January 24, 1990

FURTHER REFERRALS:

JUDICIARY

Date of Committee Action: 3/14/90

The HEALTH, EDUCATION, & SOCIAL SERVICES Committee considered: HB 438

HOUSE BILL NO. 438

PARENTAL RIGHTS AFTER ADOPTION

"An Act relating to adoption."

RECOMMENDATIONS:

- be replaced with CS HB 438 (HESS) the same title
 have attached amendment(s) a new title
 do pass
 do not pass
 no recommendation
 individual recommendations
 additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(S):
(Dept)

APPROVES PREVIOUS:

(Date/Dept)

- fiscal impact _____ fiscal note(s) _____
 zero fiscal note DHSS zero fiscal note(s) _____
 zero with analysis _____ zero fn/analysis _____

SIGNING DO PASS:

SIGNING:

(Check approp. column)

Do Not Pass No Rec Amend

Peter J. ...
...
...

SIGNING:	Do Not Pass	No Rec	Amend
<u>George ...</u>		X	

J. Ellis
Chairman's Signature

FISCAL NOTE

REQUEST:

Revision Date: _____ Agency Affected: Health & Social Services
 Title: An Act relating to adoption BRU: _____
 Sponsor: Ulmer Components: _____
 Requestor: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY92	FY93	FY94	FY 95	FY 96
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL	0.0	0.0	0.0	0.0	0.0	0.0
REVENUE	0.0	0.0	0.0	0.0	0.0	0.0

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME	0.0	0.0	0.0	0.0	0.0	0.0
PART-TIME	0.0	0.0	0.0	0.0	0.0	0.0
TEMPORARY	0.0	0.0	0.0	0.0	0.0	0.0

ANALYSIS: (Attach a separate page if necessary)

No fiscal impact in FY 90

Prepared by: Russell Webb, Director
 Division: Family and Youth Services
 Approved by Commissioner: Myra M. Munson
 Agency: Department of Health and Social Services

Phone: 465-3170
 Date: 3/14/90
 Date: 3/16/90

Distribution (by preparer):

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



Alaska State Legislature

Please enter into the record my testimony to the HESS
 committee name
 committee on HB 438, dated 12 Mar 90
 bill/subject

If fewer disrupted adoptions and compliance with federal law are the underlying goals of HB 438, then I suggest you let this bill die and get out into the Native communities to view an alternate perspective from your own.

HB 438 ignores P.L. 95-608, Nov. 8, 1978, Title I, sections 101 (c) and (d), sections 102 (c) and (d), section 104, section 106, and section 107. Your proposed bill ignores the Congressional assurances of continued intervention toward family reunification of Native people.

Your efforts toward a State/Tribal ICWA agreement signature would ensure fewer disruptive adoptions and compliance with the law including protection of the best interest of the Indian child. Thank you for your time and consideration.

Signed: Karen L. Roberts (Hearing)

Testifier

SCA - Human Services Dept.

Representing (Optional)

P.O. Box 1450 Sitka, Ak 99835

Address

(907) 747-3207

Phone No.



Alaska State Legislature

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

committee on H. B. 438 , dated March 7, 1990
bill/subject

On behalf of Tanana Chiefs Conference, I would like to express support for H.B. 438. The bill closely tracks Athabascan traditional customary adoption principles which allow adoption without total extinguishment of parental rights. T.C.C. will continue to review bill to determine if the terms are adequate to reflect this custom.

Signed: Michael J. Walker
Testifier

Tanana Chiefs Conference
Representing (Optional)

122 First Ave., Fbks Alc. 99709
Address

(907) 452-8251
Phone No.

FISCAL NOTE

REQUEST:

Revision Date: _____ Agency Affected: DHSS
 Title: An Act Relating to Adoption BRU: _____
 Sponsor: Illmer Components: _____
 Requestor: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
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REVENUE	-0-	-0-	-0-	-0-	-0-	-0-
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FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	-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)

No fiscal impact FY 90.

