

ALASKA LEGISLATURE COMMITTEE FILES 1991-1992 8672
6904 HOUSE JUDICIARY

148

Local Address: P.O. Box 1285, Kotzebue, Alaska 99752

AMERICAN LUNG ASSOCIATION of ALASKA

Dedicated to the prevention and control of lung disease

27 February 1990

Representative Max F. Gruenberg, Jr., Co-Chair
House Judiciary Committee
Alaska State Legislature
P.O. Box V
Juneau, Alaska 99811

Dear Representative Gruenberg:

We have a serious drug problem in Kotzebue that your committee can help us fix. As you may know, tobacco products kill more Americans than all the other recreational drugs combined—nearly 400,000 people die a year from tobacco-related illnesses.

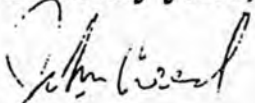
Most Alaskans addicted to nicotine get hooked at an early age, and that is how you can help with your support of HB 141, which would license the sale of tobacco products.

We have a problem in Kotzebue with one store in particular that routinely sells tobacco products to children. While most local store owners are responsible people who do not sell tobacco to children, this one store may be helping to addict a whole new generation of children to nicotine. If that store needed a license to sell tobacco products, the police would have a license to revoke if it broke the law.

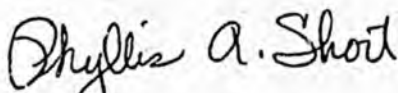
We also support HB 466, which deals with the distribution of tobacco products, as well as SB 222 (and its counterpoint in the House), which would further restrict smoking in public places.

Attitudes have changed dramatically about tobacco use in our society in the past few years. Alaska has always been on the forefront of this movement, and your support of this legislation would demonstrate your commitment to the anti-drug campaign in America. Thank you.

Sincerely yours,



John Creed, Kotzebue Facilitator
American Lung Association of Alaska



Phyllis Short, Board Member, Kotzebue
American Lung Association of Alaska

cc: Walter Hays
Senator Al Adams
Representative Eileen MacLean

KETCHIKAN MEDICAL CLINIC, C.

3612 Tongass
Ketchikan, Alaska 99901

H.J. Henrickson, M.D., F.A.A.F.P.
D.E. Johnson, M.D., F.A.A.P.

Phone 225-5144

February 22, 1990

The Honorable Max Gruenberg
Alaska State Legislature
P.O. Box V (MS 3100)
Juneau, Alaska 99811

Dear Representative Gruenberg:

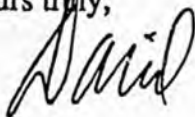
I am writing to follow-up our visit of last week, and to thank you for taking the time to meet with us. I appreciated the candor in our discussions, even when we do not always agree. I am going to send letters on separate issues, so that things not get needlessly complicated for your staff. In this letter I would like to address one of the issues that we did not have the opportunity to discuss, and on which I believe that we have considerable agreement.

I am very appreciative for your efforts in discouraging tobacco use by everyone, particularly by young people. Tobacco is clearly the primary "gateway" drug to other addictions. I am outraged that the tobacco industry can spend two billion dollars a year to recruit the one million new smokers necessary to replace the 350,000 or so who die and the 650,000 or so who quit each year. Sadly, they are recruiting these new tobacco users from those under 20 years old almost exclusively. It is a hard-headed business decision that is worth \$2000 per new smoker to these megacorporations.

The article I have attached is "A Parting Shot at Tobacco" from the past Surgeon General of the USPHS, C. Everett Koop, M.D. His references at the end of the article cite several useful studies. Further, the individual that he cites at the end, Ronald M. Davis, M.D., is an outstanding physician who could provide considerable information on the subject. He is the director of the Office on Smoking and Health at CDC listed on the front page of the article.

Please feel free to contact me personally, or the Alaska State Medical Association, if we can provide any information or assistance. I appreciate your willingness to be out in front on this issue that clearly must be addressed responsibly and well.

Yours truly,



David E. Johnson, M.D.

DEJ:bjh

Enclosure

A Parting Shot at Tobacco

ON SEPTEMBER 13, 1989, I made my last appearance as Surgeon General before the US Congress. I used the occasion to address the one issue with which previous Surgeons General and I have become most closely associated: tobacco and health. In testimony before the Subcommittee on Transportation and Hazardous Substances, Committee on Energy and Commerce, US House of Representatives, I focused my remarks on two topics that this subcommittee had considered in previous hearings: tobacco advertising and children's access to tobacco products. The purpose of this article is to share with a wider audience the comments I made at that hearing.

