

ALASKA LEGISLATURE COMMITTEE FILES, 1989-1990 8672

6287 SENATE HEALTH, EDUCATION AND SOCIAL SERVICES

after acceptance of the goods or services.

6. Although we believe that municipalities and school districts should be responsible and pay their bills promptly, we believe that the options for making prompt payment or arrangements for contracting are really the province of the local government in establishing its relationship to the community and its vendor. We can see some requirement that municipalities adopt provisions for prompt payment, however, a mandate of this type which imposes obligations on the municipalities without consideration of local choice and option is inappropriate. One reason for the establishment of local governments is to allow the flexibility needed for local conditions and circumstances. A statewide mandate of a particular policy and a cost imposed for noncompliance with a rather inflexible program is not good public policy and such a mandate should not be placed upon local governments. Insertion of provisions in the bill to allow for local options and have a general statutory requirement as a default in the absence of some local provision would be a more appropriate method.

Number 564

Rep. Foster made a motion to move CS HB139 C&RA out of committee with individual recommendations.

Hearing no objection the motion passed.

Rep. Foster asked Rep. Donley if this bill just did not get acted on in the last session.

Rep. Donley replied that it was entered late in the second year as the result of hearings held during the interim.

March 16, 1989. HESS

The next item of business before the committee was HB 139.

Number 128

GINGER BAIM, House Labor and Commerce Committee staff, testified on HB 139. She said that the bill would require purchasers in state government to pay within 30 days upon receipt of goods/services and there would be an interest penalty of 10.5% attached if they didn't pay. The language of the bill was identical to the language in the state procurement code, but it would be placed under Title 29, the Municipal code. Ms. Baim explained that the bill was not meant to penalize individuals and/or organizations in situations where expenditures take time to be authorized by governing bodies. She described a typical procurement relationship between a school district and a vendor, and time limitations in a remote part of Alaska.

Number 134

Ms. Baim stated that the bill was meant to help small businesses and to provide an incentive for purchasers to push the paperwork when they can. She identified an amendment to be proposed by Rep. Donley relating to

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217 SECOND STREET, SUITE 200
JUNEAU, ALASKA 99801

March 15, 1990

MEMORANDUM

TO: Senator Mike Szymanski, Chair, Senate Community and Regional
Affairs Committee

FROM: Scott A. Burgess, Executive Director *SAB*

SUBJECT: HB 139 - Prompt payment for purchases

You have also scheduled CS for HB 139 (Finance) for Thursday, March 22, 1990. Again the AML has opposed this bill and again I will be out of town for the Thursday hearing. If you intend to move the bill on Thursday, I would request the Committee adopt the attached amendment reducing the interest from 18 percent to 10.5 percent. Thank you for your consideration.

— Alaska Municipal League Position —

March 15, 1990

AMENDMENT

OFFERED IN THE SENATE

BY THE COMMUNITY AND REGIONAL
AFFAIRS COMMITTEE

TO: CSHB 139 (FINANCE)

Page 4, line 29 through Page 4, line 9:


(c) If payment for goods or services purchased by the municipality is not made on or before a required payment date under (a) of this section, the municipality shall pay interest on the unpaid balance from the required payment date at an interest [THE] rate that is equal to the amount set out in AS 45.45.010(a) [of 1.5 percent a month], unless an agreement exists between the seller and the municipality that establishes a lower rate of interest or precludes the charging of interest. [IF THE INTEREST-BEARING PERIOD OF TIME IS EITHER (1) A FRACTION OF A MONTH, OR (2) ONE OR MORE FULL MONTHS PLUS A FRACTION OF THE MONTH, THE MUNICIPALITY SHALL PAY THE SAME AMOUNT OF INTEREST FOR THE FRACTION OF A MONTH AS IT WOULD PAY FOR A FULL MONTH.]

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JUNEAU, ALASKA 99801

TO: Representative Johnny Ellis, Chair
Members of the House Health, Education
and Social Services Committee

FROM: Scott A. Burgess, Executive Director 

DATE: March 15, 1989

SUBJECT: CSHB 139 (C&RA) - Payments for purchases by school districts and municipalities

The AML is opposed to CSHB 139 (C&RA) as an unnecessary and inappropriate intrusion by the State into local affairs. In opposing the legislation the AML is not opposing timely payment of valid bills for purchases of goods and services. Municipalities handle their business affairs in a manner that is distinctly different than that of the State. The State mandating purchasing and payment procedures adopted by the State on municipalities not recognize the differences between the two levels of government and among the various local entities.

Municipalities and school districts range in size, access, staffing, hours of operation, and procurement sophistication; therefore, a blanket requirement of 18% annual interest on bills due over thirty days does not recognize these differences, as well as how the entities purchase, receive and pay for goods and services. Some municipalities and school districts do not operate even five days a week, 12 months of the year. Other municipalities and school districts have very sophisticated procurement policies or ordinances.

On the specifics of the bill, an interest rate of 18 percent a year seems excessive, especially on a 1.5 percent per month or fraction of the month basis. The rate of interest in the state is 10.5 percent a year under AS 45.45.010(a). This is the rate of interest required of municipalities by the State (unfortunately) for funds retained on public construction projects by reference under AS 36.90.010.

Again, AML does not support CSHB 139; however, if the Committee decides CSHB 139 is an appropriate mandate on local government, AML would request, at a minimum, amending the bill as follows:

On page 3, amend Section 5, Sec.29.71.060 as follows:

(c) If payment for goods or services purchased by the municipality is not made on or before a required payment date under (a) of this section, the municipality shall pay interest on the unpaid balance from the required

payment date at the rate of 10.5 [1.5] percent a year [MONTH], unless an agreement exists between the seller and the municipality that establishes a lower rate of interest or precludes the charging of interest. [IF THE INTEREST-BEARING PERIOD OF TIME IS EITHER (1) A FRACTION OF A MONTH, OR (2) ONE OR MORE FULL MONTHS PLUS A FRACTION OF A MONTH, THE MUNICIPALITY SHALL PAY THE SAME AMOUNT OF INTEREST FOR THE FRACTION OF A MONTH AS IT WOULD PAY FOR A FULL MONTH.]

(d) This section does not apply

(1) if the municipality has adopted by ordinance a procedure addressing payments for purchases;

(2 [1]) if the cost of the goods or services purchased exceeds \$500,000;...

amended
in
House

Thank you for your consideration.



Matanuska-Susitna Borough

P.O. BOX 1608, PALMER, ALASKA 99645-1608 • PHONE 745-9682

BOROUGH MAYOR

April 24, 1989

RECEIVED

APR 27 1989

ALASKA MUNICIPAL LEAGUE

Senator Albert Adams
Chairman, HCRA
Alaska State Legislature
P. O. Box V (MS 3100)
Juneau, Alaska 99811

Dear Senator Adams:

I have had an opportunity to review HB139. I foresee little or no impact in applying the State Procurement Code to Borough and School District activities. I believe that the Borough currently complies, voluntarily, with the requirements of AS 37.05.285. This issue, as presented in this bill, relates to the authority of local governments to manage their own affairs. It is not, in my view, sound public policy to have one governmental entity dictating the way another does business.

There are three issues which must be given some consideration:

1. Department of Labor - will disputes between the State Department of Labor and the contractor be considered disputes under AS 37.05.285(d)(2)? Often municipalities must withhold payment to contractors until a labor/wage issue is resolved. It is not reasonable to expect a municipality to pay interest when the monies are withheld because of levy under Title 23 of the Alaska Statutes.
2. Proper billing - this term, as used in AS 37.05.285(a)(2) must be defined. What constitutes a "proper billing"? How long does a municipality have to review records/work to determine a proper billing?
3. Interest rate - 1.5% per month (AS 37.05.285(c)) results in an 18% APR. This amount seems excessive in light of AS 45.45.010.

Please call me if I can be of further assistance.

Sincerely,

Dorothy A. Jones
Dorothy A. Jones
Mayor

nm

cc: Representative Ronald Larson
Representative Curt Menard
Senator Jalmar Kerttula
Senator Mike Szymanski
Scott Burgess, Alaska Municipal League

H B

1 4 6

EDUCATION AND SOCIAL SERVICES COMMITTEE

ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES



P.O. BOX V, JUNEAU 99811
(907) 465-3759

March 23, 1990

Letter of Intent to
CSHB 146 (HESS)

It is the intent of the Legislature that the Alaska State Medical Board shall increase the licensing fees for physicians to cover the costs associated with the Impaired Physician Program.

A handwritten signature in cursive script that reads "Johnny Ellis".

Rep. Johnny Ellis, Chair

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: An Act relating to occupational
licensing; . . .
Sponsor: House Rules Committee/Governor
Requestor: House Finance

Agency Affected: Commerce & Economic Dev.
BRU: Occupational Licensing
Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
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						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

No fiscal impact for FY 90.

SEE ATTACHED

Prepared by: Jennifer Strickler, Administrative Officer Phone: 465-2144
Division: Occupational Licensing Date: 4/17/90

Approved by Commissioner: Larry Merculieff Date: 4-17-90
Agency: Department of Commerce & Economic Development

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

FISCAL NOTE ANALYSIS

CSHB 146 (FIN)

The bill amends AS 08.02.020, Limitation of Liability, as it relates to licensing functions and adds a new section providing for Courtesy Licenses. The bill also makes several amendments to AS 08.64 regarding the State Medical Board. Section 4 adds a new provision to the medical statutes requiring the board to maintain records on licensees concerning malpractice actions and the outcome of each action. Presently, new funds are not required to implement the new provisions of the bill.

6194D-2/041790c

SENATE COMMITTEE REPORT

DATE: 4/28/90

FURTHER:

DATE TURNED INTO OFFICE:

5/5/90

H E S S

Committee considered

CSHB 146 (Finance) am

Limiting civil liability for damages relating to peer review committees, licensing boards, and impaired physician programs; authorizing temporary courtesy licenses for certain occupations; relating to powers and duties of the State Medical Board; requiring persons licensed by the State Medical Board to make reports relating to the outcome of medical malpractice claims and civil actions; efd.

and recommended:

- replace with _____ CS _____
- or adopt _____ CS _____
- attached amendment(s)
- _____ letter of intent adopted

- same title
- new title
- technical title change (HB only)

do pass

do not pass

no recommendation

individual recommendations

further referral to _____

ATTACHES NEW FISCAL NOTE(S):

Dept/Date:

fiscal note(s) _____

zero fiscal note(s) _____

appropriation-no fiscal note

SIGNING DO PASS:

APPROVES PREVIOUS:

Dept/Date:

fiscal note(s) _____

zero fiscal note(s) Dept. of Commerce

Governor's bill w/fiscal note

OTHER RECOMMENDATIONS:

Al Adams - No Rec
Tom Kelly - No Rec

Paul Grish - No Rec
Chair: Signature and Recommendation

#2

Original sponsor(s): Rules/Governor

Not Adopted

1 IN THE HOUSE

BY THE HESS COMMITTEE

2 SENATE CS FOR CS FOR HOUSE BILL NO. 146 (HESS)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act limiting civil liability for damages relating
7 to peer review committees, licensing boards, and
8 impaired physician programs; authorizing temporary
9 courtesy licenses for certain occupations; relating
10 to powers and duties of the State Medical Board;
11 requiring persons licensed by the State Medical Board
12 to make reports relating to the outcome of medical
13 malpractice claims and civil actions; and providing
14 for an effective date."

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

16 * Section 1. AS 08.02.020 is amended to read:

17 Sec. 08.02.020. LIMITATION OF LIABILITY [FOR MEMBERS OF LICENS-
18 ING BOARDS AND PEER REVIEW COMMITTEES]. An action may not be brought
19 against a [A] person [IS NOT LIABLE] for damages resulting from

20 (1) [OR OTHER RELIEF IN AN ACTION BY REASON OF] the per-
21 son's good faith performance of a duty, function, or activity required
22 as

23 (A) a member of, or witness before, a licensing board
24 or peer review committee established to review a licensing mat-
25 ter; [,]

26 (B) a member of a committee appointed under AS 08.-
27 64.336(c);

28 (C) a contractor or agent of a contractor under
29 AS 08.64.101(6); or

1 (2) [BY REASON OF] a recommendation or action in accordance
2 with the prescribed duties of a licensing [THE] board, [OR] peer
3 review committee established to review a licensing matter, committee
4 appointed under AS 08.64.336(c), or contractor or agent of a contrac-
5 tor under AS 08.64.101(6) when the person acts in the reasonable
6 belief that the action or recommendation is warranted by facts known
7 to the person, [OR TO THE] board, [OR] peer review committee, commit-
8 tee appointed under AS 08.64.336(c), or contractor or agent of the
9 contractor under AS 08.64.101(6) after reasonable efforts to ascertain
10 the facts upon which the action or recommendation is made.

11 * Sec. 2. AS 08.02 is amended by adding a new section to read:

12 Sec. 08.02.030. COURTESY LICENSES. (a) A board established
13 under this title and the Department of Commerce and Economic Develop-
14 ment, with respect to an occupation that it regulates under this
15 title, may by regulation establish criteria for issuing a temporary
16 courtesy license to nonresidents who enter the state so that, on a
17 temporary basis, they may practice the occupation regulated by the
18 board or the department.

19 (b) The regulations adopted under (a) of this section may in-
20 clude limitations relating to the

- 21 (1) duration of the license's validity;
22 (2) scope of practice allowed under the license; and
23 (3) other matters considered important by the board or the

24 department.

25 * Sec. 3. AS 08.64.101 is amended to read:

26 Sec. 08.64.101. DUTIES. The board shall

- 27 (1) examine and issue licenses to applicants;
28 (2) develop written guidelines to ersure [INSURE] that

29 licensing requirements are not unreasonably burdensome and the

1 issuance of licenses is not unreasonably withheld or delayed;

2 (3) submit an annual report of its proceedings to the
3 governor, including a statement of money received and disbursed;

4 (4) after a hearing, impose disciplinary sanctions on
5 persons who violate this chapter [,] or the regulations or orders of
6 the board;

7 (5) adopt regulations ensuring [INSURING] that renewal of
8 licenses is contingent upon proof of continued competency on the part
9 of the licensee; and

10 (6) under regulations adopted by the board, contract [COOR-
11 DINATE] with private professional organizations to establish an im-
12 paired medical professionals program to identify, confront, evaluate,
13 and treat persons licensed under this chapter who abuse addictive
14 substances.

15 * Sec. 4. AS 08.64.130 is amended by adding new subsections to read:

16 (b) The board shall maintain records for each person licensed
17 under this chapter concerning the outcome of malpractice actions and
18 claims as reported under AS 08.64.200(a) and 08.64.345. The board
19 shall periodically review these records to determine if the licensee
20 should be found to be professionally incompetent under AS 08.-
21 64.326(a)(8)(A).

22 (c) The board shall make available to the public the information
23 maintained under (a) and (b) of this section for each person licensed
24 under this chapter.

25 * Sec. 5. AS 08.64.190 is amended to read:

26 Sec. 08.64.190. CONTENTS OF APPLICATION. The application must
27 [SHALL] state the name, age, residence, the duration of residence, the
28 time spent in medical or osteopathy study, the place, year, and school
29 in which degrees were granted, the applicant's medical work history.

1 and other information the board considers necessary. The application
2 shall be made under oath. The board may verify information in the
3 application through direct contact with the appropriate schools,
4 medical boards, or other agencies that can substantiate the informa-
5 tion.