Prepared by: Russell Webb, Director Phone: 465-3170
 Division: Family and Youth Services Date: _____
 Approved by Commissioner: Myra M. Munson, Commissioner Date: 2/22/90
 Agency: Department of Health and Social Services

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

Alaska State Legislature

HOUSE OF REPRESENTATIVES



REPRESENTATIVE FRAN ULMER

MEMORANDUM

February 27, 1990

TO: Rep. Johnny Ellis, Chair
House Health, Education and Social Services
Committee

FROM: Rep. Fran Ulmer

RE: HB 438, relating to parental rights after adoption

.....

HB 438 allows a person to adopt a child, at the request of the child's parent, and allows retention of the natural parents' rights and responsibilities unless those rights have been terminated by the court. This will allow multiple, parental relationships to be established and will provide an opportunity for a person who is unable or unwilling to marry the child's legal parent(s) to adopt the child. Under current law, in order for an adoptive decree to be issued, the adoptive parent must be married to the natural or legal parent. The court must also find that the adoption is in the best interests of the child.

This bill is in accord with the purposes of Alaska's adoption act which generally permits a court to issue adoptive decrees in accord with the child's best interests.

STATE OF ALASKA
THE LEGISLATURE

POUCHY - STATE CAPITOL
JUNEAU, ALASKA 99811
907.463.3800

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Mary Van Nimwegen

H. HESS 3-1-50

H. HESS 3-11-50

Original sponsor(s): REP. ULMER

1 IN THE HOUSE

2 CS FOR HOUSE BILL NO. 438 ()
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 SIXTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to adoption."

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

8 * Section 1. AS 25.23.130(a) is amended to read:

9 (a) A final decree of adoption, whether issued by a court of
10 this state or of any other state, has the following effect as to
11 matters within the jurisdiction or before a court of this state:

12 (1) except with respect to a spouse of the petitioner and
13 relatives of the spouse and except as provided in (c) and (f) of this
14 section, to relieve the natural parents of the adopted person of all
15 parental rights and responsibilities [,] and [, EXCEPT AS PROVIDED IN
16 (c) OF THIS SECTION,] to terminate all legal relationships between the
17 adopted person and the natural parents and other relatives of the
18 adopted person, so that the adopted person thereafter is a stranger to
19 the former relatives for all purposes including inheritance, unless
20 the decree of adoption specifically provides for continuation of
21 inheritance rights, and the interpretation or construction of docu-
22 ments, statutes, and instruments, whether executed before or after the
23 adoption is decreed, which do not expressly include the person by name
24 or by some designation not based on a parent and child or blood rela-
25 tionship; and

26 (2) to create the relationship of parent and child between
27 petitioner and the adopted person, as if the adopted person were a
28 legitimate blood descendant of the petitioner, for all purposes in-
29 cluding inheritance and applicability of statutes, documents, and

1 instruments, whether executed before or after the adoption is decreed,
2 which do not expressly exclude an adopted person from their operation
3 or effect.

4 * Sec. 2. AS 25.23.130 is amended by adding a new subsection to read:

5 (f) A court may issue an adoption decree granting an adoption by
6 a petitioner who is not married to a natural parent of the adopted
7 person without terminating the parental rights and responsibilities of
8 the natural parent if the court makes a specific finding that re-
9 tention of the natural parent's rights and responsibilities is in the
10 best interests of the adopted person and the natural parent consents.
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HB

441

HOUSE COMMITTEE REPORT

(7)

Date Referred: January 24, 1990

FURTHER REFERRALS:

JUDICIARY

Date of Committee Action: 2/8/90

The HEALTH, EDUCATION, & SOCIAL SERVICES Committee considered: HB 441

HOUSE BILL NO. 441 CONTROLLED SUBSTANCES SCHEDULES

"An Act amending schedules IA - VA of the controlled substance law and the definition of 'imitation controlled substance.'"