Tobacco Advertising

The bill introduced by Subcommittee Chairman Thomas A. Luken (D, Ohio), HR 1250, would eliminate all image-based tobacco advertising (allowing only so-called tombstone advertising). On several occasions during my tenure as Surgeon General, I endorsed proposals that would ban all tobacco advertising and promotion. I certainly support the proposal to restrict tobacco advertising as a reasonable compromise, although I would continue to endorse a total advertising ban as a long-term goal.

It is a curious public policy that we, as a society, allow the most important preventable cause of death to be one of the most heavily advertised consumer products. I know that First Amendment concerns have been expressed about tobacco advertising restrictions. Opponents of these restrictions argue that if a product is legal to sell, it should be legal to advertise. That argument, expressed in a different way, says that if Congress wants to ban the advertising of a product, it first has to ban the sale of that product.

I do not believe our Founding Fathers would have endorsed such a narrow and inflexible range of options for Congress to consider. An advertising ban seems to me to be a reasonable middle ground between the status quo and a total prohibition of tobacco use, which no one seriously proposes.

While I am not a legal scholar, I understand that Congress has the clear authority to prohibit *deceptive* advertising.¹ In my opinion, much of today's advertising for tobacco products is deceptive. Many advertisements portray smoking as a safe, if not healthful, activity, and no advertisements disclose many of the serious and extensive health effects of smoking, such as stroke and nicotine addiction.

One of the more outrageous advertisements (for Newport cigarettes) has used, for at least a decade, the slogan "Alive

With Pleasure." This is clearly a message designed to undermine the Surgeon General's warning. If one considers smokers who suffer from lung cancer, emphysema, or stroke caused by smoking, truth in advertising would demand use of the slogan "Dying in Agony" instead of "Alive With Pleasure."

Two advertisements in particular strike me as highly objectionable. An advertisement for Kool cigarettes clearly targets young people; it shows a young-looking couple in teenage attire, with macho antiestablishment facial expressions, standing next to a motorcycle.² A recent Camel advertisement suggests violence against women. It describes and graphically depicts the following "smooth dating move": "Run into the water, grab someone and drag her back to the shore, as if you've saved her from drowning. The more she kicks and screams, the better" (*Washington Post*, July 26, 1989; C1, C10). It is interesting that Philip Morris associates Virginia Slims with women's liberation ("You've Come a Long Way, Baby"), whereas RJ Reynolds, in the Camel advertisement, treats women as if it were still the Age of Dinosaurs.

I also object to the promotional placement of cigarettes in movies, to which Congressman Luken³ has appropriately drawn attention. Cigarette promotions placed in movies such as *Superman II*⁴ expose large numbers of children and adolescents to these messages. When these movies are shown on television, the ban on broadcast cigarette advertising is circumvented.

A Rebuttal to the Advertising Industry

Since release of the 1989 Surgeon General's report, *Reducing the Health Consequences of Smoking: 25 Years of Progress*,⁵ advertising industry trade associations and publications have taken quotations from the report grossly out of context. I would like to cite three examples and then set the record straight.

In a written statement to the Subcommittee on Transportation and Hazardous Substances for its July 25, 1989, hearing, the president of the Point-of-Purchase Advertising Institute argued against tobacco advertising restrictions by quoting from the report⁶:

In the Surgeon General's 1989 Report, it states that "THE MOST DIRECT APPROACH TO ASSESSING THE RELATIONSHIP BETWEEN ADVERTISING AND CIGARETTE CONSUMPTION HAS BEEN TO ASK CHILDREN OR ADULTS ABOUT FACTORS THAT INFLUENCED THEM TO SMOKE. THESE STUDIES TYPICALLY FIND THAT ADVERTISING IS RANKED QUITE LOW ON THE LIST OF RELEVANT FACTORS [capitalization added by the Point-of-Purchase Advertising Institute]."

The witness conveniently omitted the next three sentences, which are as follows⁷:

Dr Koop recently left his position as Surgeon General of the US Public Health Service, Department of Health and Human Services. He now resides in Bethesda, Md. Reprint requests to the Director, Office on Smoking and Health, Centers for Disease Control, Park Bldg, Room 1-10, 5600 Fishers Ln, Rockville, MD 20857.