6 * Sec. 6. AS 08.64.200 is amended to read:

7 Sec. 08.64.200. QUALIFICATIONS OF PHYSICIAN APPLICANTS. (a)
8 Except for foreign medical graduates as specified in AS 08.64.225,
9 each physician applicant shall

10 (1) [REPEALED

11 (2)] submit a certificate of graduation from a legally
12 chartered medical school accredited by the Association of American
13 Medical Colleges and the Council on Medical Education of the American
14 Medical Association;

15 (2) [(3)] submit a certificate from a recognized hospital
16 certifying that the applicant has satisfactorily performed the duties
17 of resident physician or intern for a period of one year;

18 (3) submit a list of negotiated settlements or judgments in
19 claims or civil actions alleging medical malpractice against the
20 applicant, including an explanation of the basis for each claim or
21 action;

22 (4) not have a license to practice medicine in another
23 state, province, or territory which is currently suspended or revoked
24 for disciplinary reasons; and

25 (5) be a citizen of the United States or be lawfully admit-
26 ted for permanent residence.

27 (b) The board shall determine whether each physician applicant
28 has any disciplinary or other actions recorded in the nationwide
29 disciplinary data bank of the Federation of State Medical Boards. If

1 the physician applicant was licensed or practiced in a jurisdiction
2 that does not record information with the data bank of the Federation
3 of State Medical Boards, the board shall contact the medical regula-
4 tory body of that jurisdiction to obtain comparable information about
5 the applicant.

6 * Sec. 7. AS 08.64.205 is amended to read:

7 Sec. 08.64.205. QUALIFICATIONS FOR OSTEOPATH APPLICANTS. Each
8 osteopath applicant shall meet the qualifications prescribed in
9 AS 08.64.200(a)(3) - (5) [AS 08.64.200(a)(4) AND (5)] and shall

10 (1) submit a certificate of graduation from the legally
11 chartered school of osteopathy approved by the board;

12 (2) submit a certificate from a hospital approved by the
13 American Medical Association or the American Osteopathic Association
14 which certifies that the osteopath has satisfactorily completed and
15 performed the duties of intern or resident physician for one year;

16 (3) take the examination required by AS 08.64.210 or be
17 certified to practice by the National Board of Examiners for Osteo-
18 pathic Physicians and Surgeons.

19 * Sec. 8. AS 08.64.209(a) is amended to read:

20 (a) Each applicant who desires to practice podiatry shall meet
21 the qualifications [QUALIFICATION] prescribed in AS 08.64.200(a)(3)
22 and (4) [AS 08.64.200(a)(4)] and shall

23 (1) submit a certificate of graduation from a legally
24 chartered school of podiatry approved by the board;

25 (2) take the examination required by AS 08.64.210; the
26 State Medical Board shall call to its aid a podiatrist of known abil-
27 ity who is licensed to practice podiatry to assist in the examination
28 and licensure of applicants for a license to practice podiatry;

29 (3) meet other qualifications of experience or education

1 which the board may require.

2 * Sec. 9. AS 08.64.225 is amended to read:

3 Sec. 08.64.225. FOREIGN MEDICAL GRADUATES. Applicants who are
4 graduates of medical colleges not accredited by the Association of
5 American Medical Colleges and the Council on Medical Education of the
6 American Medical Association must [OR ONE OF ITS AGENCIES SHALL] meet
7 the requirements of AS 08.64.200(a)(2) - (5) and 08.64.255, [AS 08.-
8 64.200(a)(3), (4) AND (5)] and must have passed examinations as spec-
9 ified by the board in regulations [AN EXAMINATION AND BE CERTIFIED BY
10 THE EDUCATION COUNCIL ON FOREIGN MEDICAL GRADUATES,] or be licensed by
11 examination in another state or territory of the United States or
12 province or territory of Canada.

13 * Sec. 10. AS 08.64.230(a) is amended to read:

14 (a) If the physician applicant passes the examination and meets
15 the requirements of AS 08.64.200 and 08.64.255, the board shall grant
16 a license to the applicant to practice medicine in the state.

17 * Sec. 11. AS 08.64.230(b) is amended to read:

18 (b) If the osteopath applicant passes the examination and meets
19 the requirements of AS 08.64.205 and 08.64.255, the board shall grant
20 a license to the applicant to practice osteopathy in the state.

21 * Sec. 12. AS 08.64.240(a) is amended to read:

22 (a) The board may not grant a license if

23 (1) the applicant fails or cheats during the examination;

24 (2) the applicant has surrendered a license in another
25 jurisdiction while under investigation and the license has not been
26 reinstated in that jurisdiction;

27 (3) the board determines that the applicant is profession-
28 ally unfit to practice medicine or osteopathy in the state; or

29 (4) [(3)] the applicant fails to comply with a requirement

1 of this chapter.

2 * Sec. 13. AS 08.64.250 is amended to read:

3 Sec. 08.64.250. LICENSE BY CREDENTIALS. The board may waive the
4 examination requirement and license by credentials if the physician or
5 podiatry applicant meets the requirements of AS 08.64.200 or 08.64.-
6 209, submits proof of continued competence as required by regulation,
7 pays the required fee and has

8 (1) an active license from a board of medical examiners
9 established under the laws of a state or territory of the United
10 States or a province or territory of Canada issued after thorough
11 examination; or

12 (2) passed an examination as specified [GIVEN] by the board
13 in regulations [NATIONAL BOARD OF MEDICAL EXAMINERS OR THE FEDERATION
14 OF STATE MEDICAL BOARDS OF THE UNITED STATES IF THE APPLICANT IS A
15 PHYSICIAN, OR PASSED AN EXAMINATION GIVEN BY THE NATIONAL BOARD OF
16 PODIATRY EXAMINERS IF THE APPLICANT IS A PODIATRIST].

17 * Sec. 14. AS 08.64.270 is amended to read:

18 Sec. 08.64.270. TEMPORARY PERMITS. (a) The board may issue a
19 temporary permit to a physician applicant, osteopath applicant, or
20 podiatry applicant who meets the requirements of AS 08.64.200, 08.64.-
21 205, [OR] 08.64.209, or 08.64.225 and pays the required fee.

22 (b) A temporary permit issued under this section is valid for
23 six [EIGHT] months and shall be reviewed by the board at the next
24 regularly scheduled board meeting that occurs after its issuance [OR
25 UNTIL THE BOARD MEETS TO CONSIDER THE APPLICATION, WHICHEVER OCCURS
26 FIRST].

27 (c) A temporary permit issued under this section may not be
28 renewed [AT THE BOARD'S DISCRETION ONE TIME ONLY].

29 * Sec. 15. AS 08.64.270 is amended by adding new subsections to read:

1 (d) The fee for a permit issued under this section is one-fourth
2 of the fee for a biennial license, plus the appropriate application
3 fee.

4 (e) Upon application by the permittee and approval of the board,
5 a permit issued under this section may be converted to a biennial
6 license upon payment of the biennial fee minus the six-month permit
7 fee paid under (d) of this section, plus the appropriate application
8 fee.

9 * Sec. 16. AS 08.64.272(b) is amended to read:

10 (b) For the limited purpose of residency or internship, the
11 board may issue a permit to an applicant without examination if the
12 applicant meets the requirements of AS 08.64.200(a)(1) [AS 08.64.-
13 200(a)(2)] and applicable regulations of the board, meets the require-
14 ments of AS 08.64.279, pays the required fee, and has been accepted by
15 an eligible institution in the state for the purpose of residency or
16 internship.

17 * Sec. 17. AS 08.64.275(a) is amended to read:

18 (a) A member of the board or its executive secretary may grant a
19 temporary permit to a physician or osteopath for the purpose of sub-
20 stituting for another physician or osteopath licensed in this state.
21 The permit is valid for 60 [120] consecutive days. If circumstances
22 warrant, an extension of the permit may be granted by the board.

23 * Sec. 18. AS 08.64.275(b) is amended to read:

24 (b) A physician applying under (a) of this section shall pay the
25 required fee and shall meet the requirements of AS 08.64.200 and
26 08.64.279. In addition, the physician shall submit evidence of hold-
27 ing a license to practice medicine in a state or territory of the
28 United States or in a territory or province of Canada.

29 * Sec. 19. AS 08.64.275(c) is amended to read:

1 (c) An osteopath applying under (a) of this section shall pay
2 the required fee and shall meet the requirements of AS 08.64.205 and
3 08.64.279. In addition, the osteopath shall submit evidence of hold-
4 ing a license to practice in a state or territory of the United States
5 or in a territory or province of Canada.

6 * Sec. 20. AS 08.64.275 is amended by adding a new subsection to read:

7 (e) Permits and extensions of permits issued under this section
8 to an individual are not valid for more than 240 days during any
9 consecutive 24 months.

10 * Sec. 21. AS 08.64 is amended by adding new sections to read:

11 Sec. 08.64.276. RETIRED STATUS LICENSE. (a) On retiring from
12 practice and payment of an appropriate one-time fee, a licensee in
13 good standing with the board may apply for the conversion of an active
14 or inactive license to a retired status license. A person holding a
15 retired status license may not practice medicine, osteopathy, or
16 podiatry in the state. A retired status license is valid for the life
17 of the license holder and does not require renewal. A person holding
18 a retired status license is exempt from AS 08.64.312.

19 (b) A person with a retired status license may apply for active
20 licensure. Before issuing an active license under this subsection,
21 the board may require the applicant to meet reasonable criteria as
22 determined under regulations of the board, that may include submission
23 of continuing medical education credits, reexamination requirements,
24 physical and psychiatric examination requirements, an interview with
25 the entire board, and review of information in the national data bank
26 of the National Federation of State Medical Boards.

27 Sec. 08.64.279. INTERVIEW REQUIRED FOR PERMITS. An applicant
28 for an intern permit, a resident permit, or a temporary permit for
29 locum tenens practice must be interviewed in person by at least one

1 member of the board, the executive secretary of the board, or a person
2 designated for that purpose by the board.

3 * Sec. 22. AS 08.64.326(a) is amended to read:

4 (a) The board may impose a sanction if the board finds after a
5 hearing that a licensee

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

8 (2) engaged in deceit, fraud, or intentional misrepresenta-
9 tion while providing professional services or engaging in professional
10 activities;

11 (3) advertised professional services in a false or mislead-
12 ing manner;

13 (4) has been convicted, including conviction based on a
14 guilty plea or plea of nolo contendere, of

15 (A) a felony or other crime if the felony or other
16 crime is substantially related to the qualifications, functions,
17 or duties of the licensee; or

18 (B) a crime involving the unlawful procurement, sale,
19 prescription, or dispensing of drugs;

20 (5) has procured, sold, prescribed, or dispensed drugs in
21 violation of a law, regardless of whether there has been a criminal
22 action;

23 (6) intentionally or negligently permitted the performance
24 of patient care by persons under the licensee's supervision that does
25 not conform to minimum professional standards even if the patient was
26 not injured;

27 (7) failed to comply with this chapter, a regulation adopt-
28 ed under this chapter, or an order of the board;

29 (8) has demonstrated

1 (A) professional incompetence, gross negligence, or
2 repeated negligent conduct; the board may not base a finding of
3 professional incompetence solely on the basis that a licensee's
4 practice is unconventional;

5 (B) addiction to, severe dependency on, or habitual
6 overuse of alcohol or other drugs that [WHICH] impairs the li-
7 censee's ability to practice safely;

8 (C) unfitness because of physical or mental disabil-
9 ity;

10 (9) engaged in unprofessional conduct or in lewd or immoral
11 conduct in connection with the delivery of professional services to
12 patients;

13 (10) has violated AS 18.16.010;

14 (11) has violated any code of ethics adopted by regulation
15 by the board;

16 (12) has denied care or treatment to a patient or person
17 seeking assistance from the physician if the only reason for the
18 denial is the failure or refusal of the patient to agree to arbitrate
19 as provided in AS 09.55.535(a); or

20 (13) has had a license or certificate to practice medicine
21 in another state or [,] territory of the United States, or a province
22 or territory of Canada suspended or revoked unless the suspension or
23 revocation was caused by the failure of the licensee to pay fees to
24 that state, territory, or province.

25 * Sec. 23. AS 08.64.335 is amended to read:

26 Sec. 08.64.335. REPORTS OF DISCIPLINARY ACTION OR LICENSE SUS-
27 PENSION OR SURRENDER. The board shall promptly report to the Fed-
28 eration of State Medical Boards for inclusion in the nationwide disci-
29 plinary data bank license and permit refusals under AS 08.64.240,

1 actions taken by the board under AS 08.64.331, and license and permit
2 suspensions or surrenders under AS 08.64.332 or 08.64.334.

3 * Sec. 24. AS 08.64.336(e) is amended to read:

4 (e) A physician, hospital, [OR] hospital committee, or private
5 professional organization contracted with under AS 08.64.101(6) to
6 identify, confront, evaluate, and treat individuals licensed under
7 this chapter who abuse addictive substances that in good faith submits
8 a report under this section or participates in an investigation or
9 judicial proceeding related to a report submitted under this section
10 is immune from civil liability for the submission or participation.

11 * Sec. 25. AS 08.64 is amended by adding a new section to article 2 to
12 read:

13 Sec. 08.64.345. REPORTS RELATING TO MALPRACTICE ACTIONS AND
14 CLAIMS. A person licensed under this chapter shall report in writing
15 to the board concerning the outcome of each medical malpractice claim
16 or civil action in which damages have been or are to be paid by or on
17 behalf of the licensee to the claimant or plaintiff, whether by judg-
18 ment or under a settlement. This report shall be made within 30 days
19 after resolution of the claim or termination of the civil action.

20 * Sec. 26. AS 08.64.380(7) is amended to read:

21 (7) "practice of medicine" or "practice of osteopathy"
22 means:

23 (A) for a fee, donation or other consideration, to
24 diagnose, treat, operate on, prescribe for, or administer to, any
25 human ailment, blemish, deformity, disease, disfigurement, dis-
26 order, injury, or other mental or physical condition; or to
27 attempt to perform or represent that a person is authorized to
28 perform any of the acts set out in this subparagraph;

29 (B) to use or publicly display a title in connection

1 with a person's name including "doctor of medicine," "physician,"
2 "M.D.," or "doctor of osteopathic medicine" or "D.O." or a spe-
3 cialist designation including "surgeon," "dermatologist," or a
4 similar title in such a manner as [, OR ANY TITLE WHICH TENDS] to
5 show that the person is willing or qualified to diagnose or treat
6 the sick or injured;

7 * Sec. 27. This Act takes effect immediately under AS 01.10.070(c).
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Not Adopted

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Lauterbach
5/4/90

Original sponsor(s): Rules/Governor

1 IN THE HOUSE

BY THE HESS COMMITTEE

2 SENATE CS FOR CS FOR HOUSE BILL NO. 146 (HESS)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act limiting civil liability for damages relating
7 to peer review committees, licensing boards, and
8 impaired physician programs; authorizing temporary
9 courtesy licenses for certain occupations; relating
10 to powers and duties of the State Medical Board;
11 requiring persons licensed by the State Medical Board
12 to make reports relating to the outcome of medical
13 malpractice claims and civil actions; and providing
14 for an effective date."

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

16 * Section 1. AS 08.02.020 is amended to read:

17 Sec. 08.02.020. LIMITATION OF LIABILITY [FOR MEMBERS OF LICENS-
18 ING BOARDS AND PEER REVIEW COMMITTEES]. An action may not be brought
19 against a [A] person [IS NOT LIABLE] for damages resulting from

20 (1) [OR OTHER RELIEF IN AN ACTION BY REASON OF] the per-
21 son's good faith performance of a duty, function, or activity required
22 as

23 (A) a member of, or witness before, a licensing board
24 or peer review committee established to review a licensing mat-
25 ter; [,]

26 (B) a member of a committee appointed under AS 08.-
27 64.336(c);

28 (C) a contractor or agent of a contractor under
29 AS 08.64.101(6); or

1 (2) [BY REASON OF] a recommendation or action in accordance
2 with the prescribed duties of a licensing [THE] board, [OR] peer
3 review committee established to review a licensing matter, committee
4 appointed under AS 08.64.336(c), or contractor or agent of a contrac-
5 tor under AS 08.64.101(6) when the person acts in the reasonable
6 belief that the action or recommendation is warranted by facts known
7 to the person, [OR TO THE] board, [OR] peer review committee, commit-
8 tee appointed under AS 08.64.336(c), or contractor or agent of the
9 contractor under AS 08.64.101(6) after reasonable efforts to ascertain
10 the facts upon which the action or recommendation is made.