RECOMMENDATIONS:

- [] be replaced with _____ [] the same title
[] a new title
[] have attached amendment(s)
[X] do pass
[] do not pass
[] no recommendation
[] individual recommendations
[] additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(s):
(Dept)

APPROVES PREVIOUS: (Date/Dept)

- [] fiscal impact _____
[X] zero fiscal note OPS
[] zero with analysis _____

- [] fiscal note(s) _____
[] zero fiscal note(s) _____
[] zero fn/analysis _____

SIGNING DO PASS:

SIGNING:
(Check approp. column)

J. Ellis
Walter Farnae
Max Gumbert
Cheri Davis
Janice
Mark Boyer
Peter Jure

	Do Not Pass	No Rec	Amend
J. Ellis		<input checked="" type="checkbox"/>	

J. Ellis
Chairman's Signature

State of Alaska

Committees

CO-CHAIR, HOUSE JUDICIARY
VICE-CHAIR, HOUSE LABOR AND COMMERCE
HOUSE HEALTH, EDUCATION
AND SOCIAL SERVICES



P.O. BOX V
JUNEAU, ALASKA 99811
(907) 465-4712
465-4968/4986
(SESSION)

914 CLAY COURT
ANCHORAGE, ALASKA 99503
(907) 276-6844

Representative Max F. Gruenberg, Jr.
District 11
Spennard, Upper Midtown Anchorage

MEMORANDUM

TO: Members of the House
FROM: Rep. Max F. Gruenberg, Jr.
DATE: January 18, 1990
RE: Sectional Analysis of the Controlled Substance Bill.

Note: Unless otherwise indicated, the descriptions of the drugs listed below are based upon materials supplied by the federal Drug Enforcement Administration (DEA).

Section 1:

This section removes the substance nalmefene from Alaska's Controlled Substances Act by adding it to the list of exclusions in AS 11.71.140(b)(1). Currently, nalmefene is included in schedule IA (AS 11.71.140) because it is a derivative of the listed opioid thebaine. Nalmefene is also a derivative of the narcotic antagonist naltrexone, currently excepted from the state Controlled Substances Act. The DEA and the Secretary of the U.S. Department of Health

and Human Services have concluded that there is insufficient scientific evidence to demonstrate that nalmeferne possesses sufficient potential for abuse to justify its continued control in any schedule of the federal Controlled Substances Act.

Section 2:

This section adds 16 narcotic substances to schedule IA: alfentanil; alpha-methylfentanyl; bulk dextropropoxyphene; carfentanil; sufentanil; tilidine; para-fluorofentanyl; 3-methylfentanyl; acetyl-alpha-methylfentanyl; alpha-methylthiofentanyl; beca-hydroxyfentanyl; beta-hydroxy-3-methylfentanyl; 3-methylthiofentanyl; thiofentanyl; MPPP; and PEPAP.

Alfentanil was placed in federal schedule I in accordance with U.S. treaty obligations under the Single Convention on Narcotic Drugs. At the request of the World Health Organization, alfentanil was examined by various groups from the Committee of Problems of Drug Dependence. The results of the study showed that alfentanil is a potent morphine-like compound with two to four times the potency of morphine when used as an analgesic.

Alpha-methylfentanyl, also known as "China White" or synthetic heroin, is a close structural analog of the Alaska

schedule IA substance fentanyl. It is an analgesic approximately 80 times more potent than morphine. The substance has been placed in federal schedule I because it has a high potential for abuse and currently has no accepted use in medical treatment in the United States.

Bulk dextropropoxyphene (non-dosage form) is a federal schedule II opiate. The scheduling criteria used in Alaska require that all federal schedule I and II narcotics be placed in Alaska's schedule IA. This substance, therefore, is placed in schedule IA. It should be noted that dextropropoxyphene in dosage form is placed in Alaska's schedule IVA and federal schedule IV. Dextropropoxyphene in dosage form is better known as the drug "Darvon." Non-dosage form was placed in federal schedule II in accordance with U.S. treaty obligations under the Single Convention on Narcotic Drugs.