Marketing experts have questioned the validity of this approach because conscious response to advertising is deemed to be a poor index of actual response (Bergler 1981; Chapman 1986). As such, studies with a similar method and opposite findings also offer little insight into the actual effects of advertising. An example is a study by Fisher and Magnus (1981), which found that most children believe that cigarette ads encourage children to smoke.

Also in written testimony submitted to the subcommittee for the July hearing, the American Advertising Federation stated:

Even the Surgeon General's 1989 report, "Reducing the Health Consequences of Smoking," admits, "There is no scientifically rigorous study available to the public that provides a definitive answer to the basic question of whether advertising and promotion increase the level of tobacco consumption."

Similarly, an article in *Advertising Age* (January 16, 1989) quoted the report as follows: "The extent of influence of advertising and promotion on the level of consumption is unknown and possibly unknowable," the report said."

The entire excerpt, including these statements taken out of context, is as follows (omitted portions italicized)^(pp:4-17):

There is no scientifically rigorous study available to the public that provides a definitive answer to the basic question of whether advertising and promotion increase the level of tobacco consumption. *Given the complexity of the issue, none is likely to be forthcoming in the foreseeable future. The most comprehensive review of both the direct and indirect mechanisms [whereby advertising may affect consumption] concluded that the collective empirical, experiential, and logical evidence makes it more likely than not that advertising and promotional activities do stimulate cigarette consumption. However, that analysis also concluded that the extent of influence of advertising and promotion on the level of consumption is unknown and possibly unknowable (Warner 1986b).*

The major point being made in this paragraph of the report is that a perfectly designed study to prove that cigarette advertising increases cigarette consumption will probably never be performed because of the complexity of this issue. I would emphasize that absolute scientific proof is rarely available when studying human behavior. Humans do not behave like the laws of physics. In medicine and in public health, we rarely await, and we would be foolish to await, definitive proof before taking appropriate action.

In the 1850s, John Snow ended an epidemic of cholera in London by removing the handle of the Broad Street pump, 30 years before the bacterium that causes cholera was first identified. Fortunately, there was no Cholera Institute that lobbied against removal of the pump handle until it could be proved that the water from that pump was causing cholera.

In my opinion, the burden of proof should be on the tobacco and advertising industries to show that advertising does not increase cigarette consumption. In the absence of such evidence, advertising should not be allowed. This shifting of the burden of proof would represent prudent public health policy for a product that kills 390 000 Americans each year, *when used exactly as intended.*

Children's Access to Tobacco Products

In May 1988, I released the Surgeon General's report, *The Health Consequences of Smoking: Nicotine Addiction.*⁴ In the preface to that report, I raised a number of important policy questions concerning the sale and distribution of tobacco products^{5,6}:

We as citizens, in concert with our elected officials, civic leaders, and public health officers, should establish appropriate public policies for how tobacco products are sold and distributed in our society. With the evidence that tobacco is addicting, is it appropriate for tobacco products to be sold through vending machines, which are easily accessible to children? Is it appropriate for free samples of tobacco products to be sent through the mail or distributed on public property, where verification of age is difficult if not impossible? Should the sale of tobacco be treated less seriously than the sale of alcoholic beverages, for which a specific license is required (and revoked for repeated sales to minors)?

My answer to each of these three questions is "No." There is no logical reason why we should have a double standard for controlling the sale of tobacco and alcohol, the two major legal addicting drugs used in our society. Would we tolerate the sale of alcoholic beverages through vending machines? Would we allow free samples of alcoholic beverages to be sent through the mail or passed out on public property? Of course not. Why, then, should we be so permissive with the sale of tobacco, when 43 states have laws that prohibit the sale of tobacco to minors?

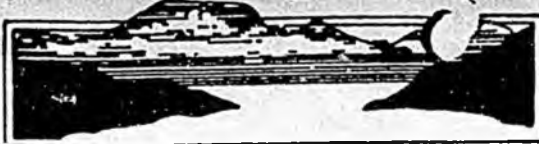
The issue of whether it is appropriate to sell tobacco products through vending machines is important for two reasons. First, vending machines are a powerful symbol that we do not take seriously the problem of cigarette sales to minors. Second, they allow children to have easy access to cigarettes. At the subcommittee's July 1989 hearing, a representative of the National Automatic Merchandising Association testified that, "About 8 out of 10 cigarette vending machines are located where teenagers are not allowed or rarely frequent." Even if true—and I am not convinced it is—this is a poor argument against banning vending machine sales of cigarettes. Even 20% of the 374 000 cigarette vending machines in the United States (National Automatic Merchandising Association estimate) represents a huge number of sites (75 000) from which teenagers can readily obtain cigarettes . . . illegally.