11 * Sec. 2. AS 08.02 is amended by adding a new section to read:

12 Sec. 08.02.030. COURTESY LICENSES. (a) A board established
13 under this title and the Department of Commerce and Economic Develop-
14 ment, with respect to an occupation that it regulates under this
15 title, may by regulation establish criteria for issuing a temporary
16 courtesy license to nonresidents who enter the state so that, on a
17 temporary basis, they may practice the occupation regulated by the
18 board or the department.

19 (b) The regulations adopted under (a) of this section may in-
20 clude limitations relating to the

- 21 (1) duration of the license's validity;
22 (2) scope of practice allowed under the license; and
23 (3) other matters considered important by the board or the

24 department.

25 * Sec. 3. AS 08.64.101 is amended to read:

26 Sec. 08.64.101. DUTIES. The board shall

- 27 (1) examine and issue licenses to applicants;
28 (2) develop written guidelines to ensure [INSURE] that

29 licensing requirements are not unreasonably burdensome and the

1 issuance of licenses is not unreasonably withheld or delayed;

2 (3) submit an annual report of its proceedings to the
3 governor, including a statement of money received and disbursed;

4 (4) after a hearing, impose disciplinary sanctions on
5 persons who violate this chapter [,] or the regulations or orders of
6 the board;

7 (5) adopt regulations ensuring [INSURING] that renewal of
8 licenses is contingent upon proof of continued competency on the part
9 of the licensee; and

10 (6) under regulations adopted by the board, contract [COOR-
11 DINATE] with private professional organizations to establish an im-
12 paired medical professionals program to identify, confront, evaluate,
13 and treat persons licensed under this chapter who abuse addictive
14 substances.

15 * Sec. 4. AS 08.64.130 is amended by adding new subsections to read:

16 (b) The board shall maintain records for each person licensed
17 under this chapter concerning the outcome of malpractice actions and
18 claims as reported under AS 08.64.200(a) and 08.64.345. The board
19 shall periodically review these records to determine if the licensee
20 should be found to be professionally incompetent under AS 08.-
21 64.326(a)(8)(A).

22 (c) The board shall make available to the public the information
23 maintained under (a) and (b) of this section for each person licensed
24 under this chapter.

25 * Sec. 5. AS 08.64.190 is amended to read:

26 Sec. 08.64.190. CONTENTS OF APPLICATION. The application must
27 [SHALL] state the name, age, residence, the duration of residence, the
28 time spent in medical or osteopathy study, the place, year, and school
29 in which degrees were granted, the applicant's medical work history,

1 and other information the board considers necessary. The application
2 shall be made under oath. The board may verify information in the
3 application through direct contact with the appropriate schools,
4 medical boards, or other agencies that can substantiate the informa-
5 tion.

6 * Sec. 6. AS 08.64.200 is amended to read:

7 Sec. 08.64.200. QUALIFICATIONS OF PHYSICIAN APPLICANTS. (a)
8 Except for foreign medical graduates as specified in AS 08.64.225,
9 each physician applicant shall

10 (1) [REPEALED

11 (2)] submit a certificate of graduation from a legally
12 chartered medical school accredited by the Association of American
13 Medical Colleges and the Council on Medical Education of the American
14 Medical Association;

15 (2) [(3)] submit a certificate from a recognized hospital
16 certifying that the applicant has satisfactorily performed the duties
17 of resident physician or intern for a period of one year;

18 (3) submit a list of negotiated settlements or judgments in
19 claims or civil actions alleging medical malpractice against the
20 applicant, including an explanation of the basis for each claim or
21 action;

22 (4) not have a license to practice medicine in another
23 state, province, or territory which is currently suspended or revoked
24 for disciplinary reasons; and

25 (5) be a citizen of the United States or be lawfully admit-
26 ted for permanent residence.

27 (b) The board shall determine whether each physician applicant
28 has any disciplinary or other actions recorded in the nationwide
29 disciplinary data bank of the Federation of State Medical Boards. If

1 the physician applicant was licensed or practiced in a jurisdiction
 2 that does not record information with the data bank of the Federation
 3 of State Medical Boards, the board shall contact the medical regula-
 4 tory body of that jurisdiction to obtain comparable information about
 5 the applicant.

6 * Sec. 7. AS 08.64.205 is amended to read:

7 Sec. 08.64.205. QUALIFICATIONS FOR OSTEOPATH APPLICANTS. Each
 8 osteopath applicant shall meet the qualifications prescribed in
 9 AS 08.64.200(a)(3) - (5) [AS 08.64.200(a)(4) AND (5)] and shall

10 (1) submit a certificate of graduation from the legally
 11 chartered school of osteopathy approved by the board;

12 (2) submit a certificate from a hospital approved by the
 13 American Medical Association or the American Osteopathic Association
 14 which certifies that the osteopath has satisfactorily completed and
 15 performed the duties of intern or resident physician for one year;

16 (3) take the examination required by AS 08.64.210 or be
 17 certified to practice by the National Board of Examiners for Osteo-
 18 pathic Physicians and Surgeons.

19 * Sec. 8. AS 08.64.209(a) is amended to read:

20 (a) Each applicant who desires to practice podiatry shall meet
 21 the qualifications [QUALIFICATION] prescribed in AS 08.64.200(a)(3)
 22 and (4) [AS 08.64.200(a)(4)] and shall

23 (1) submit a certificate of graduation from a legally
 24 chartered school of podiatry approved by the board;

25 (2) take the examination required by AS 08.64.210: the
 26 State Medical Board shall call to its aid a podiatrist of known abil-
 27 ity who is licensed to practice podiatry to assist in the examination
 28 and licensure of applicants for a license to practice podiatry;

29 (3) meet other qualifications of experience or education

1 which the board may require.

2 * Sec. 9. AS 08.64.225 is amended to read:

3 Sec. 08.64.225. FOREIGN MEDICAL GRADUATES. Applicants who are
4 graduates of medical colleges not accredited by the Association of
5 American Medical Colleges and the Council on Medical Education of the
6 American Medical Association must [OR ONE OF ITS AGENCIES SHALL] meet
7 the requirements of AS 08.64.200(a)(2) - (5) and 08.64.255, [AS 08.-
8 64.200(a)(3), (4) AND (5)] and must have passed examinations as spec-
9 ified by the board in regulations [AN EXAMINATION AND BE CERTIFIED BY
10 THE EDUCATION COUNCIL ON FOREIGN MEDICAL GRADUATES,] or be licensed by
11 examination in another state or territory of the United States or
12 province or territory of Canada.

13 * Sec. 10. AS 08.64.230(a) is amended to read:

14 (a) If the physician applicant passes the examination and meets
15 the requirements of AS 08.64.200 and 08.64.255, the board shall grant
16 a license to the applicant to practice medicine in the state.

17 * Sec. 11. AS 08.64.230(b) is amended to read:

18 (b) If the osteopath applicant passes the examination and meets
19 the requirements of AS 08.64.205 and 08.64.255, the board shall grant
20 a license to the applicant to practice osteopathy in the state.

21 * Sec. 12. AS 08.64.240(a) is amended to read:

22 (a) The board may not grant a license if

23 (1) the applicant fails or cheats during the examination;

24 (2) the applicant has surrendered a license in another
25 jurisdiction while under investigation and the license has not been
26 reinstated in that jurisdiction;

27 (3) the board determines that the applicant is profession-
28 ally unfit to practice medicine or osteopathy in the state; or

29 (4) [(3)] the applicant fails to comply with a requirement

1 of this chapter.

2 * Sec. 13. AS 08.64.250 is amended to read:

3 Sec. 08.64.250. LICENSE BY CREDENTIALS. The board may waive the
4 examination requirement and license by credentials if the physician or
5 podiatry applicant meets the requirements of AS 08.64.200 or 08.64.-
6 209, submits proof of continued competence as required by regulation,
7 pays the required fee and has

8 (1) an active license from a board of medical examiners
9 established under the laws of a state or territory of the United
10 States or a province or territory of Canada issued after thorough
11 examination; or

12 (2) passed an examination as specified [GIVEN] by the board
13 in regulations [NATIONAL BOARD OF MEDICAL EXAMINERS OR THE FEDERATION
14 OF STATE MEDICAL BOARDS OF THE UNITED STATES IF THE APPLICANT IS A
15 PHYSICIAN, OR PASSED AN EXAMINATION GIVEN BY THE NATIONAL BOARD OF
16 PODIATRY EXAMINERS IF THE APPLICANT IS A PODIATRIST].

17 * Sec. 14. AS 08.64.270 is amended to read:

18 Sec. 08.64.270. TEMPORARY PERMITS. (a) The board may issue a
19 temporary permit to a physician applicant, osteopath applicant, or
20 podiatry applicant who meets the requirements of AS 08.64.200, 08.64.-
21 205, [OR] 08.64.209, or 08.64.225 and pays the required fee.

22 (b) A temporary permit issued under this section is valid for
23 six [EIGHT] months and shall be reviewed by the board at the next
24 regularly scheduled board meeting that occurs after its issuance [OR
25 UNTIL THE BOARD MEETS TO CONSIDER THE APPLICATION, WHICHEVER OCCURS
26 FIRST].

27 (c) A temporary permit issued under this section may not be
28 renewed [AT THE BOARD'S DISCRETION ONE TIME ONLY].

29 * Sec. 15. AS 08.64.270 is amended by adding new subsections to read:

1 (d) The fee for a permit issued under this section is one-fourth
2 of the fee for a biennial license, plus the appropriate application
3 fee.

4 (e) Upon application by the permittee and approval of the board,
5 a permit issued under this section may be converted to a biennial
6 license upon payment of the biennial fee minus the six-month permit
7 fee paid under (d) of this section, plus the appropriate application
8 fee.

9 * Sec. 16. AS 08.64.272(b) is amended to read:

10 (b) For the limited purpose of residency or internship, the
11 board may issue a permit to an applicant without examination if the
12 applicant meets the requirements of AS 08.64.200(a)(1) [AS 08.64.-
13 200(a)(2)] and applicable regulations of the board, meets the require-
14 ments of AS 08.64.279, pays the required fee, and has been accepted by
15 an eligible institution in the state for the purpose of residency or
16 internship.

17 * Sec. 17. AS 08.64.275(a) is amended to read:

18 (a) A member of the board or its executive secretary may grant a
19 temporary permit to a physician or osteopath for the purpose of sub-
20 stituting for another physician or osteopath licensed in this state.
21 The permit is valid for 60 [120] consecutive days. If circumstances
22 warrant, an extension of the permit may be granted by the board.

23 * Sec. 18. AS 08.64.275(b) is amended to read:

24 (b) A physician applying under (a) of this section shall pay the
25 required fee and shall meet the requirements of AS 08.64.200 and
26 08.64.279. In addition, the physician shall submit evidence of hold-
27 ing a license to practice medicine in a state or territory of the
28 United States or in a territory or province of Canada.

29 * Sec. 19. AS 08.64.275(c) is amended to read:

1 (c) An osteopath applying under (a) of this section shall pay
2 the required fee and shall meet the requirements of AS 08.64.205 and
3 08.64.279. In addition, the osteopath shall submit evidence of hold-
4 ing a license to practice in a state or territory of the United States
5 or in a territory or province of Canada.

6 * Sec. 20. AS 08.64.275 is amended by adding a new subsection to read:

7 (e) Permits and extensions of permits issued under this section
8 to an individual are not valid for more than 240 days during any
9 consecutive 24 months.

10 * Sec. 21. AS 08.64 is amended by adding new sections to read:

11 Sec. 08.64.276. RETIRED STATUS LICENSE. (a) On retiring from
12 practice and payment of an appropriate one-time fee, a licensee in
13 good standing with the board may apply for the conversion of an active
14 or inactive license to a retired status license. A person holding a
15 retired status license may not practice medicine, osteopathy, or
16 podiatry in the state. A retired status license is valid for the life
17 of the license holder and does not require renewal. A person holding
18 a retired status license is exempt from AS 08.64.312.

19 (b) A person with a retired status license may apply for active
20 licensure. Before issuing an active license under this subsection,
21 the board may require the applicant to meet reasonable criteria as
22 determined under regulations of the board, that may include submission
23 of continuing medical education credits, reexamination requirements,
24 physical and psychiatric examination requirements, an interview with
25 the entire board, and review of information in the national data bank
26 of the National Federation of State Medical Boards.

27 Sec. 08.64.279. INTERVIEW REQUIRED FOR PERMITS. An applicant
28 for an intern permit, a resident permit, or a temporary permit for
29 locum tenens practice must be interviewed in person by at least one

1 member of the board, the executive secretary of the board, or a person
2 designated for that purpose by the board.

3 * Sec. 22. AS 08.64.326(a) is amended to read:

4 (a) The board may impose a sanction if the board finds after a
5 hearing that a licensee

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

8 (2) engaged in deceit, fraud, or intentional misrepresenta-
9 tion while providing professional services or engaging in professional
10 activities;

11 (3) advertised professional services in a false or mislead-
12 ing manner;

13 (4) has been convicted, including conviction based on a
14 guilty plea or plea of nolo contendere, of

15 (A) a felony or other crime if the felony or other
16 crime is substantially related to the qualifications, functions,
17 or duties of the licensee; or

18 (B) a crime involving the unlawful procurement, sale,
19 prescription, or dispensing of drugs;

20 (5) has procured, sold, prescribed, or dispensed drugs in
21 violation of a law, regardless of whether there has been a criminal
22 action;

23 (6) intentionally or negligently permitted the performance
24 of patient care by persons under the licensee's supervision that does
25 not conform to minimum professional standards even if the patient was
26 not injured;

27 (7) failed to comply with this chapter, a regulation adopt-
28 ed under this chapter, or an order of the board;

29 (8) has demonstrated

1 (A) professional incompetence, gross negligence, or
2 repeated negligent conduct;

3 (B) addiction to, severe dependency on, or habitual
4 overuse of alcohol or other drugs that [WHICH] impairs the li-
5 censee's ability to practice safely;

6 (C) unfitness because of physical or mental disabil-
7 ity;

8 (9) engaged in unprofessional conduct or in lewd or immoral
9 conduct in connection with the delivery of professional services to
10 patients;

11 (10) has violated AS 18.16.010;

12 (11) has violated any code of ethics adopted by regulation
13 by the board;

14 (12) has denied care or treatment to a patient or person
15 seeking assistance from the physician if the only reason for the
16 denial is the failure or refusal of the patient to agree to arbitrate
17 as provided in AS 09.55.535(a); or

18 (13) has had a license or certificate to practice medicine
19 in another state or [,] territory of the United States, or a province
20 or territory of Canada suspended or revoked unless the suspension or
21 revocation was caused by the failure of the licensee to pay fees to
22 that state, territory, or province.

23 * Sec. 23. AS 08.64.335 is amended to read:

24 Sec. 08.64.335. REPORTS OF DISCIPLINARY ACTION OR LICENSE SUS-
25 PENSION OR SURRENDER. The board shall promptly report to the Fed-
26 eration of State Medical Boards for inclusion in the nationwide
27 disciplinary data bank license and permit refusals under AS 08.64.240,
28 actions taken by the board under AS 08.64.331, and license and permit
29 suspensions or surrenders under AS 08.64.332 or 08.64.334.