Carfentanil is a narcotic substance approved by the Food and Drug Administration for marketing as a new animal drug. Carfentanil is an opiate, as defined in 21 U.S.C. 802(18), because it has an addiction-forming and addiction-sustaining ability similar to morphine. Because it has been approved for marketing, it has been placed in federal schedule II. However, because it is a narcotic substance, carfentanil is being placed in Alaska's schedule IA.

Sufentanil is contained in the federal schedule II; it is a congener of the federal schedule II narcotic substance fentanyl. Sufentanil is indistinguishable in terms of abuse potential from fentanyl, a drug used mainly in operating rooms and abused primarily by operating room personnel.

Tilidine, also known as tilidate hydrochloride, is a narcotic analgesic used in the control of moderate or severe pain. Tilidine was placed in federal schedule I in accordance with U.S. treaty obligations under the Single Convention on Narcotic Drugs.

Para-fluorofentanyl, 3-methylfentanyl,
acetyl-alpha-methylfentanyl, alpha-methylthiofentanyl,
beta-hydroxyfentanyl, beta-hydroxy-3-methylfentanyl,
3-methylthiofentanyl, and thiofentanyl are potent analogs of the synthetic narcotic analgesic fentanyl. Each of these fentanyl analogs behaves as a typical morphinelike compound in rodent antinociceptive tests. Each analog substitutes completely for morphine when administered to morphine-dependent withdrawn monkeys. These analogs have been produced in clandestine laboratories, identified in drug evidence submissions, and associated with a number of overdose deaths.

MPPP and PEPAP are potent analogs of meperidine, a synthetic narcotic analgesic. Produced in clandestine laboratories,

MPPP and PEPAP have been identified in illicit drug trafficking. MPPP in particular has been associated with drug-induced Parkinson's disease in a number of users.

Section 3:

This section adds one new drug to schedule IIA. The drug is a hallucinogen, similar to PCP and TCP, and is called "1-[1-(2-thienyl) -cyclohexyl] -pyrrolidine" or "TCPy". TCPy was added to the federal controlled substances schedule in the past year.

Section 4:

This section would add 3,4-methylenedioxymethamphetamine (MDMA) to AS 11.71.150(b), to place it in schedule IIA.

MDMA, the designer drug known as Ecstasy, is an analog of the substance "methamphetamine." It has a high potential for abuse and currently has no accepted medical use in the United States. It is a federal schedule I drug, but because it is a non-narcotic hallucinogenic it has been placed in Alaska schedule IIA.

Section 5:

This section would add six new substances to schedule IIA (AS 11.71.150): fenethylamine; N-ethylamphetamine;

3,4-methylenedioxy-N-ethylamphetamine;
N-hydroxy-3,4-methylenedioxyamphetamine; 4-methylaminorex
and N,N-dimethylamphetamine.

Fenethylamine is a conjugate of amphetamine and theophyllin (a methylxanthine). The drug produces a delayed, but prolonged, central nervous system stimulatory effect. Fenethylamine has a high potential for abuse, has no recognized medical use in the United States, and has not been tested to determine its safety for use under medical supervision. It is a federal schedule I drug, but it has been placed in Alaska's schedule IIA because the drug is non-narcotic.

N-ethylamphetamine's pharmacological and behavioral effects are similar to those of amphetamine and methamphetamine. It is a federal schedule I substance with a high potential for abuse, and no known medical use in the United States. It has been placed in Alaska's schedule IIA because the drug is non-narcotic.

3,4-methylenedioxy-N-ethylamphetamine and
N-hydroxy-3,4-methylenedioxyamphetamine are analogs of the
schedule IIA substance methamphetamine (MDA). 4-methyl-
aminorex has a pharmacological profile that closely
resembles that of amphetamine; it has been described as a
potent central nervous system stimulant.