I agree with past statements by the Department of Health and Human Services that controlling the sale of tobacco to minors is a potentially effective strategy to prevent the initiation of tobacco use among young people. It is disappointing that states have made so little effort to enforce existing laws banning the sale of tobacco to minors. As long as states take no action to enforce these laws, I support federal efforts to prevent the sale of tobacco to minors.

C. Everett Koop, MD, ScD

I gratefully acknowledge Ronald M. Davis, MD, for his assistance in the preparation of this statement.

1. Blaai V, Monaghan HP. The first amendment and cigarette advertising. *JAMA*. 1986;256:502-509.
2. Davis RM. Current cigarette advertising trends in the United States. In: Aoki M, Hisamichi S, Tomiyaga S, eds. *Smoking and Health 1987: Proceedings of the 6th World Conference on Smoking and Health, Tokyo, 9-12 November 1987*. New York, NY: Excerpta Medica; 1988:435-440.
3. Luken TA. Luken seeks criminal probe by Department of Justice of cigarette advertising in new James Bond movie and other films. Press release, March 20, 1989, Congressman Thomas A. Luken, US House of Representatives, Washington, DC.
4. Magnus P. Superman and the Marlboro woman: the lungs of Lois Lane. *NY State J Med* 1985;85:342-343.
5. *Reducing the Health Consequences of Smoking: 25 Years of Progress*. Rockville, Md: Centers for Disease Control, Office on Smoking and Health; 1989. A report of the Surgeon General, DHHS publication (CDC) 89-8411.
6. *The Health Consequences of Smoking: Nicotine Addiction*. Rockville, Md: Centers for Disease Control, Office on Smoking and Health; 1988. A report of the Surgeon General, DHHS publication (CDC) 88-8406.



SITKA MEDICAL CENTER

700 KATLIAN STREET, SUITE E • SITKA, ALASKA 99835 • (907) 747-5861
AFTER HOURS (907) 747-3241

February 7, 1990

Representative Max F. Gruenberg, Jr.
Alaska State Legislature
P. O. Box V (MS 3100)
Juneau, AK 99811

Dear Representative Gruenberg:

Thank you for introducing House Bill 466 prohibiting the distribution of free samples of cigarettes, cigars, snuff, and other tobacco products in Alaska. As a physician I am well aware of the detrimental health effects of tobacco products. Passage of your bill will lend a hand in the battle improving the health of all Alaskans.

Sincerely yours,

Donald R. Lehmann, M.D., A.B.F.P.

DRL:bj

~~RODNEY K. VAUGHN, M.D.~~
FAMILY PRACTICE

ROBERT C. HUNTER, M.D.
INTERNAL MEDICINE
GENERAL PRACTICE

DONALD R. LEHMANN, M.D.
FAMILY PRACTICE

AMERICAN  LUNG ASSOCIATION of ALASKA
Dedicated to the prevention and control of lung disease

DATE: FEBRUARY 27, 1990

TO: MEMBERS OF THE HOUSE JUDICIARY COMMITTEE
ALASKA STATE LEGISLATURE

FROM: WALTER L. HAYS, EXECUTIVE DIRECTOR 
AMERICAN LUNG ASSOCIATION OF ALASKA

RE: HB 466

I am writing in support of HB 466 currently under review by your committee.

There is an increasing awareness in our society about the health hazards of tobacco use. The National report by former Surgeon General Koop that categorically defines tobacco as an addictive substance, the recent federal bill that bans smoking on 99% of all domestic airlines flights and the recent statements by Health and Welfare Secretary Sullivan regarding the target marketing of tobacco products to specific populations are all indications of the growing public awareness of the issues related to smoking and health.

The prohibition of the distribution of most tobacco samples would be a positive step forward for Alaska. Currently, Minnesota and Utah have enacted such laws. Similar legislation has been introduced in New York and Washington. In 1989, Nebraska banned the distribution of smokeless tobacco products.

Additionally, sixteen (16) major metropolitan areas have laws restricting the distribution of tobacco product samples. These cities include: Austin, Texas; Cambridge, Mass; Cincinnati, Ohio; Atlanta, Georgia; Amherst, Mass; and St. Paul, Minn.

The simple documented fact is that access does impact consumption. We have current report of rural Alaskan communities where 60-70% of older teens are regular smokers.

This act will be a positive step forward for all Alaskans in the regulation of an addictive and potential harmful product and the promotion of better community health.