1 * Sec. 24. AS 08.64.336(e) is amended to read:

2 (e) A physician, hospital, [OR] hospital committee, or private
3 professional organization contracted with under AS 08.64.101(6) to
4 identify, confront, evaluate, and treat individuals licensed under
5 this chapter who abuse addictive substances that in good faith submits
6 a report under this section or participates in an investigation or
7 judicial proceeding related to a report submitted under this section
8 is immune from civil liability for the submission or participation.

9 * Sec. 25. AS 08.64 is amended by adding a new section to article 2 to
10 read:

11 Sec. 08.64.345. REPORTS RELATING TO MALPRACTICE ACTIONS AND
12 CLAIMS. A person licensed under this chapter shall report in writing
13 to the board concerning the outcome of each medical malpractice claim
14 or civil action in which damages have been or are to be paid by or on
15 behalf of the licensee to the claimant or plaintiff, whether by judg-
16 ment or under a settlement. This report shall be made within 30 days
17 after resolution of the claim or termination of the civil action.

18 * Sec. 26. AS 08.64.380(7) is amended to read:

19 (7) "practice of medicine" or "practice of osteopathy"
20 means:

21 (A) for a fee, donation or other consideration, to
22 diagnose, treat, operate on, prescribe for, or administer to, any
23 human ailment, blemish, deformity, disease, disfigurement, dis-
24 order, injury, or other mental or physical condition; or to
25 attempt to perform or represent that a person is authorized to
26 perform any of the acts set out in this subparagraph;

27 (B) to use or publicly display a title in connection
28 with a person's name including "doctor of medicine," "physician,"
29 "M.D." or "doctor of osteopathic medicine" or "D.O." or a spe-

1 cialist designation including "surgeon," "dermatologist," or a
2 similar title in such a manner as [, OR ANY TITLE WHICH TENDS] to
3 show that the person is willing or qualified to diagnose or treat
4 the sick or injured;

5 * Sec. 27. This Act takes effect immediately under AS 01.10.070(c).
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cc
HB 146

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

February 3, 1989

The Honorable Sam Cotten
Speaker of the House
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

Dear Mr. Speaker:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill that deals with the interview requirements for applicants for medical licenses and permits.

Present law requires that an applicant for a physician or osteopath license be interviewed by a member of the State Medical Board. These interviews allow the board to inquire into issues that cannot be effectively examined in written tests. They also help the board positively identify license applicants. The current law also contains some procedural safeguards that relate to license denials.

The bill also establishes a new interview requirement for medical permits that are issued by the board. This requirement does not provide the same procedural safeguards as for license applicants. This is because the minimal protection the safeguards would provide to permit applicants do not outweigh the administrative burden of giving written notice and explanation to them.

Section 5 of the bill creates the new requirement and says that either a member of the State Medical Board or its executive secretary may conduct the interview. Sections 3 and 4 say that an interview is a prerequisite for an intern or resident permit, or for a permit for temporary substitution, that is, for "locum tenens" practice.

Because this bill will help to ensure the competency of persons who receive medical licenses and permits, I urge your passage of it.

Sincerely,

Steve Cowper
Governor

CSHB 146(Fin) am "An Act limiting civil liability for damages relating to peer review committees, licensing boards, and impaired physician programs; authorizing temporary courtesy licenses for certain occupations; relating to powers and duties of the State Medical Board; requiring persons licensed by the State Medical Board to make reports relating to the outcome of malpractice claims and civil actions; and providing for an effective date."

This bill contains a number of provisions which would increase the effectiveness of the State Medical Board in the performance of its duties relating to 1) licensing and permitting medical professionals; 2) reviewing the malpractice claims histories of physicians licensed in Alaska; and 3) creating a retired status license for physicians retired from active practice. In addition, the bill somewhat increases the immunity provisions for persons -- including witnesses -- assisting occupational licensing boards in general in carrying out their enforcement duties and functions, and creates a "courtesy" status permit for various professionals visiting Alaska.

Section 1 of the bill, amends AS 08.02.020 by extending and clarifying the "limitation of liability" provisions already in law to encompass witnesses, medical board convened physician review panels, and impaired practitioner program volunteers who assist the Medical Board through the provision of consultation and expert testimony services relative to Division of Occupational Licensing (hereinafter "division") disciplinary cases.

At the present time, various licensing boards and the division have experienced difficulty in identifying in-state licensed professionals willing to serve in advisory capacities to the boards on individual discipline cases or involve themselves in physician impaired practitioner programs. This reluctance flows from the professionals' legitimate personal liability fears that licensees ("respondents" in discipline cases) who are being investigated will decide to personally sue the professional or witness who is providing their services to a board or the division.

The department supports the protections this will provide to persons assisting the division and its regulatory boards in licensing actions. Without this language, the state's ability to turn to licensees or other witnesses to assist in disciplinary matters will continue to be severely impeded.

Section 2 of the bill would give the state's twenty-one (21) licensing boards and commissions the ability to issue a "courtesy" license to visiting professionals. This idea was originally conceived in order to accommodate Olympic team physicians when it was anticipated that the Olympics would be coming to Alaska.

In working up this proposal, it was discovered that there are many other occasions when a courtesy license would be helpful: visiting Iditarod veterinarians; international sporting teams playing in Anchorage accompanied by their team physician; visiting foreign delegations accompanied by a variety of professionals. This new provision would allow for the courtesy licensing of visiting professionals and would allow the boards to authorize limited practice restricted to the treatment of or professional assistance to members of their sports team or delegation while visiting in the state.

Section 3 amends AS 08.64.101 to clarify the Medical Board's (hereinafter "board's") authority to contract with a private professional organization to establish an impaired physician program. The word "contract" is a more accurate term for the relationship between the board, the division, and the private organization establishing such a program, and creates a legal bond between the state and the program in order that the program can be designated an agent of the board for purposes of liability limitations under AS 08.02.020. This section also adds language which more clearly states the range or scope of the impaired physician program, and requires that the board adopt regulations concerning the impaired medical professionals program.

Thus, this section extends immunity protections to physicians serving in a voluntary capacity on the impaired physician program committee. Currently, the physicians and intervenors serving on the impaired physician committee have done so with considerable personal risk, given their vulnerability to suit by an angry colleague.

Section 4 of HB 146 pertains to board records and adds two new subsections to AS 08.64.130. The first new subsection [subsection (b)] directs the board to maintain records on each licensed physician concerning civil malpractice actions and their outcomes. The second new subsection [subsection (c)] simply requires that the malpractice records received under new subsection (b) be available to the public, just as board records regarding the admission of licensed physicians are already available to the public.

Section 5 amends AS 08.64.190 to add to the list of application procedures the requirement that the applicant provide his or her medical work history. The board has, by policy decision, already begun independent verification of each applicant's medical school and internship program records. Section 5 amends AS 08.64.190 to place into statute the specific authority of the board to scrutinize the applicant's medical work history.

Section 6 of the bill amends board provisions concerning the qualifications of physician applicants. The bill adds language to AS 08.64.200 to require the physician applicant to provide an explanation of all negotiated settlements or judgments in claims or civil actions alleging medical malpractice against the applicant.

New language in this section also provides for the board, or the division on its behalf, to contact other licensing jurisdictions directly if an applicant for licensure in Alaska was licensed in a jurisdiction that does not report its disciplinary actions affecting physicians to the Federation of State Medical Boards. The Federation maintains the disciplinary data bank which is accessed by most jurisdictions for information on physician applicants.

Section 7 amends AS 08.64.205 which deals with qualifications for licensure of osteopathic physician applicants and merely makes these sections equivalent to the allopathic physician applicant requirements in AS 08.64.200, as amended in Section 6 of this bill.

Similarly, Section 8 makes parallel amendments for podiatry applicants.

Section 9 amends the statutory provisions affecting foreign medical graduates by clarifying the language for verification of foreign medical credentials. The proposed language more accurately identifies the national agency responsible for accrediting medical schools and moves the examination specifications into regulation. This action will accommodate substantial changes expected over the next two years as the Educational Commission for Foreign Medical Graduates (ECFMG) exam is phased out and all medical school graduates (U.S. and foreign alike) are required to follow the same examination pathway.

Sections 10 and 11 of the bill clarify the interview requirement for licensure.

Section 12 amends the grounds on which the board may refuse to grant a license. This amendment closes an existing loophole in the statute. Currently, persons who have surrendered a license in another jurisdiction while under disciplinary investigation by that jurisdiction are free to apply for licensure in Alaska. It then falls to the board to spend considerable time and money investigating the causes of the disciplinary problem in that other jurisdiction (in a sense, duplicating the actions of that jurisdiction) in order to determine whether it is appropriate to license the physician, deny the license, or place some conditions on the license.

It seems sensible from a public protection standpoint to require that the physician under disciplinary review in one jurisdiction resolve his or her discipline problem in that jurisdiction before being eligible to apply for licensure in Alaska.

Section 13 contains primarily housekeeping changes to recognize applicants from both the provinces and territories of Canada and to allow for flexibility concerning upcoming changes in the medical examination pathways by putting exam specifications into regulation.

Sections 14 and 15 of HB 146 amends physician "temporary" permit provisions by changing the present nature of a temporary permit. Currently, a temporary permit is available to a physician who is applying for a permanent license in the state, has completed all of the documentation for application, and is merely awaiting the next medical board meeting to have his or her application reviewed by the board. The new provisions in this section would allow physicians to serve temporary "tours of duty" in Alaska or to come to Alaska for a brief period of time to determine whether or not they wish to relocate their practice to Alaska.

This section provides that physicians seeking temporary licensure must complete a full, permanent license application and would be issued a temporary permit for up to six months at a reduced fee. If, at the end of that period of time, the physician with the temporary license wishes to seek permanent licensure, he or she would merely pay the remainder of the licensing fees for the biennial licensing period. If the physician has decided not to stay, the temporary permit expires. A temporary license could not be renewed under the proposed amendment.

Section 16 contains primarily housekeeping changes to bring the requirements for intern and resident-in-training permits in line with requirements for other physician applicants, and providing for interviews by the medical board executive secretary or other board designated person.

Section 17 limits a locum tenens permit to sixty (60) consecutive days from its current 120 days, and allows the executive secretary of the board to conduct interviews and issue permits to locum tenens physicians.

The board also wishes to restrict the use of the locum tenens permit to its intended statutory purpose, which is to allow a physician licensed in another state to substitute for an Alaska-licensed physician for a limited period of time. These amendments in Section 17-20 are companion to the changes made to the temporary permit in Sections 14 and 15 of the bill and would further clarify the distinction between those physicians coming to Alaska specifically to substitute for an Alaska licensed physician (locum tenens permit) and those coming to take a "look-see" to determine if they wish to pursue practice in Alaska (temporary permit).

Also in these sections are some housekeeping changes which would bring this section into line with the rest of the medical practice act relative to interviews and references to both the provinces and territories of Canada.

Sections 18 and 19 contain housekeeping changes similar to those in Section 16.

Section 20 limits the length of time a physician could work under a locum tenens permit. If a physician found it necessary to work more than 240 days during any consecutive 24 months, the physician would be required to meet the requirements for full licensure.

Section 21 of HB 146 creates a new section, AS 08.64.276, establishing a retired status license. There are a number of physicians who retain licensure far beyond the time it is reasonable for them to practice, mostly out of a sense of pride that licensure brings them and because of an oddity in statute that prohibits them from using the "M.D." after their name if not licensed. (That statute, 08.02.010, is designed to prevent the unlicensed from deluding the public as to their qualifications.)

It is felt that a permanent retired license status will both serve elderly physicians wishing to retain their M.D. title and protect the public. Retired status should also appeal to those physicians who are effectively retired and presently faced with CME requirements they cannot meet due to age and infirmity. The proposed language also empowers the board to make very certain the physician is competent, should a retired physician wish to return to active status.

Section 21 also creates a new section (AS 08.64.279) that authorizes the executive secretary or other designee of the board to conduct certain physician candidate interviews. This greatly enhances the efficiency and effectiveness of the board without compromising the standards for license and permit requirements. The executive secretary or board designee would conduct interviews for the variety of short-term licenses and permits that are issued by the Medical Board; however, this amendment does not remove the requirement that a physician getting permanently licensed in Alaska must be interviewed by a member of the board itself.

In recent years, individual board members have encountered severe difficulty in accommodating the requirement imposed on board members to interview locum tenens physicians. As a result, the board has, by policy, delegated to the executive secretary the authority to conduct these interviews where feasible. This language would put that authority into statute.

Section 22 amends the grounds for imposition of disciplinary sanctions in AS 08.64.326. The amendments are primarily very minor housekeeping changes, but do include a fairly controversial revision to the "professional incompetence" standard (page 11, lines 3 - 5). This section adds a qualifier stating that the board may not impose disciplinary sanctions "solely on the basis that a licensee's practice is unconventional or experimental in the absence of demonstrable physical harm to a patient."

The medical board considers this inclusion unnecessary and, while we would no doubt prefer no amendment to this section, in the spirit of acceptable compromise the division and the board do not object to this language.

Section 23 of the bill amends board statutes which address reports of disciplinary action to the Federation of State Medical Boards and the National Practitioner Data Bank. Present language specifies that disciplinary action taken against licensees is to be reported. The changes in this section broaden the reporting to include temporary, residency, locum tenens and physician assistant permit holders, as well. The board reports disciplinary actions against permit holders, considering that such reporting falls under the legislative intent of the statute, but we believe it would be best to have specific language in the statute authorizing such reporting.

Section 24 amends the "duty to report" provisions of the Medical Board's statute by strengthening the subsection having to do with peer review and physician assistance in investigatory cases, making clear that the limited liability provisions of amended AS 08.02.020 (Sec. 1 of this bill) apply to those persons assisting the board in determining the competency of a physician and his or her potential danger to the public. This section also specifically includes the impaired physician program volunteers in the immunity protections provided for in this section of the statute.

Section 25 amends the board statutes by creating a new section that requires licensed physicians to report to the board the outcome of each medical malpractice claim or civil action in which damages have been or are to be paid by or on behalf of the licensee to the claimant.

Although this section has been controversial, neither the board nor the division opposes this section of the bill at this time, mainly because this section requires reporting similar to that of present Federal Public Law 99-660.

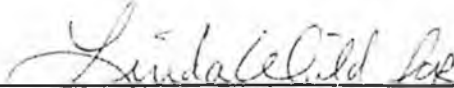
Section 26 amends the definitions section to clarify the issue of who may use the designation "physician," "M.D.," "D.O.," etc. There is presently a great deal of concern over this statute because it effectively prohibits a person who is trained as a physician and received an M.D. degree but who is not licensed or practicing medicine from using the designation M.D. in teaching, authoring books, or other types of activities. It is hoped that the proposed language will clarify this issue and allow persons to use the academic designations they earned without misleading the public that they are licensed to diagnose and treat patients.

Position Paper
Page Seven

Section 27 is the effective date clause.

The State Medical Board and the division have spent considerable time following this bill through the legislative process and feel that HB 146 would greatly enhance not only the effectiveness of all occupational licensing boards vis-a-vis their discipline cases, but that the provisions directly impacting the Medical Board would solve a great many existing licensing complications and substantially benefit Alaska's consumers of medical services.

For the reasons stated above, this department supports passage of CSHB 146 (Fin) am.