Because N,N-dimethylamphetamine has no current accepted medical use, it has been placed in federal schedule I. N,N-dimethylamphetamine belongs to the chemical class of compounds known as phenylisopropylamines. Amphetamine and methamphetamine also belong to this class. N,N-dimethylamphetamine is very similar in molecular structure to amphetamine and methamphetamine and produces central nervous system stimulant effects. Because N,N-dimethylamphetamine is a non-narcotic stimulant, it is being placed in Alaska schedule IIA.

The federal 1984 Crime Control Act provided the Drug Enforcement Administration with emergency scheduling authority, to avoid an imminent hazard to the public safety. This scheduling procedure was established with the onset of the illicit manufacture and distribution of designer drugs. Federal law defines a designer drug as:

New chemical analogs or variations of existing controlled substances, or other new substances, which have a psychedelic, stimulant, depressant, or narcotic effect and have a high potential for abuse.

Scheduling under this authority is effective for one year and is not applicable to substances for which there is an exemption under the Federal Food, Drug, and Cosmetic Act (e.g., investigational new drugs and new drug applications). To classify a substance under its emergency powers, the DEA must publish a notice of the classification in the Federal Register; the classification

becomes effective after 30 days. On October 30, 1987, 3,4-methylenedioxy-N-ethylamphetamine and N-hydroxy-3,4-methylenedioxyamphetamine and 4-methylaminorex were scheduled in this manner. On October 14, 1988, a proposed rule was published to permanently schedule these three substances. It is anticipated that, by the time this legislation is being considered, a final rule scheduling these substances will have been signed.

On August 3, 1988, the administrator of DEA issued a final rule temporarily placing N,N-dimethylamphetamine into federal schedule I. According to DEA, a final rule permanently scheduling this substance will be published within the next several months.

Section 6:

This section places the substance "tiletamine and zolazepam" into schedule IIIA, by adding it to AS 11.71.160(c). Tiletamine is a chemical analog of phencyclidine and has pharmacological properties similar to that substance. Zolazepam is a chemical analog of the schedule IVA benzodiazepines. As a combined substance it is used by veterinarians as a tranquilizer. This scheduling action facilitates the marketing of a veterinary pharmaceutical product and minimizes the likelihood of the product being abused.

Section 7:

This section places the following substances into AS 11.71.-160(f), to add them to schedule IIIA: parahexyl, dronabinol, and nabilone. Because these substances are THC analogs that are chemically and pharmacologically similar to THC, they have been placed in Alaska schedule IIIA.

Parahexyl is a synthetic analog of delta-9-tetrahydrocannabinol (THC). Parahexyl has no known medical use in the United States. It has been placed in federal schedule I.

Dronabinol (synthetic) in sesame oil and encapsulated in soft gelatin capsules is a Food and Drug Administration-approved drug product: Dronabinol is the synthetic equivalent of the isomer delta-9-tetrahydrocannabinol, the principal psychoactive substance in marijuana. Dronabinol is used to treat nausea and vomiting associated with cancer chemotherapy in patients who have failed to respond adequately to conventional antiemetic treatment.

Nabilone is a synthetic analog of delta-9-tetrahydrocannabinol (THC). It is used to treat nausea and vomiting associated with cancer chemotherapy. Nabilone has been placed in federal schedule II.

Section 8:

This section adds six benzodiazepines to schedule IVA (AS 11.71.-170): alprazolam, halazepam, temazepam, triazolam, midazolam, and quazepam. Each substance is an anti-anxiety agent substantially similar to other benzodiazepines currently listed in Alaska's schedule IVA. All six substances have been classified into the federal schedule IV.

Section 9::

This section places the substance mazindol in schedule IVA (AS 11.71.170) (see sec. 11 description, below). Section 8 also adds six other substances to schedule IVA: pipradol, SPA, cathine, fencamfamin, fenproporex and mefenorex.