Gruenberg

STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

March 2, 1990

The Hon. Max Gruenberg
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

STEVE COWPER, GOVERNOR

REPLY TO:

- 1031 W 4th AVENUE SUITE 200
ANCHORAGE, ALASKA 99501-1994
PHONE: (907) 276-3550
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- 1st NATIONAL CENTER
100 CUSHMAN ST. SUITE 400
FAIRBANKS, ALASKA 99701-4679
PHONE: (907) 452-1568
FAX: (907) 456-1317
- P.O. BOX K—STATE CAPITOL
JUNEAU, ALASKA 99811-0300
PHONE: (907) 465-3600
FAX: (907) 463-5295

Re: HB 466 -- (prohibition on the
free distribution or sampling
of tobacco products)

Dear Representative Gruenberg:

You have asked us if the state is preempted by federal law from enacting a prohibition on the free distribution or sampling of tobacco products. There is a prohibition against providing free tobacco in HB 466.

Because of the short period of time in which our response has been requested, we have not done an extensive analysis of this issue. However, our initial review leads us to believe that while it may be a close question, there is a legitimate argument that the state is not preempted by federal law from enacting a prohibition against the free distribution or sampling of tobacco products.

Under the supremacy clause of the United States Constitution, Article VI, cl. 2, Congress can pass laws that will completely govern an area, thus preempting any state action in that area. However, in determining whether state action is preempted in any particular area we must analyze whether there is an actual conflict between state and federal legislation and whether there was an intent behind the federal legislation to preclude state action. See Florida Lime & Avocado Growers v. Paul, 373 U.S. 132 (1962).

House Bill 466 states (with certain exceptions for tobacco stores and trade conventions), "A person may not provide tobacco to another person without charge or for a nominal fee, for the purpose of promoting retail sales." HB 466, p. 1, lines 23-25. Federal statute provides that "no requirement or prohibition based on smoking and health shall be imposed under State law with respect to the advertising or promotion of any cigarettes [when the packages are properly labelled]." 15 U.S.C.A. 1334(b) (1970).

The key question is whether or not giving away tobacco is "advertising or promotion." While giving away tobacco could be considered part of a promotional scheme, it is not "advertising" in the traditional sense. Furthermore, under 15 U.S.C.A. 1332(6) (1970), Congress defined the term "sale or distribution" as "including sampling or any other distribution not for sale." If Congress had meant to preempt state action in this area it arguably would have used the same terms ("sale or distribution") in 15 U.S.C.A. 1334(b) and would have clearly stated that states cannot interfere with the sale or distribution of tobacco. By not doing so, even though Congress has obviously taken action in this field, states do not appear to be explicitly forbidden from enacting legislation limiting the distribution of tobacco.

This analysis is further supported by the rule of statutory construction that states:

Where one statute deals with a subject in general terms, and another deals with a part of the same subject in a more detailed way, the two should be harmonized if possible; but if there is any conflict, the latter will prevail, regardless of whether it was passed prior to the general statute, unless it appears that the legislature intended to make the general act controlling.

2A C. Sands, Sutherland Statutory Construction 51.05, at 315 (4th ed. 1973) (footnotes omitted), cited in State v. Green, 586 P.2d 595, 602 (Alaska 1978).

House Bill 466 and federal law can be read in harmony with one another. Promotion is a general term, and does not necessarily cover the distribution of an item. Furthermore, even if the two laws did conflict, prohibiting the distribution of tobacco could be found to simply specify in a "more detailed manner" something that is not allowed under the general ambit of "promotion."

Finally, Congress's statement of intent in 15 U.S.C.A. 1331 does not specifically preclude states from limiting distribution of tobacco. Rather, it precludes the states from enacting "diverse, nonuniform, and confusing cigarette labeling and advertising regulations with respect to any relationship between smoking and health." Id. At least three other states have enacted statutes similar to the one proposed by HB 466. As we have noted,

The Hon. Max Gruenberg
Alaska State Legislature

March 2, 1990
Page 3

although it may be a close issue, we believe the better view is that states are not automatically preempted from enacting a restriction on the free distribution of tobacco.

Sincerely yours,

DOUGLAS B. BAILY
ATTORNEY GENERAL

By: _____

Elizabeth J. Kerttula

Elizabeth J. Kerttula
Assistant Attorney General

EJK:jf

POSITION PAPER
CS HB 466

"An Act relating to tobacco."