Larry Mercurieff, Commissioner

Date: 4-30-90

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043090c

Alaska State Medical Association
4107 Laurel Street
Anchorage, Alaska 99508
907/562-2662

May 1, 1990

Honorable Paul A. Fischer, Chairman
Health, Education and Social Services Committee
Alaska State Senate
P.O. Box V (MS 3100)
Juneau, Alaska 99841

RE: CSHB 146(Fin)

Dear Senator Fisher:

Your committee is scheduled to hold hearings on CSHB 146(Fin) on Wednesday, May 2. In your deliberations regarding this bill, the Alaska State Medical Association respectfully requests your consideration of an amendment by deletion to this otherwise excellent bill.

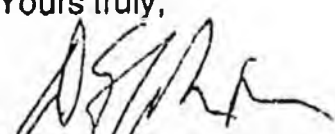
The basic bill is the product of nearly two years of cooperative effort among the medical association, the medical board and the division of occupational licensing. Our effort has been aimed at making peer review both strong and secure, in order that the public be protected from incompetent and impaired physicians to the greatest extent possible.

Skillful manipulation of the media by a small group, using half truths and untruths on talk shows to generate public opinion messages, has caused enough uncertainty in the other body that an ill-advised amendment was injected on the floor just prior to passage of the bill. It is that amendment that we believe must be removed if the public is to be protected. The language is on page 10, line 25 after the semicolon and reads: "the board may not base a finding of professional incompetence solely on the basis that a licensee's practice is unconventional or experimental in the absence of demonstrable physical harm to a patient."

If left in the bill, this language will leave the medical board helpless to evaluate any physician's practice until someone is injured or killed. Due process after the fact would jeopardize additional patients until such a practitioner could be stopped. There would be no protection from physicians perpetrating outright fraud, since that would inflict only financial and emotional harm. The language effectively guts the medical board.

I expect that you will be getting emotional messages in favor of "medical freedom," or some such phrasing. The medical association does not want Alaskans to be forced to be an experimental group, awaiting "demonstrable physical harm" before standards for medical quality of care are enforced. We urge removal of this language and then passage of a clear, strong bill supporting quality medical care in Alaska.

Yours truly,


David E. Johnson M.D., Chairman

HB

165

Original sponsor: Judiciary Committee

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IN THE HOUSE

BY THE HEALTH, EDUCATION AND
SOCIAL SERVICES COMMITTEE

SENATE CS FOR CS FOR HOUSE BILL NO. 165 (HESS)

IN THE LEGISLATURE OF THE STATE OF ALASKA

SIXTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to the disposition of property,
including the witnessing of gifts of anatomical parts
of the body; and providing for an effective date."

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

* Section 1. AS 13.11.305 is amended by adding a new subsection to
read:

(h) In the case of an unintentional felonious killing, a court
may set aside the application of (a), (b), (c), or (d) of this section
if the court makes special findings of fact and conclusions of law
that the application of the subsection would result in a manifest
injustice and that the subsection should not be applied.

* Sec. 2. AS 13 is amended by adding a new chapter to read:

CHAPTER 46. ALASKA UNIFORM TRANSFERS TO MINORS ACT.

Sec. 13.46.010. SCOPE AND JURISDICTION. (a) This chapter
applies to a transfer that refers to this chapter in the designation
under AS 13.46.080(a) by which the transfer is made, if at the time of
the transfer, the transferor, the minor, or the custodian is a resi-
dent of this state or the custodial property is located in this state.
The custodianship so created remains subject to this chapter despite a
subsequent change in residence of a transferor, the minor, or the
custodian, or the removal of custodial property from this state.

(b) A person designated as custodian under this chapter is
subject to personal jurisdiction in this state with respect to a
matter relating to the custodianship.

1 (c) A transfer that purports to be made and that is valid under
2 the Uniform Transfers to Minors Act, the Uniform Gifts to Minors Act,
3 or a substantially similar act of another state is governed by the law
4 of the designated state.

5 Sec. 13.46.020. NOMINATION OF CUSTODIAN. (a) A person having
6 the right to designate the recipient of property transferable upon the
7 occurrence of a future event may revocably nominate a custodian to
8 receive the property for a minor beneficiary upon the occurrence of
9 the event by naming the custodian followed in substance by the words:
10 "as custodian for _____ (name of minor) under the
11 Alaska Uniform Transfers to Minors Act." The nomination may name one
12 or more persons as substitute custodians to whom the property must be
13 transferred, in the order named, if the first nominated custodian dies
14 before the transfer or is unable, declines, or is ineligible to serve.
15 The nomination may be made in a will, a trust, a deed, an instrument
16 exercising a power of appointment, or a writing designating a benefi-
17 ciary of contractual rights that is registered with or delivered to
18 the payor, issuer, or other obligor of the contractual rights.

19 (b) A custodian nominated under this section must be a person to
20 whom a transfer of property of that kind may be made under AS 13.46.-
21 080(a).

22 (c) The nomination of a custodian under this section does not
23 create custodial property until the nominating instrument becomes
24 irrevocable or a transfer to the nominated custodian is completed
25 under AS 13.46.080. Unless the nomination of a custodian has been
26 revoked, upon the occurrence of the future event the custodianship
27 becomes effective and the custodian shall enforce a transfer of the
28 custodial property under AS 13.46.080.

29 Sec. 13.46.030. TRANSFER BY GIFT OR EXERCISE OF POWER OF

1 APPOINTMENT. A person may make a transfer by irrevocable gift to, or
2 the irrevocable exercise of a power of appointment in favor of, a
3 custodian for the benefit of a minor under AS 13.46.080.

4 Sec. 13.46.040. TRANSFER AUTHORIZED BY WILL OR TRUST. (a) A
5 personal representative or trustee may make an irrevocable transfer
6 under AS 13.46.080 to a custodian for the benefit of a minor as au-
7 thorized in the governing will or trust.

8 (b) If the testator or settlor has nominated a custodian under
9 AS 13.46.020 to receive the custodial property, the transfer must be
10 made to that person.

11 (c) If the testator or settlor has not nominated a custodian
12 under AS 13.46.020, or all persons so nominated as custodian die
13 before the transfer or are unable, decline, or are ineligible to
14 serve, the personal representative or the trustee, as the case may be,
15 shall designate the custodian from among those eligible to serve as
16 custodian for property of that kind under AS 13.46.080(a).

17 Sec. 13.46.050. OTHER TRANSFER BY FIDUCIARY. (a) Subject to
18 (c) of this section, a personal representative or trustee may make an
19 irrevocable transfer to another adult or trust company as custodian
20 for the benefit of a minor under AS 13.46.080, in the absence of a
21 will or under a will or trust that does not contain an authorization
22 to do so.

23 (b) Subject to (c) of this section, a conservator may make an
24 irrevocable transfer to another adult or trust company as custodian
25 for the benefit of the minor under AS 13.46.080.

26 (c) A transfer under (a) or (b) of this section may be made only
27 if

28 (1) the personal representative, trustee, or conservator
29 considers the transfer to be in the best interest of the minor;

1 (2) the transfer is not prohibited by or inconsistent with
2 provisions of the applicable will, trust, agreement, or other govern-
3 ing instrument; and

4 (3) the transfer is authorized by the court if it exceeds
5 \$25,000 in value.

6 Sec. 13.46.060. TRANSFER BY OBLIGOR. (a) Subject to (b) and
7 (c) of this section, a person not subject to AS 13.46.040 or 13.46.050
8 who holds property of or owes a liquidated debt to a minor not having
9 a conservator may make an irrevocable transfer to a custodian for the
10 benefit of the minor under AS 13.46.080.

11 (b) If a person having the right to do so under AS 13.46.020 has
12 nominated a custodian under that section to receive the custodial
13 property, the transfer must be made to that person.

14 (c) If a custodian has not been nominated under AS 13.46.020, or
15 all persons nominated as custodian die before the transfer or are
16 unable, decline, or are ineligible to serve, a transfer under this
17 section may be made to an adult member of the minor's family or to a
18 trust company unless the property exceeds \$5,000 in value.

19 Sec. 13.46.070. RECEIPT FOR CUSTODIAL PROPERTY. A written
20 receipt by a custodian constitutes a sufficient receipt and discharge
21 for custodial property transferred to the custodian under this chap-
22 ter.

23 Sec. 13.46.080. MANNER OF CREATING CUSTODIAL PROPERTY AND EF-
24 FECTING TRANSFER; DESIGNATION OF INITIAL CUSTODIAN; CONTROL. (a)
25 Custodial property is created and a transfer is made when

26 (1) an uncertificated security or a certificated security
27 in registered form is either

28 (A) registered in the name of the transferor, an adult
29 other than the transferor, or a trust company, followed in

1 substance by the words: "as custodian for _____ (name of
2 minor) under the Alaska Uniform Transfers to Minors Act"; or

3 (B) delivered if in certificated form, or a document
4 necessary for the transfer of an uncertificated security is
5 delivered, together with any necessary endorsement to an adult
6 other than the transferor or to a trust company as custodian,
7 accompanied by an instrument in substantially the form set out in
8 (b) of this section;

9 (2) money is paid or delivered to a broker or financial
10 institution for credit to an account in the name of the transferor, an
11 adult other than the transferor, or a trust company, followed in
12 substance by the words: "as custodian for _____ (name
13 of minor) under the Alaska Uniform Transfers to Minors Act";

14 (3) the ownership of a life or endowment insurance policy
15 or annuity contract is either

16 (A) registered with the issuer in the name of the
17 transferor, an adult other than the transferor, or a trust com-
18 pany, followed in substance by the words: "as custodian for
19 _____ (name of minor) under the Alaska Uniform
20 Transfers to Minors Act"; or

21 (B) assigned in a writing delivered to an adult other
22 than the transferor or to a trust company whose name in the
23 assignment is followed in substance by the words: "as custodian
24 for _____ (name of minor) under the Alaska Uniform
25 Transfers to Minors Act";

26 (4) an irrevocable exercise of a power of appointment or an
27 irrevocable present right to future payment under a contract is the
28 subject of a written notification delivered to the payor, issuer, or
29 other obligor that the right is transferred to the transferor, an

1 adult other than the transferor, or a trust company, whose name in the
2 notification is followed in substance by the words: "as custodian for
3 _____ (name of minor) under the Alaska Uniform Trans-
4 fers to Minors Act";

5 (5) an interest in real property is recorded in the name of
6 the transferor, an adult other than the transferor, or a trust com-
7 pany, followed in substance by the words: "as custodian for _____
8 _____ (name of minor) under the Alaska Uniform Transfers to
9 Minors Act";

10 (6) a certificate of title issued by a department or agency
11 of a state or of the United States that evidences title to tangible
12 personal property is either

13 (A) issued in the name of the transferor, an adult
14 other than the transferor, or a trust company, followed in sub-
15 stance by the words: "as custodian for _____
16 (name of minor) under the Alaska Uniform Transfers to Minors
17 Act"; or

18 (B) delivered to an adult other than the transferor or
19 to a trust company, endorsed to that person followed in substance
20 by the words: "as custodian for _____ (name of
21 minor) under the Alaska Uniform Transfers to Minors Act"; or

22 (7) an interest in property not described in (1) - (6) of
23 this subsection is transferred to an adult other than the transferor
24 or to a trust company by a written instrument in substantially the
25 form set out in (b) of this section.

26 (b) An instrument in the following form satisfies the require-
27 ments of (a)(1)(B) and (a)(7) of this section:

28 "TRANSFER UNDER THE ALASKA UNIFORM
29 TRANSFERS TO MINORS ACT

1 I, _____ (name of transferor or name and
2 representative capacity if a fiduciary) hereby transfer to
3 _____ (name of custodian), as custodian
4 for _____ (name of minor) under the Alaska
5 Uniform Transfers to Minors Act, the following: (insert a
6 description of the custodial property sufficient to identify
7 it).

8 Dated: _____

9 _____
10 (Signature)

11 _____ (name of custodian) has received
12 the property described above as custodian for the
13 minor named above under the Alaska Uniform Transfers to
14 Minors Act.

15 Dated: _____

16 _____"
17 (Signature of Custodian)

18 (c) A transferor shall place the custodian in control of the
19 custodial property as soon as practicable.

20 Sec. 13.46.085. NATIVE CORPORATIONS; CUSTODIANS. (a) Stock or
21 membership in a corporation organized under the law of this state
22 under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 -
23 1629(e)) that a minor is entitled to receive under that Act shall be
24 issued by the corporation to a custodian.

25 (b) The custodian shall be determined under the order of priori-
26 ty set out below. The appointment becomes effective upon the corpora-
27 tion's receipt of the custodian's written consent to the appointment.
28 The order of priority is:

29 (1) the legal guardian, if any, of the minor;

1 (2) a parent, if any, of the minor, as selected by the
2 parents;

3 (3) an adult member of the minor's family; in this para-
4 graph "member of the minor's family" has the meaning given in AS 13.-
5 46.990, and may also include members of the family with whom the minor
6 has customarily lived.

7 (c) For good cause, a district court or the superior court may
8 vary the order of priority set out in (b) of this section or appoint
9 another suitable person as custodian.

10 (d) The custodianship is governed by this chapter, as modified
11 by the following:

12 (1) in AS 13.46.190, a transfer to the minor's estate
13 includes delivery to the heirs by intestate succession or custodians
14 for the heirs.

15 (2) under AS 13.46.150, a third person is responsible for
16 determining whether stock is inalienable under the Act;

17 (3) the custodian shall give an appropriate receipt for
18 property received for the minor;

19 (4) the custodian may not alienate inalienable property
20 except within the limits provided by law;

21 (5) the form of registration or title shall be "as custo-
22 dian for _____ (name of minor) under the Alaska
23 Native Claims Settlement Act";

24 (6) a custodian may not receive compensation except, upon
25 application to and approval by the superior court, for unusual and
26 extraordinary services;

27 (7) custodial property includes securities, money, and
28 other real and personal property under supervision as a consequence of
29 the Act.

1 (e) In this section, "Act" means the Alaska Native Claims Set-
2 tlement Act (43 U.S.C. 1601 - 1629(e)).

3 Sec. 13.46.090. SINGLE CUSTODIANSHIP. A transfer may be made
4 only for one minor, and only one person may be the custodian. All
5 custodial property held under this chapter by the same custodian for
6 the benefit of the same minor constitutes a single custodianship.

7 Sec. 13.46.100. VALIDITY AND EFFECT OF TRANSFER. (a) The
8 validity of a transfer made in a manner prescribed in this chapter is
9 not affected by

10 (1) failure of the transferor to comply with AS 13.46.-
11 080(c) concerning possession and control;

12 (2) designation of an ineligible custodian, except desig-
13 nation of the transferor in the case of property for which the trans-
14 feror is ineligible to serve as custodian under AS 13.46.080(a); or

15 (3) death or incapacity of a person nominated under AS 13.-
16 46.020 or designated under AS 13.46.080 as custodian or the disclaimer
17 of the office by that person.

18 (b) A transfer made under AS 13.46.080 is irrevocable, and the
19 custodial property is indefeasibly vested in the minor, but the custo-
20 dian has all the rights, powers, duties, and authority provided in
21 this chapter, and neither the minor nor the minor's legal representa-
22 tive has any right, power, duty, or authority with respect to the
23 custodial property except as provided in this chapter.

24 (c) By making a transfer, the transferor incorporates in the
25 disposition all the provisions of this chapter and grants to the
26 custodian, and to a third person dealing with a person designated as
27 custodian, the respective powers, rights, and immunities provided in
28 this chapter.

29 Sec. 13.46.110. CARE OF CUSTODIAL PROPERTY. (a) A custodian

1 shall

2 (1) take control of custodial property;

3 (2) register or record title to custodial property if
4 appropriate; and

5 (3) collect, hold, manage, invest, and reinvest custodial
6 property.