Pipradol is a mild central nervous system stimulant. Its effects resemble those of the amphetamines, but the usual therapeutic dose of pipradol results in less euphoria, anorexia, and insomnia. It is an effective anti-depressant without the extreme central nervous system stimulation found in the amphetamines.

SPA is a substance marketed in Japan. It exhibits the same properties as morphine and methamphetamine, but with analgesic effects. Results of a study conducted by the University of Michigan showed that SPA has no physical dependence capacity.

Cathine is scheduled in accordance with the 1971 Psychotropic Convention. It is a stimulant derived from the Khat plant and originates in the Middle East.

Fencamfamin, fenproporex, and mefenorex are also stimulants.

Cathine, fencamfamin, fenproporex, and mefenorex are scheduled in accordance with the 1971 Psychotropic Convention. During its February 1986 session, the United Nations Commission on Narcotic Drugs (CND) decided to include 17 phenethylamines in the schedules of the Convention on Psychotropic Substances. These substances are among the 17.

Section 10:

This section classifies the substance buprenorphine as a schedule VA drug by placing it in proposed AS 11.71.180(d). The DEA has placed buprenorphine into federal schedule V. It had previously been considered a federal schedule II drug because it is a derivative of the substance thebaine (a schedule IA narcotic in Alaska). The DEA has found that buprenorphine has a low potential for abuse, has a currently accepted medical use, and has limited potential for physical or psychological dependence.

This section also adds propylhexedrine and pyrovalerone to schedule VA by placing them in proposed AS 11.71.180(e).

Propylhexedrine and pyrovalerone are psychotropic substances. Currently pyrovalerone is neither manufactured nor distributed commercially in the United States. Propylhexedrine is marketed over-the-counter as Benzedrex nasal decongestant inhalers. That is why there is an exception for these inhalers. There is also an exception in the federal schedule.

These two substances are being scheduled in accordance with the 1971 Psychotropic Convention, and are among the 17 phenethylamines included in the schedules of the Convention on Psychotropic Substances by the United Nations Commission on Narcotic Drugs (CND) during its February 1986 session.

Section 11:

This section amends the language of existing AS 11.73.099(3), which defines "imitation controlled substance." The minor amendment, substitution of "and" for "or," corrects an oversight in the imitation controlled substances law, which was enacted in 1983. The amendment changes the elements of the crime to require that a person actually make explicit or implied representations about the character of the substance. These representations and the item's appearance are facts that a judge or jury would consider when deciding whether, under all the circumstances of the case, a reasonable person would have believed the substance to be controlled. The law as presently written is vague -- perfectly legal substances sold over a drug store counter might be similar

in appearance to items that are manufactured and sold illicitly. A person should be able to legally possess these substances if the person has no intent to pass them as counterfeit substances.

The Alaska Court of Appeals pointed out the vagueness in the current definition of "imitation controlled substance" in its recent decision in Morrow v. State, 704 P.2d 226, 232 (Ak. App. 1985). The court was not able to determine, under the facts in the record in that particular case, whether the defendant's conviction should be reversed; the appellate court remanded the case to the trial court for factual findings. Although the conviction in the Morrow case was not reversed, it is important to clarify the language of the definition -- both to ensure that the problem does not recur in the future and to give people fair notice of the types of conduct that are prohibited under the law.

Section 12:

This section removes the substance mazindol from Alaska's schedule IIIA (AS 11.71.160). Mazindol has been transferred to schedule IVA (AS 11.71.170) (see sec. 8, above). This change has been made because mazindol is an anorectic substance that has a lower potential for abuse than other schedule IIIA anorectics; it also presents less danger of psychological dependence relative to other anorectics in schedule IIIA.

STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907.463.3800

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Mary Van Nimwegen

H. HESS 2-1-90
H. HESS 2-3-90

HB

445