BACKGROUND

This bill would prevent tobacco sampling, restrict the availability of tobacco samples, and place limits on methods of distributing tobacco. It defines, as a violation, the distribution of tobacco to any person without charge or at nominal cost for the purpose of promoting retail tobacco sales, with some exceptions involving sales of tobacco to adults, or at promotional conventions and trade shows not open to the public.

ANALYSIS

The following statistical and research data was obtained from two principle sources: a 1989 report of the Surgeon General to Congress, "Reducing the Health Consequences of Smoking, 25 Years of Progress" (SGR), and a report dated February 20, 1990 to Congress by the Center for Disease Control's Office on Smoking and Health, "Smoking and Health, A National Status Report, 2nd Edition" (OSH).

Limiting access to tobacco is an important public health measure for the following reasons:

1. Tobacco use has clearly been shown to cause, or increase the risk of, some of the leading causes of mortality in the United States, including cancer, heart disease and stroke. In fact, smoking causes more premature deaths than cocaine, heroine, alcohol, fire, automobile accidents, homicide, and suicide combined (OSH).
2. Smoking is an especially serious health problem in Alaska, which has the highest rate of both smoking and lung cancer mortality in the country. The OSH report states, based on 1985 data, that while the national smoking prevalence rate is 26.5%, in Alaska the rate for persons over 20 is 43.4% for males, and 28.9% for females. A recent survey of Alaska adolescents' health-related behavior suggests that smoking prevalence in this group may be much higher, particularly in rural areas. The OSH report states

that the direct and indirect costs of smoking-related adverse health effects to Alaska residents is \$82.3 million annually, and that the smoking-attributable years of potential life lost for Alaskans is 4,762 years.

3. Availability and price effect tobacco use, especially with young people. Virtually all adult smokers began using tobacco before age 20. Research indicates that if persons do not begin smoking by age 20 they rarely do so later. Those who begin smoking early in life have more trouble quitting, smoke more heavily, and have a higher risk of developing smoking related disease. Delaying the onset of smoking behavior, by prohibiting sampling, will likely have the effect of reducing both the incidence of new smokers and the prevalence of smoking and the associated adverse health effects.
4. The Surgeon General's report states that retailers are the primary source of tobacco used by minors. Vending machines and free samples are both cited as sources of tobacco for the youngest children, possibly due to refusal by retailers to sell to them directly because of statutory restrictions. Therefore, this bill may be particularly effective in preventing tobacco use by this group, which is arguably the least able to make informed judgements about using tobacco and is at the greatest risk for adverse health effects if they begin using tobacco.

The right of states to restrict tobacco use has a long legal history in the United States, dating to a Supreme Court decision in 1900. In general, the federal government has not restricted the distribution of tobacco, leaving this to the states (SGR). Twelve (12) states and at least 12 municipalities have laws restricting the distribution of samples of tobacco products.

Free sampling of tobacco products is an inappropriately aggressive marketing tactic because tobacco is an extremely harmful and addictive drug.

The likely effect of this bill would be to discourage tobacco use. In particular, it would tend to prevent people

from beginning to smoke, or limit the amount they smoke, by limiting their access to free tobacco samples.

POSITION

The Department of Health and Social Services strongly supports this bill.

Recommended by: Jay Lewis for
Sally Mead, Coordinator
Office of Prevention

Date: 3/16/90

Approved by: Myra M. Munson
Myra M. Munson, Commissioner
Department of Health and
Social Services

Date: 3/19/90

Tanana Chiefs Conference, Inc.

122 First Avenue
Fairbanks, Alaska 99701-4897
(907) 452-8251
Fax (907) 451-8936

March 29, 1990

Representative Ben Grussendorf
Chairman, Rules Committee
Alaska State Legislature
P.O. Box V (MS 3100)
Juneau AK 99811

Dear Chairman Grussendorf:

Tanana Chiefs Conference, Inc. (TCC) supports HB 466, a bill prohibiting distribution of free tobacco samples.

We are all aware of the health effects of tobacco consumption. There exists a need to restrict free distribution of these products especially to young people. The tobacco industry depends on young people as the new generation of addicts. Studies show 18% to 21% of all high school students are smokers. Teenagers spend over one billion dollars a year on tobacco. It is much more difficult to start smoking as an adult than it is to start as a young teenager.

The tobacco industry aims much of their marketing techniques at the teenager population - it is their guarantee that a steady stream of customers are insured. A large amount of the marketing monies are used to give away free samples. These samples are given away at sporting and music events, events that are often frequented by young people. Distribution of free samples makes it much easier for our youth and others to pick up that cigarette for the first time and smoke.