7 (b) In dealing with custodial property, a custodian shall ob-
8 serve the standard of care that would be observed by a prudent person
9 dealing with property of another and is not limited by any other
10 statute restricting investments by fiduciaries. If a custodian has a
11 special skill or expertise or is named custodian on the basis of
12 representations of a special skill or expertise, the custodian shall
13 use that skill or expertise. However, a custodian, in the custodian's
14 discretion and without liability to the minor or the minor's estate,
15 may retain custodial property received from a transferor.

16 (c) A custodian may invest in or pay premiums on life insurance
17 or endowment policies on

18 (1) the life of the minor only if the minor or the minor's
19 estate is the sole beneficiary; or

20 (2) the life of another person in whom the minor has an
21 insurable interest only to the extent that the minor, the minor's
22 estate, or the custodian in the capacity of custodian, is the irrevoc-
23 cable beneficiary.

24 (d) A custodian at all times shall keep custodial property
25 separate and distinct from all other property in a manner sufficient
26 to identify it clearly as custodial property of the minor. Custodial
27 property consisting of an undivided interest is so identified if the
28 minor's interest is held as a tenant in common and is fixed. Custodial
29 property subject to recordation is so identified if it is

1 recorded, and custodial property subject to registration is so identi-
2 fied if it is either registered, or held in an account designated, in
3 the name of the custodian, followed in substance by the words: "as a
4 custodian for _____ (name of minor) under the
5 Alaska Uniform Transfers to Minors Act."

6 (e) A custodian shall keep records of all transactions with
7 respect to custodial property, including information necessary for the
8 preparation of the minor's tax returns, and shall make them available
9 for inspection at reasonable intervals by a parent or legal represen-
10 tative of the minor or by the minor if the minor has attained the age
11 of 14 years.

12 Sec. 13.46.120. POWERS OF CUSTODIAN. (a) A custodian, acting
13 in a custodial capacity, has all the rights, powers, and authority
14 over custodial property that unmarried adult owners have over their
15 own property, but a custodian may exercise those rights, powers, and
16 authority in that capacity only.

17 (b) This section does not relieve a custodian from liability for
18 breach of AS 13.46.110.

19 Sec. 13.46.130. USE OF CUSTODIAL PROPERTY. (a) A custodian may
20 deliver or pay to the minor or expend for the minor's benefit as much
21 of the custodial property as the custodian considers advisable for the
22 use and benefit of the minor, without court order and without regard
23 to

24 (1) the duty or ability of the custodian personally or of
25 another person to support the minor; or

26 (2) other income or property of the minor that may be
27 applicable or available for that purpose.

28 (b) On petition of an interested person for the minor if the
29 minor has attained the age of 14 years, the court may order the

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custodian to deliver or pay to the minor or expend for the minor's benefit as much of the custodial property as the court considers advisable for the use and benefit of the minor.

(c) A delivery, payment, or expenditure under this section is in addition to, not in substitution for, and does not affect an obligation of a person to support the minor.

Sec. 13.46.140. CUSTODIAN'S EXPENSES, COMPENSATION, AND BOND.

(a) A custodian is entitled to reimbursement from custodial property for reasonable expenses incurred in the performance of the custodian's duties.

(b) Except for one who is a transferor under AS 13.46.030, a custodian has a noncumulative election during each calendar year to charge reasonable compensation for services performed during that year.

(c) Except as provided in AS 13.46.170(f), a custodian is not required to give a bond.

Sec. 13.46.150. EXEMPTION OF THIRD PERSON FROM LIABILITY. A third person in good faith and without court order may act on the instructions of or otherwise deal with a person purporting to make a transfer or purporting to act in the capacity of a custodian and, in the absence of knowledge, is not responsible for determining

(1) the validity of the purported custodian's designation;

(2) the propriety of, or the authority under this chapter for, an act of the purported custodian;

(3) the validity or propriety under this chapter of an instrument or instructions executed or given either by the person purporting to make a transfer or by the purported custodian; or

(4) the propriety of the application of property of the minor delivered to the purported custodian.

1 Sec. 13.46.160. LIABILITY TO THIRD PERSONS. (a) A claim based
2 on (1) a contract entered into by a custodian acting in a custodial
3 capacity, (2) an obligation arising from the ownership or control of
4 custodial property, or (3) a tort committed during the custodianship,
5 may be asserted against the custodial property by proceeding against
6 the custodian in the custodial capacity, whether or not the custodian
7 or the minor is personally liable.

8 (b) A custodian is not personally liable

9 (1) on a contract properly entered into in the custodial
10 capacity unless the custodian fails to reveal that capacity and to
11 identify the custodianship in the contract; or

12 (2) for an obligation arising from control of custodial
13 property or for a tort committed during the custodianship unless the
14 custodian is personally at fault.

15 (c) A minor is not personally liable for an obligation arising
16 from ownership of custodial property or for a tort committed during
17 the custodianship unless the minor is personally at fault.

18 Sec. 13.46.170. RENUNCIATION, RESIGNATION, DEATH, OR REMOVAL OF
19 CUSTODIAN; DESIGNATION OF SUCCESSOR CUSTODIAN. (a) A person nomi-
20 nated under AS 13.46.020 or designated under AS 13.46.080 as custodian
21 may decline to serve by delivering a valid disclaimer to the person
22 who made the nomination or to the transferor or the transferor's legal
23 representative. If the event giving rise to a transfer has not oc-
24 curred and a substitute custodian able, willing, and eligible to serve
25 was not nominated under AS 13.46.020, the person who made the nomina-
26 tion may nominate a substitute custodian under AS 13.46.020; otherwise
27 the transferor or the transferor's legal representative shall desig-
28 nate a substitute custodian at the time of the transfer, in either
29 case from among the persons eligible to serve as custodian for that

1 kind of property under AS 13.46.080(a). The custodian so designated
2 has the rights of a successor custodian.

3 (b) A custodian at any time may designate a trust company or an
4 adult other than a transferor under AS 13.46.030 as successor custo-
5 dian by executing and dating an instrument of designation before a
6 subscribing witness other than the successor. If the instrument of
7 designation does not contain or is not accompanied by the resignation
8 of the custodian, the designation of the successor does not take
9 effect until the custodian resigns, dies, becomes incapacitated, or is
10 removed.

11 (c) A custodian may resign at any time by delivering written
12 notice to the minor if the minor has attained the age of 14 years and
13 to the successor custodian and by delivering the custodial property to
14 the successor custodian.

15 (d) If a custodian is ineligible, dies, or becomes incapacitated
16 without having effectively designated a successor and the minor has
17 attained the age of 14 years, the minor may designate as successor
18 custodian, in the manner prescribed in (b) of this section, an adult
19 member of the minor's family, a conservator of the minor, or a trust
20 company. If the minor has not attained the age of 14 years or fails
21 to act within 60 days after the ineligibility, death, or incapacity,
22 the conservator of the minor becomes successor custodian. If the
23 minor has no conservator or the conservator declines to act, the
24 transferor, the legal representative of the transferor or of the
25 custodian, an adult member of the minor's family, or another inter-
26 ested person may petition the court to designate a successor custo-
27 dian.

28 (e) A custodian who declines to serve under (a) of this section
29 or resigns under (c) of this section, or the legal representative of a

1 deceased or incapacitated custodian, as soon as practicable, shall put
2 the custodial property and records in the possession and control of
3 the successor custodian. The successor custodian by action may en-
4 force the obligation to deliver custodial property and records and
5 becomes responsible for each item as received.

6 (f) A transferor, the legal representative of a transferor, an
7 adult member of the minor's family, a guardian of the person of the
8 minor, the conservator of the minor, or the minor if the minor has
9 attained the age of 14 years may petition the court to remove the
10 custodian for cause and to designate a successor custodian other than
11 a transferor under AS 13.46.030 or to require the custodian to give
12 appropriate bond.

13 Sec. 13.46.180. ACCOUNTING BY AND DETERMINATION OF LIABILITY OF
14 CUSTODIAN. (a) A minor who has attained the age of 14 years, the
15 minor's guardian of the person or legal representative, an adult
16 member of the minor's family, a transferor, or a transferor's legal
17 representative may petition the court for

18 (1) an accounting by the custodian or the custodian's legal
19 representative; or

20 (2) a determination of responsibility, as between the
21 custodial property and the custodian personally, for claims against
22 the custodial property unless the responsibility has been adjudicated
23 in an action under AS 13.46.160 to which the minor or the minor's
24 legal representative was a party.

25 (b) A successor custodian may petition the court for an account-
26 ing by the predecessor custodian.

27 (c) The court, in a proceeding under this chapter or in another
28 proceeding may require or permit the custodian or the custodian's
29 legal representative to account.

1 (d) If a custodian is removed under AS 13.46.170(f), the court
2 shall require an accounting and order delivery of the custodial prop-
3 erty and records to the successor custodian and the execution of all
4 instruments required for transfer of the custodial property.

5 Sec. 13.46.190. TERMINATION OF CUSTODIANSHIP. The custodian
6 shall transfer in an appropriate manner the custodial property to the
7 minor or to the minor's estate upon the earlier of the

8 (1) minor's attainment of 21 years of age with respect to
9 property transferred under AS 13.46.030 or 13.46.040 unless the time
10 of transfer of the custodial property to the minor is changed under
11 AS 13.46.195;

12 (2) minor's attainment of 18 years of age with respect to
13 property transferred under AS 13.46.050 or 13.46.060;

14 (3) time specified in the transfer under AS 13.46.080 if
15 the time of transfer of the custodial property to the minor is changed
16 under AS 13.46.195; or

17 (4) minor's death.

18 Sec. 13.46.195. CHANGING THE TIME FOR TRANSFER OF CUSTODIAL
19 PROPERTY. (a) Subject to the requirements and limitations of this
20 section, the time for transfer to the minor of custodial property
21 transferred under AS 13.46.030 or 13.46.040 may be changed to a spec-
22 ified time other than the time the minor attains the age of 21 years.
23 That time shall be specified in the transfer under AS 13.46.080.

24 (b) To specify a changed time for transfer to the minor of the
25 custodial property under AS 13.46.030 except for the transfer by
26 irrevocable gift, or under AS 13.46.040, the words "as custodian for
27 _____ (name of minor) until age _____ (age for
28 delivery of property to minor) under the Alaska Uniform Transfers to
29 Minors Act" shall be substituted in substance for the words "as

1 custodian for _____ (name of minor) under the
2 Alaska Uniform Transfers to Minors Act" in making the transfer under
3 AS 13.46.080.

4 (c) To specify a changed time for transfer to the minor of the
5 custodial property under AS 13.46.030 by irrevocable gift, the words
6 "as custodian for _____ (name of minor) until age _____
7 (age for delivery of property to minor) under the Alaska Uniform
8 Transfers to Minors Act" or "as custodian for _____ (name of
9 minor) until age _____ (age for delivery of property to minor)
10 under the Alaska Uniform Transfers to Minors Act, subject to the
11 minor's right to compel immediate distribution of the property by
12 giving written notice to the custodian during the six-month period
13 beginning on the minor's 21st birthday" shall be substituted in sub-
14 stance for the words "as custodian for _____ (name of
15 minor) under the Alaska Uniform Transfers to Minors Act" in making the
16 transfer under AS 13.46.080.

17 (d) The time for transfer to the minor of custodial property
18 transferred under AS 13.46.040 may be changed under this section if
19 the governing will or trust or nomination provides in substance that
20 the custodianship is to continue until the time the minor attains a
21 specified age. That time may not be earlier than the time the minor
22 attains 18 years of age or later than the time the minor attains 25
23 years of age, and in that case the governing will or trust or nomina-
24 tion shall determine the time to be specified in the transfer under
25 AS 13.46.080.

26 (e) The time for transfer to the minor of custodial property
27 transferred under AS 13.46.030 may be changed under this section if
28 the transfer under AS 13.46.030 provides in substance that the custo-
29 dianship is to continue until the time the minor attains a specified

1 age. That time may not be earlier than the time the minor attains 18
2 years of age or later than the time the minor attains 25 years of age.

3 (f) If the transfer under AS 13.46.080 does not specify an age,
4 the time for the transfer of the custodial property to the minor under
5 AS 13.46.190 is the time when the minor attains 21 years of age.

6 (g) If the transfer under AS 13.46.080 provides in substance
7 that the duration of the custodianship is for a time longer than the
8 maximum time permitted by this section for that type of transfer, the
9 custodianship may continue until the minor attains the maximum age
10 permitted by this section for that type of transfer.

11 Sec. 13.46.200. APPLICABILITY. This chapter applies to a trans-
12 fer within the scope of AS 13.46.010 made after December 31, 1989, if
13 the

14 (1) transfer purports to have been made under the Alaska
15 Uniform Gifts to Minors Act; or

16 (2) instrument by which the transfer purports to have been
17 made uses in substance the designation "as custodian under the Uniform
18 Gifts to Minors Act" or "as custodian under the Uniform Transfers to
19 Minors Act" of another state, and the application of this chapter is
20 necessary to validate the transfer.

21 Sec. 13.46.210. EFFECT ON EXISTING CUSTODIANSHIPS. (a) A
22 transfer of custodial property as defined in this chapter made before
23 January 1, 1990, is validated notwithstanding that there was not
24 specific authority in the Alaska Uniform Gifts to Minors Act for the
25 coverage of custodial property of that kind or for a transfer from
26 that source at the time the transfer was made.

27 (b) This chapter applies to all transfers that were made before
28 January 1, 1990, and that were made in a manner and form prescribed in
29 the Alaska Uniform Gifts to Minors Act, except insofar as the

1 application impairs constitutionally vested rights or extends the
2 duration of custodianships in existence on January 1, 1990.

3 (c) AS 13.46.190, 13.46.195, and 13.46.995, with respect to the
4 age of a minor for whom custodial property is held under this chapter,
5 do not apply to custodial property held in a custodianship that ter-
6 minated because of the minor's attainment of the age of

7 (1) 19 after June 12, 1967, and before September 17, 1980;

8 or

9 (2) 18 after September 16, 1980, and before January 1,
10 1990.

11 (d) To the extent that this chapter, by virtue of (b) of this
12 section, does not apply to transfers made in a manner prescribed under
13 former AS 45.60 (Alaska Uniform Gifts to Minors Act) or to the powers,
14 duties, and immunities conferred by transfers in that manner upon
15 custodians and persons dealing with custodians, the repeal of AS 45.60
16 (Alaska Uniform Gifts to Minors Act) does not affect those transfers
17 or those powers, duties, and immunities.

18 Sec. 13.46.220. UNIFORMITY OF APPLICATION AND CONSTRUCTION.
19 This chapter shall be applied and construed to effectuate its general
20 purpose to make uniform the law with respect to the subject of this
21 chapter among states enacting it.