Tanana Chiefs wants to make it difficult to learn to smoke by supporting legislation that prohibits this activity, that prohibits smoking in educational and health facilities, that increases taxes on tobacco products, and to penalize those entrepreneurs who sell tobacco products to our youth.

COPY

Your Committee is the last Committee to review this bill in the House. Your earliest consideration to scheduling this bill would be much appreciated. Thank you.

Sincerely,

TANANA CHIEFS CONFERENCE, INC.

Michael Graf

Michael Graf, Director
Community Health Services

LAC/de

cc: House Rules Committee Members

STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

March 2, 1990

The Hon. Max Gruenberg
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

STEVE COWPER, GOVERNOR

REPLY TO:

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PHONE: (907) 276-3550
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- 1st NATIONAL CENTER
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The key question is whether or not giving away tobacco is "advertising or promotion." While giving away tobacco could be considered part of a promotional scheme, it is not "advertising" in the traditional sense. Furthermore, under 15 U.S.C.A. 1332(6) (1970), Congress defined the term "sale or distribution" as "including sampling or any other distribution not for sale." If Congress had meant to preempt state action in this area it arguably would have used the same terms ("sale or distribution") in 15 U.S.C.A. 1334(b) and would have clearly stated that states cannot interfere with the sale or distribution of tobacco. By not doing so, even though Congress has obviously taken action in this field, states do not appear to be explicitly forbidden from enacting legislation limiting the distribution of tobacco.

This analysis is further supported by the rule of statutory construction that states:

Where one statute deals with a subject in general terms, and another deals with a part of the same subject in a more detailed way, the two should be harmonized if possible; but if there is any conflict, the latter will prevail, regardless of whether it was passed prior to the general statute, unless it appears that the legislature intended to make the general act controlling.

2A C. Sands, Sutherland Statutory Construction 51.05, at 315 (4th ed. 1973) (footnotes omitted), cited in State v. Green, 586 P.2d 595, 602 (Alaska 1978).

House Bill 466 and federal law can be read in harmony with one another. Promotion is a general term, and does not necessarily cover the distribution of an item. Furthermore, even if the two laws did conflict, prohibiting the distribution of tobacco could be found to simply specify in a "more detailed manner" something that is not allowed under the general ambit of "promotion."

Finally, Congress's statement of intent in 15 U.S.C.A. 1331 does not specifically preclude states from limiting distribution of tobacco. Rather, it precludes the states from enacting "diverse, nonuniform, and confusing cigarette labeling and advertising regulations with respect to any relationship between smoking and health." Id. At least three other states have enacted statutes similar to the one proposed by HB 466. As we have noted,

The Hon. Max Gruenberg
Alaska State Legislature

March 2, 1990
Page 3

although it may be a close issue, we believe the better view is that states are not automatically preempted from enacting a restriction on the free distribution of tobacco.

Sincerely yours,

DOUGLAS B. BAILY
ATTORNEY GENERAL

By: _____

Elizabeth J. Kerttula

Elizabeth J. Kerttula
Assistant Attorney General

EJK:jf

Anchorage Daily News

Gerald E. Grilly
Publisher



Howard Weaver
Editor

Michael Carry, Editorial Page Editor

Patrick Dougherty, Managing Editor

Katherine Fanning, Editor and Publisher 1971 to 1983
Lawrence Fanning, Editor and Publisher 1967 to 1971

Founded in 1948 by Norman C. Brown

12-18-90

No smoking

Industry message to kids isn't enough

Pardon us if we're not bowled over by the Tobacco Institute's promise it'll launch a campaign to discourage underage children from smoking.

It's not that we question the industry's motives. Cynics might say the campaign is just a cheap way to spruce up the industry's image and head off calls for higher tobacco taxes and tighter restrictions on tobacco ads, sales and use. If you were really cynical, you might even worry that the campaign could increase appeal of smoking among more rebellious youth, by highlighting the idea that it's an adults-only activity.

But we'll give the industry the benefit of the doubt. It's probably sincere in wanting to discourage kids from starting smoking — when they're kids. The tobacco industry would probably be just as happy if kids wait to start smoking as soon as they're grown up.

We just wonder how effective the new campaign can possibly be. The industry already spends billions of dollars a year on ads that make smoking look like a glamorous, danger-free pastime. Any "Don't smoke" ads aimed at youth will have as much effect as going down to the beach and hollering at a hurricane to stop.