22 Sec. 13.46.990. DEFINITIONS. In this chapter

23 (1) "adult" means an individual who has attained the age of
24 18 years;

25 (2) "benefit plan" means an employer's plan for the benefit
26 of an employee or partner;

27 (3) "broker" means a person lawfully engaged in the busi-
28 ness of effecting transactions in securities or commodities for the
29 person's own account or for the account of others;

1 (4) "conservator" means a person appointed or qualified by
2 a court to act as general, limited, or temporary guardian of a minor's
3 property or a person legally authorized to perform substantially the
4 same functions;

5 (5) "court" means the superior court;

6 (6) "custodial property" means

7 (A) an interest in property transferred to a custodian
8 under this chapter; and

9 (B) the income from and proceeds of that interest in
10 property;

11 (7) "custodian" means a person designated under AS 13.-
12 46.080 or a successor or substitute custodian designated under AS 13.-
13 46.170;

14 (8) "financial institution" means a bank, trust company,
15 savings institution, or credit union, chartered and supervised under
16 state or federal law;

17 (9) "legal representative" means an individual's personal
18 representative or conservator;

19 (10) "member of the minor's family" means the minor's par-
20 ent, stepparent, spouse, grandparent, brother, sister, uncle, or aunt,
21 whether of the whole or half blood or by adoption;

22 (11) "minor" means an individual who has not attained the
23 age of 18 years, except that when used in reference to the beneficiary
24 for whose benefit custodial property is held or to be held, "minor"
25 means an individual who has not attained the age at which the custo-
26 dian is required under AS 13.46.190 and 13.46.195 to transfer the
27 custodial property to the beneficiary;

28 (12) "personal representative" means an executor, adminis-
29 trator, successor personal representative, or special administrator of

1 a decedent's estate or a person legally authorized to perform substan-
2 tially the same functions;

3 (13) "state" includes a state of the United States, the
4 District of Columbia, the Commonwealth of Puerto Rico, and any terri-
5 tory or possession subject to the legislative authority of the United
6 States;

7 (14) "transfer" means a transaction that creates custodial
8 property under AS 13.46.080;

9 (15) "transferor" means a person who makes a transfer under
10 this chapter;

11 (16) "trust company" means a financial institution, corpora-
12 tion, or other legal entity, authorized to exercise general trust
13 powers.

14 Sec. 13.46.999. SHORT TITLE. This chapter may be cited as the
15 Alaska Uniform Transfers to Minors Act.

16 * Sec. 3. AS 13.06.050(45) is amended to read:

17 (45) "trust" includes any express trust, private or charit-
18 able, with additions to it, wherever and however created; it also
19 includes a trust created or determined by judgment or decree under
20 which the trust is to be administered in the manner of an express
21 trust; "trust" excludes other constructive trusts, and it excludes
22 resulting trusts, conservatorships, personal representatives, trust
23 accounts as defined in AS 13.31, custodial arrangements under AS 13.46
24 [AS 45.60], business trusts providing for certificates to be issued to
25 beneficiaries, common trust funds, voting trusts, security arrange-
26 ments, liquidation trusts, and trusts for the primary purpose of
27 paying debts, dividends, interest, salaries, wages, profits, pensions,
28 or employee benefits of any kind, and any arrangement under which a
29 person is nominee or escrowee for another;

1 * Sec. 4. AS 13.50.014 is amended by adding a new subsection to read:

2 (d) A hospital may not request the gift of a fetus that was
3 aborted under AS 18.16.010.

4 * Sec. 5. AS 13.50.030(b) is amended to read:

5 (b) A gift of all or a part of the body under AS 13.50.010(a)
6 may be made by a document other than a will. The gift takes effect
7 upon the death of the donor. The document, which may be a card de-
8 signed to be carried on the person, shall be signed by the donor [IN
9 THE PRESENCE OF TWO WITNESSES WHO SHALL SIGN THE DOCUMENT IN THE
10 DONOR'S PRESENCE]. If the donor cannot sign, the document may be
11 signed for the donor at the donor's direction and in the donor's
12 presence in the presence of two witnesses who must sign the document
13 in the donor's presence. Delivery of the document of gift during the
14 donor's lifetime is not necessary to make the gift valid.

15 * Sec. 6. AS 18.65.311(a) is amended to read:

16 (a) The department shall provide, at the time that an identi-
17 fication card is issued, a form for a document by which the card
18 holder may make an anatomical gift under AS 13.50 (Uniform Anatomical
19 Gifts Act). The document (1) may not be larger than an identification
20 card, (2) must contain sufficient space for the signature of two
21 witnesses to the donor's act if the donor cannot sign [OF EXECUTION OF
22 THE DOCUMENT], and (3) must provide a means by which the donor may
23 cancel the gift. If the document making an anatomical gift is executed
24 by the applicant, it shall be sealed in plastic and attached to the
25 identification card. A symbol indicating the existence of the anatom-
26 ical gift document must be displayed in the lower right-hand corner on
27 the face of the identification card.

28 * Sec. 7. AS 45.60.011, 45.60.016, 45.60.021, 45.60.031, 45.60.041,
29 45.60.051, 45.60.061, 45.60.071, 45.60.081, 45.60.091, and 45.60.101 are

1 repealed.

2 * Sec. 8. This Act takes effect January 1, 1990.
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Original sponsor: Judiciary Committee

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IN THE HOUSE

BY THE HEALTH, EDUCATION AND
SOCIAL SERVICES COMMITTEE

SENATE CS FOR CS FOR HOUSE BILL NO. 165 (HESS)

IN THE LEGISLATURE OF THE STATE OF ALASKA

SIXTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to the disposition of property,
including the witnessing of gifts of anatomical parts
of the body; and providing for an effective date."

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

* Section 1. AS 13.11.305 is amended by adding a new subsection to
read:

(h) In the case of an unintentional felonious killing, a court
may set aside the application of (a), (b), (c), or (d) of this section
if the court makes special findings of fact and conclusions of law
that the application of the subsection would result in a manifest
injustice and that the subsection should not be applied.

* Sec. 2. AS 13 is amended by adding a new chapter to read:

CHAPTER 46. ALASKA UNIFORM TRANSFERS TO MINORS ACT.

Sec. 13.46.010. SCOPE AND JURISDICTION. (a) This chapter
applies to a transfer that refers to this chapter in the designation
under AS 13.46.080(a) by which the transfer is made, if at the time of
the transfer, the transferor, the minor, or the custodian is a resi-
dent of this state or the custodial property is located in this state.
The custodianship so created remains subject to this chapter despite a
subsequent change in residence of a transferor, the minor, or the
custodian, or the removal of custodial property from this state.

(b) A person designated as custodian under this chapter is
subject to personal jurisdiction in this state with respect to a
matter relating to the custodianship.

1 (c) A transfer that purports to be made and that is valid under
2 the Uniform Transfers to Minors Act, the Uniform Gifts to Minors Act,
3 or a substantially similar act of another state is governed by the law
4 of the designated state.

5 Sec. 13.46.020. NOMINATION OF CUSTODIAN. (a) A person having
6 the right to designate the recipient of property transferable upon the
7 occurrence of a future event may revocably nominate a custodian to
8 receive the property for a minor beneficiary upon the occurrence of
9 the event by naming the custodian followed in substance by the words:
10 "as custodian for _____ (name of minor) under the
11 Alaska Uniform Transfers to Minors Act." The nomination may name one
12 or more persons as substitute custodians to whom the property must be
13 transferred, in the order named, if the first nominated custodian dies
14 before the transfer or is unable, declines, or is ineligible to serve.
15 The nomination may be made in a will, a trust, a deed, an instrument
16 exercising a power of appointment, or a writing designating a benefi-
17 ciary of contractual rights that is registered with or delivered to
18 the payor, issuer, or other obligor of the contractual rights.

19 (b) A custodian nominated under this section must be a person to
20 whom a transfer of property of that kind may be made under AS 13.46.-
21 080(a).

22 (c) The nomination of a custodian under this section does not
23 create custodial property until the nominating instrument becomes
24 irrevocable or a transfer to the nominated custodian is completed
25 under AS 13.46.080. Unless the nomination of a custodian has been
26 revoked, upon the occurrence of the future event the custodianship
27 becomes effective and the custodian shall enforce a transfer of the
28 custodial property under AS 13.46.080.

29 Sec. 13.46.030. TRANSFER BY GIFT OR EXERCISE OF POWER OF

1 APPOINTMENT. A person may make a transfer by irrevocable gift to, or
2 the irrevocable exercise of a power of appointment in favor of, a
3 custodian for the benefit of a minor under AS 13.46.080.

4 Sec. 13.46.040. TRANSFER AUTHORIZED BY WILL OR TRUST. (a) A
5 personal representative or trustee may make an irrevocable transfer
6 under AS 13.46.080 to a custodian for the benefit of a minor as au-
7 thORIZED in the governing will or trust.

8 (b) If the testator or settlor has nominated a custodian under
9 AS 13.46.020 to receive the custodial property, the transfer must be
10 made to that person.

11 (c) If the testator or settlor has not nominated a custodian
12 under AS 13.46.020, or all persons so nominated as custodian die
13 before the transfer or are unable, decline, or are ineligible to
14 serve, the personal representative or the trustee, as the case may be,
15 shall designate the custodian from among those eligible to serve as
16 custodian for property of that kind under AS 13.46.080(a).

17 Sec. 13.46.050. OTHER TRANSFER BY FIDUCIARY. (a) Subject to
18 (c) of this section, a personal representative or trustee may make an
19 irrevocable transfer to another adult or trust company as custodian
20 for the benefit of a minor under AS 13.46.080, in the absence of a
21 will or under a will or trust that does not contain an authorization
22 to do so.

23 (b) Subject to (c) of this section, a conservator may make an
24 irrevocable transfer to another adult or trust company as custodian
25 for the benefit of the minor under AS 13.46.080.

26 (c) A transfer under (a) or (b) of this section may be made only
27 if

28 (1) the personal representative, trustee, or conservator
29 considers the transfer to be in the best interest of the minor:

1 (2) the transfer is not prohibited by or inconsistent with
2 provisions of the applicable will, trust, agreement, or other govern-
3 ing instrument; and

4 (3) the transfer is authorized by the court if it exceeds
5 \$25,000 in value.

6 Sec. 13.46.060. TRANSFER BY OBLIGOR. (a) Subject to (b) and
7 (c) of this section, a person not subject to AS 13.46.040 or 13.46.050
8 who holds property of or owes a liquidated debt to a minor not having
9 a conservator may make an irrevocable transfer to a custodian for the
10 benefit of the minor under AS 13.46.080.

11 (b) If a person having the right to do so under AS 13.46.020 has
12 nominated a custodian under that section to receive the custodial
13 property, the transfer must be made to that person.

14 (c) If a custodian has not been nominated under AS 13.46.020, or
15 all persons nominated as custodian die before the transfer or are
16 unable, decline, or are ineligible to serve, a transfer under this
17 section may be made to an adult member of the minor's family or to a
18 trust company unless the property exceeds \$5,000 in value.

19 Sec. 13.46.070. RECEIPT FOR CUSTODIAL PROPERTY. A written
20 receipt by a custodian constitutes a sufficient receipt and discharge
21 for custodial property transferred to the custodian under this chap-
22 ter.

23 Sec. 13.46.080. MANNER OF CREATING CUSTODIAL PROPERTY AND EF-
24 FECTING TRANSFER; DESIGNATION OF INITIAL CUSTODIAN; CONTROL. (a)
25 Custodial property is created and a transfer is made when

26 (1) an uncertificated security or a certificated security
27 in registered form is either

28 (A) registered in the name of the transferor, an adult
29 other than the transferor, or a trust company, followed in

1 substance by the words: "as custodian for _____ (name of
2 minor) under the Alaska Uniform Transfers to Minors Act"; or

3 (B) delivered if in certificated form, or a document
4 necessary for the transfer of an uncertificated security is
5 delivered, together with any necessary endorsement to an adult
6 other than the transferor or to a trust company as custodian,
7 accompanied by an instrument in substantially the form set out in
8 (b) of this section;

9 (2) money is paid or delivered to a broker or financial
10 institution for credit to an account in the name of the transferor, an
11 adult other than the transferor, or a trust company, followed in
12 substance by the words: "as custodian for _____ (name
13 of minor) under the Alaska Uniform Transfers to Minors Act";

14 (3) the ownership of a life or endowment insurance policy
15 or annuity contract is either

16 (A) registered with the issuer in the name of the
17 transferor, an adult other than the transferor, or a trust com-
18 pany, followed in substance by the words: "as custodian for
19 _____ (name of minor) under the Alaska Uniform
20 Transfers to Minors Act"; or

21 (B) assigned in a writing delivered to an adult other
22 than the transferor or to a trust company whose name in the
23 assignment is followed in substance by the words: "as custodian
24 for _____ (name of minor) under the Alaska Uniform
25 Transfers to Minors Act";

26 (4) an irrevocable exercise of a power of appointment or an
27 irrevocable present right to future payment under a contract is the
28 subject of a written notification delivered to the payor, issuer, or
29 other obligor that the right is transferred to the transferor, an

1 adult other than the transferor, or a trust company, whose name in the
2 notification is followed in substance by the words: "as custodian for
3 _____ (name of minor) under the Alaska Uniform Trans-
4 fers to Minors Act";

5 (5) an interest in real property is recorded in the name of
6 the transferor, an adult other than the transferor, or a trust com-
7 pany, followed in substance by the words: "as custodian for _____
8 _____ (name of minor) under the Alaska Uniform Transfers to
9 Minors Act";

10 (6) a certificate of title issued by a department or agency
11 of a state or of the United States that evidences title to tangible
12 personal property is either

13 (A) issued in the name of the transferor, an adult
14 other than the transferor, or a trust company, followed in sub-
15 stance by the words: "as custodian for _____
16 (name of minor) under the Alaska Uniform Transfers to Minors
17 Act"; or

18 (B) delivered to an adult other than the transferor or
19 to a trust company, endorsed to that person followed in substance
20 by the words: "as custodian for _____ (name of
21 minor) under the Alaska Uniform Transfers to Minors Act"; or

22 (7) an interest in property not described in (1) - (6) of
23 this subsection is transferred to an adult other than the transferor
24 or to a trust company by a written instrument in substantially the
25 form set out in (b) of this section.

26 (b) An instrument in the following form satisfies the require-
27 ments of (a)(1)(B) and (a)(7) of this section:

28 "TRANSFER UNDER THE ALASKA UNIFORM

29 TRANSFERS TO MINORS ACT

1 I, _____ (name of transferor or name and
2 representative capacity if a fiduciary) hereby transfer to
3 _____ (name of custodian), as custodian
4 for _____ (name of minor) under the Alaska
5 Uniform Transfers to Minors Act, the following: (insert a
6 description of the custodial property sufficient to identify
7 it).

8 Dated: _____

9 _____
10 (Signature)

11 _____ (name of custodian) has received
12 the property described above as custodian for the
13 minor named above under the Alaska Uniform Transfers to
14 Minors Act.

15 Dated: _____

16 _____"
17 (Signature of Custodian)

18 (c) A transferor shall place the custodian in control of the
19 custodial property as soon as practicable.

20 Sec. 13.46.085. NATIVE CORPORATIONS; CUSTODIANS. (a) Stock or
21 membership in a corporation organized under the law of this state
22 under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 -
23 1629(e)) that a minor is entitled to receive under that Act shall be
24 issued by the corporation to a custodian.

25 (b) The custodian shall be determined under the order of priori-
26 ty set out below. The appointment becomes effective upon the corpora-
27 tion's receipt of the custodian's written consent to the appointment.
28 The order of priority is:

29 (1) the legal guardian, if any, of the minor;

1 (2) a parent, if any, of the minor, as selected by the
2 parents;

3 (3) an adult member of the minor's family; in this para-
4 graph "member of the minor's family" has the meaning given in AS 13.-
5 46.990, and may also include members of the family with whom the minor
6 has customarily lived.

7 (c) For good cause, a district court or the superior court may
8 vary the order of priority set out in (b) of this section or appoint
9 another suitable person as custodian.

10 (d) The custodianship is governed by this chapter, as modified
11 by the following:

12 (1) in AS 13.46.190, a transfer to the minor's estate
13 includes delivery to the heirs by intestate succession or custodians
14 for the heirs;

15 (2) under AS 13.46.150, a third person is responsible for
16 determining whether stock is inalienable under the Act;

17 (3) the custodian shall give an appropriate receipt for
18 property received for the minor;

19 (4) the custodian may not alienate inalienable property
20 except within the limits provided by law;

21 (5) the form of registration or title shall be "as custo-
22 dian for _____ (name of minor) under the Alaska
23 Native Claims Settlement Act";

24 (6) a custodian may not receive compensation except, upon
25 application to and approval by the superior court, for unusual and
26 extraordinary services;

27 (7) custodial property includes securities, money, and
28 other real and personal property under supervision as a consequence of
29 the Act.

1 (e) In this section, "Act" means the Alaska Native Claims Set-
2 tlement Act (43 U.S.C. 1601 - 1629(e)).

3 Sec. 13.46.090. SINGLE CUSTODIANSHIP. A transfer may be made
4 only for one minor, and only one person may be the custodian. All
5 custodial property held under this chapter by the same custodian for
6 the benefit of the same minor constitutes a single custodianship.

7 Sec. 13.46.100. VALIDITY AND EFFECT OF TRANSFER. (a) The
8 validity of a transfer made in a manner prescribed in this chapter is
9 not affected by

10 (1) failure of the transferor to comply with AS 13.46.-
11 080(c) concerning possession and control;

12 (2) designation of an ineligible custodian, except desig-
13 nation of the transferor in the case of property for which the trans-
14 feror is ineligible to serve as custodian under AS 13.46.080(a); or

15 (3) death or incapacity of a person nominated under AS 13.-
16 46.020 or designated under AS 13.46.080 as custodian or the disclaimer
17 of the office by that person.

18 (b) A transfer made under AS 13.46.080 is irrevocable, and the
19 custodial property is indefeasibly vested in the minor, but the custo-
20 dian has all the rights, powers, duties, and authority provided in
21 this chapter, and neither the minor nor the minor's legal representa-
22 tive has any right, power, duty, or authority with respect to the
23 custodial property except as provided in this chapter.

24 (c) By making a transfer, the transferor incorporates in the
25 disposition all the provisions of this chapter and grants to the
26 custodian, and to a third person dealing with a person designated as
27 custodian, the respective powers, rights, and immunities provided in
28 this chapter.

29 Sec. 13.46.110. CARE OF CUSTODIAL PROPERTY. (a) A custodian

1 shall

2 (1) take control of custodial property;

3 (2) register or record title to custodial property if
4 appropriate; and

5 (3) collect, hold, manage, invest, and reinvest custodial
6 property.

7 (b) In dealing with custodial property, a custodian shall ob-
8 serve the standard of care that would be observed by a prudent person
9 dealing with property of another and is not limited by any other
10 statute restricting investments by fiduciaries. If a custodian has a
11 special skill or expertise or is named custodian on the basis of
12 representations of a special skill or expertise, the custodian shall
13 use that skill or expertise. However, a custodian, in the custodian's
14 discretion and without liability to the minor or the minor's estate,
15 may retain custodial property received from a transferor.

16 (c) A custodian may invest in or pay premiums on life insurance
17 or endowment policies on

18 (1) the life of the minor only if the minor or the minor's
19 estate is the sole beneficiary; or

20 (2) the life of another person in whom the minor has an
21 insurable interest only to the extent that the minor, the minor's
22 estate, or the custodian in the capacity of custodian, is the irrevocable
23 beneficiary.

24 (d) A custodian at all times shall keep custodial property
25 separate and distinct from all other property in a manner sufficient
26 to identify it clearly as custodial property of the minor. Custodial
27 property consisting of an undivided interest is so identified if the
28 minor's interest is held as a tenant in common and is fixed. Custodial
29 property subject to recordation is so identified if it is

1 recorded, and custodial property subject to registration is so identi-
2 fied if it is either registered, or held in an account designated, in
3 the name of the custodian, followed in substance by the words: "as a
4 custodian for _____ (name of minor) under the
5 Alaska Uniform Transfers to Minors Act."

6 (e) A custodian shall keep records of all transactions with
7 respect to custodial property, including information necessary for the
8 preparation of the minor's tax returns, and shall make them available
9 for inspection at reasonable intervals by a parent or legal represen-
10 tative of the minor or by the minor if the minor has attained the age
11 of 14 years.

12 Sec. 13.46.120. POWERS OF CUSTODIAN. (a) A custodian, acting
13 in a custodial capacity, has all the rights, powers, and authority
14 over custodial property that unmarried adult owners have over their
15 own property, but a custodian may exercise those rights, powers, and
16 authority in that capacity only.

17 (b) This section does not relieve a custodian from liability for
18 breach of AS 13.46.110.

19 Sec. 13.46.130. USE OF CUSTODIAL PROPERTY. (a) A custodian may
20 deliver or pay to the minor or expend for the minor's benefit as much
21 of the custodial property as the custodian considers advisable for the
22 use and benefit of the minor, without court order and without regard
23 to

24 (1) the duty or ability of the custodian personally or of
25 another person to support the minor; or

26 (2) other income or property of the minor that may be
27 applicable or available for that purpose.

28 (b) On petition of an interested person or the minor if the
29 minor has attained the age of 14 years, the court may order the

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custodian to deliver or pay to the minor or expend for the minor's benefit as much of the custodial property as the court considers advisable for the use and benefit of the minor.

(c) A delivery, payment, or expenditure under this section is in addition to, not in substitution for, and does not affect an obligation of a person to support the minor.

Sec. 13.46.140. CUSTODIAN'S EXPENSES, COMPENSATION, AND BOND.

(a) A custodian is entitled to reimbursement from custodial property for reasonable expenses incurred in the performance of the custodian's duties.

(b) Except for one who is a transferor under AS 13.46.030, a custodian has a noncumulative election during each calendar year to charge reasonable compensation for services performed during that year.

(c) Except as provided in AS 13.46.170(f), a custodian is not required to give a bond.

Sec. 13.46.150. EXEMPTION OF THIRD PERSON FROM LIABILITY. A third person in good faith and without court order may act on the instructions of or otherwise deal with a person purporting to make a transfer or purporting to act in the capacity of a custodian and, in the absence of knowledge, is not responsible for determining

(1) the validity of the purported custodian's designation;

(2) the propriety of, or the authority under this chapter for, an act of the purported custodian;

(3) the validity or propriety under this chapter of an instrument or instructions executed or given either by the person purporting to make a transfer or by the purported custodian; or

(4) the propriety of the application of property of the minor delivered to the purported custodian.

1 Sec. 13.46.160. LIABILITY TO THIRD PERSONS. (a) A claim based
2 on (1) a contract entered into by a custodian acting in a custodial
3 capacity, (2) an obligation arising from the ownership or control of
4 custodial property, or (3) a tort committed during the custodianship,
5 may be asserted against the custodial property by proceeding against
6 the custodian in the custodial capacity, whether or not the custodian
7 or the minor is personally liable.

8 (b) A custodian is not personally liable

9 (1) on a contract properly entered into in the custodial
10 capacity unless the custodian fails to reveal that capacity and to
11 identify the custodianship in the contract; or

12 (2) for an obligation arising from control of custodial
13 property or for a tort committed during the custodianship unless the
14 custodian is personally at fault.

15 (c) A minor is not personally liable for an obligation arising
16 from ownership of custodial property or for a tort committed during
17 the custodianship unless the minor is personally at fault.

18 Sec. 13.46.170. RENUNCIATION, RESIGNATION, DEATH, OR REMOVAL OF
19 CUSTODIAN; DESIGNATION OF SUCCESSOR CUSTODIAN. (a) A person nomi-
20 nated under AS 13.46.020 or designated under AS 13.46.080 as custodian
21 may decline to serve by delivering a valid disclaimer to the person
22 who made the nomination or to the transferor or the transferor's legal
23 representative. If the event giving rise to a transfer has not oc-
24 curred and a substitute custodian able, willing, and eligible to serve
25 was not nominated under AS 13.46.020, the person who made the nomina-
26 tion may nominate a substitute custodian under AS 13.46.020; otherwise
27 the transferor or the transferor's legal representative shall desig-
28 nate a substitute custodian at the time of the transfer, in either
29 case from among the persons eligible to serve as custodian for that

1 kind of property under AS 13.46.080(a). The custodian so designated
2 has the rights of a successor custodian.

3 (b) A custodian at any time may designate a trust company or an
4 adult other than a transferor under AS 13.46.030 as successor custo-
5 dian by executing and dating an instrument of designation before a
6 subscribing witness other than the successor. If the instrument of
7 designation does not contain or is not accompanied by the resignation
8 of the custodian, the designation of the successor does not take
9 effect until the custodian resigns, dies, becomes incapacitated, or is
10 removed.

11 (c) A custodian may resign at any time by delivering written
12 notice to the minor if the minor has attained the age of 14 years and
13 to the successor custodian and by delivering the custodial property to
14 the successor custodian.

15 (d) If a custodian is ineligible, dies, or becomes incapacitated
16 without having effectively designated a successor and the minor has
17 attained the age of 14 years, the minor may designate as successor
18 custodian, in the manner prescribed in (b) of this section, an adult
19 member of the minor's family, a conservator of the minor, or a trust
20 company. If the minor has not attained the age of 14 years or fails
21 to act within 60 days after the ineligibility, death, or incapacity,
22 the conservator of the minor becomes successor custodian. If the
23 minor has no conservator or the conservator declines to act, the
24 transferor, the legal representative of the transferor or of the
25 custodian, an adult member of the minor's family, or another inter-
26 ested person may petition the court to designate a successor custo-
27 dian.

28 (e) The custodian who declines to serve under (a) of this section
29 or resigns under (c) of this section, or the legal representative of a

1 deceased or incapacitated custodian, as soon as practicable, shall put
2 the custodial property and records in the possession and control of
3 the successor custodian. The successor custodian by action may en-
4 force the obligation to deliver custodial property and records and
5 becomes responsible for each item as received.

6 (f) A transferor, the legal representative of a transferor, an
7 adult member of the minor's family, a guardian of the person of the
8 minor, the conservator of the minor, or the minor if the minor has
9 attained the age of 14 years may petition the court to remove the
10 custodian for cause and to designate a successor custodian other than
11 a transferor under AS 13.46.030 or to require the custodian to give
12 appropriate bond.

13 Sec. 13.46.180. ACCOUNTING BY AND DETERMINATION OF LIABILITY OF
14 CUSTODIAN. (a) A minor who has attained the age of 14 years, the
15 minor's guardian of the person or legal representative, an adult
16 member of the minor's family, a transferor, or a transferor's legal
17 representative may petition the court for

18 (1) an accounting by the custodian or the custodian's legal
19 representative; or

20 (2) a determination of responsibility, as between the
21 custodial property and the custodian personally, for claims against
22 the custodial property unless the responsibility has been adjudicated
23 in an action under AS 13.46.160 to which the minor or the minor's
24 legal representative was a party.

25 (b) A successor custodian may petition the court for an account-
26 ing by the predecessor custodian.

27 (c) The court, in a proceeding under this chapter or in another
28 proceeding, may require or permit the custodian or the custodian's
29 legal representative to account.

1 (d) If a custodian is removed under AS 13.46.170(f), the court
2 shall require an accounting and order delivery of the custodial prop-
3 erty and records to the successor custodian and the execution of all
4 instruments required for transfer of the custodial property.

5 Sec. 13.46.190. TERMINATION OF CUSTODIANSHIP. The custodian
6 shall transfer in an appropriate manner the custodial property to the
7 minor or to the minor's estate upon the earlier of the

8 (1) minor's attainment of 21 years of age with respect to
9 property transferred under AS 13.46.030 or 13.46.040 unless the time
10 of transfer of the custodial property to the minor is changed under
11 AS 13.46.195;

12 (2) minor's attainment of 18 years of age with respect to
13 property transferred under AS 13.46.050 or 13.46.060;

14 (3) time specified in the transfer under AS 13.46.080 if
15 the time of transfer of the custodial property to the minor is changed
16 under AS 13.46.195; or

17 (4) minor's death.

18 Sec. 13.46.195. CHANGING THE TIME FOR TRANSFER OF CUSTODIAL
19 PROPERTY. (a) Subject to the requirements and limitations of this
20 section, the time for transfer to the minor of custodial property
21 transferred under AS 13.46.030 or 13.46.040 may be changed to a spec-
22 ified time other than the time the minor attains the age of 21 years.
23 That time shall be specified in the transfer under AS 13.46.080.

24 (b) To specify a changed time for transfer to the minor of the
25 custodial property under AS 13.46.030 except for the transfer by
26 irrevocable gift, or under AS 13.46.040, the words "as custodian for
27 _____ (name of minor) until age _____ (age for
28 ~~delivery of property to minor)~~ under the Alaska Uniform Transfers to
29 Minors Act" shall be substituted in substance for the words "as

1 custodian for _____ (name of minor) under the
2 Alaska Uniform Transfers to Minors Act" in making the transfer under
3 AS 13.46.080.

4 (c) To specify a changed time for transfer to the minor of the
5 custodial property under AS 13.46.030 by irrevocable gift, the words
6 "as custodian for _____ (name of minor) until age _____
7 (age for delivery of property to minor) under the Alaska Uniform
8 Transfers to Minors Act" or "as custodian for _____ (name of
9 minor) until age _____ (age for delivery of property to minor)
10 under the Alaska Uniform Transfers to Minors Act, subject to the
11 minor's right to compel immediate distribution of the property by
12 giving written notice to the custodian during the six-month period
13 beginning on the minor's 21st birthday" shall be substituted in sub-
14 stance for the words "as custodian for _____ (name of
15 minor) under the Alaska Uniform Transfers to Minors Act" in making the
16 transfer under AS 13.46.080.

17 (d) The time for transfer to the minor of custodial property
18 transferred under AS 13.46.040 may be changed under this section if
19 the governing will or trust or nomination provides in substance that
20 the custodianship is to continue until the time the minor attains a
21 specified age. That time may not be earlier than the time the minor
22 attains 18 years of age or later than the time the minor attains 25
23 years of age, and in that case the governing will or trust or nomina-
24 tion shall determine the time to be specified in the transfer under
25 AS 13.46.080.

26 (e) The time for transfer to the minor of custodial property
27 transferred under AS 13.46.030 may be changed under this section if
28 the transfer under AS 13.46.030 provides in substance that the custo-
29 dianship is to continue until the time the minor attains a specified

1 age. That time may not be earlier than the time the minor attains 18
2 years of age or later than the time the minor attains 25 years of age.

3 (f) If the transfer under AS 13.46.080 does not specify an age,
4 the time for the transfer of the custodial property to the minor under
5 AS 13.46.190 is the time when the minor attains 21 years of age.

6 (g) If the transfer under AS 13.46.080 provides in substance
7 that the duration of the custodianship is for a time longer than the
8 maximum time permitted by this section for that type of transfer, the
9 custodianship may continue until the minor attains the maximum age
10 permitted by this section for that type of transfer.

11 Sec. 13.46.200. APPLICABILITY. This chapter applies to a trans-
12 fer within the scope of AS 13.46.010 made after December 31, 1989, if
13 the

14 (1) transfer purports to have been made under the Alaska
15 Uniform Gifts to Minors Act; or

16 (2) instrument by which the transfer purports to have been
17 made uses in substance the designation "as custodian under the Uniform
18 Gifts to Minors Act" or "as custodian under the Uniform Transfers to
19 Minors Act" of another state, and the application of this chapter is
20 necessary to validate the transfer.

21 Sec. 13.46.210. EFFECT ON EXISTING CUSTODIANSHIPS. (a) A
22 transfer of custodial property as defined in this chapter made before
23 January 1, 1990, is validated notwithstanding that there was not
24 specific authority in the Alaska Uniform Gifts to Minors Act for the
25 coverage of custodial property of that kind or for a transfer from
26 that source at the time the transfer was made.

27 (b) This chapter applies to all transfers that were made before
28 January 1, 1990, and that were made in a manner and form prescribed in
29 the Alaska Uniform Gifts to Minors Act, except insofar as the