So let's not rely on the Tobacco Institute's modest campaign to do the job alone. Some steps Alaska has taken offer a good blueprint for other states and Congress:

Raise the smoking age to 19. Make vendors keep cigarette machines in places off limits to kids. Raise cigarette taxes enough to discourage young users.

Other steps would help, too. Free samples should be banned. Tobacco is powerfully addictive. If people are going to risk getting hooked, they should have to put their own money on the line.

Tobacco vendors should be licensed. If they habitually sell to minors, they should have their licenses yanked, just as offending liquor outlets do.

And then there's the matter of neutralizing the industry's relentless parade of pro-smoking ads. California offers a novel approach. It devotes a sizable chunk of cigarette tax proceeds to a no-holds-barred ad campaign that portrays smoking in all its disgusting, deathly glory.

If our society took all these steps, it would really send kids a message. It would tell them we're serious

H B

I 6

HOUSE COMMITTEE REPORT

(7) Date Referred: February 8, 1991 FURTHER REFERRALS: Finance

Date of Committee Action: 3-25-91

The JUDICIARY Committee considered: HB 16

HOUSE BILL NO. 16 PARIMUTUEL RACING/AK RACING COMMISSION

"An Act establishing the Alaska Racing Commission and authorizing parimutuel wagering at sanctioned events; and providing for an effective date."

RECOMMENDATIONS:
 be replaced with CS HB 16 (JUD) the same title
 a new title
 have attached amendments(s)
 do pass
 do not pass
 no recommendations
 individual recommendations
 additional referral to the _____ Committee

ADOPTS: _____ letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) _____ APPROVES PREVIOUS: (Dept/Date) _____
 fiscal impact _____ 3 fiscal note(s) DOPS 2-8-91, Dept Law 2-8-91
 zero fiscal note _____ COMM 3 economic 2-8-91
 zero fiscal note(s) _____

SIGNING DO PASS:

SIGNING OTHER RECOMMENDATIONS:

	Check appropriate column:	Do Not Pass	No Rec	Amend
<i>[Signature]</i>	<i>Terry Martin</i>		<input checked="" type="checkbox"/>	
	<i>Mark Handley</i>		<input checked="" type="checkbox"/>	
	<i>Dave Doolley</i>		<input checked="" type="checkbox"/>	
	<i>John Ellis</i>		<input checked="" type="checkbox"/>	
	<i>Kevin P. Parnell</i>	<input checked="" type="checkbox"/>		
	<i>Mike Miller</i>		<input checked="" type="checkbox"/>	

[Signature]
 Chairman's Signature



Alaska State Legislature

Official Business

HK
F91

P.O. Box V
State Capitol
Juneau, Alaska 99811

MEMORANDUM

February 6, 1991

TO: Representative Dave Donley, Chairman
House Judiciary Committee

FROM: Representative Ronald L. Larson *R.L.*

SUBJECT: HB16, Alaska Racing Commission

I would like to request a hearing on HB16, an Act establishing the Alaska Racing Commission and authorizing parimutuel wagering, at your earliest possible convenience. The bill has been referred to you from the House Labor & Commerce Committee.

Should you have any questions, please don't hesitate to contact me at my office number (465-3727). My staff person on this legislation is John Bitney.

Thank you.

HOUSE COMMITTEE REPORT

2-8-91

(7)
Date Referred: January 21, 1991

FURTHER REFERRALS:

Judiciary
Finance

Date of Committee Action: 2/5/91

The LABOR AND COMMERCE Committee considered:

HB 16

HOUSE BILL NO. 16

PARIMUTUEL RACING/AK RACING COMMISSION

"An Act establishing the Alaska Racing Commission and authorizing parimutuel wagering at sanctioned events; and providing for an effective date."

RECOMMENDATIONS:
be replaced with CS HB 16 (Labor and Commerce) the same title
 a new title
 have attached amendments(s)
 do pass
 do not pass
 no recommendations
 individual recommendations
 additional referral to the _____ Committee

ADOPTS: _____ letter of Intent

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

(3) fiscal impact Public Safety, Law, Commerce + Economic Development fiscal note(s) _____
 zero fiscal note _____ zero fiscal note(s) _____

SIGNING DO PASS:

SIGNING OTHER RECOMMENDATIONS:

		Check appropriate column:	Do Not Pass	No Rec	Amend
	<i>David Funkh</i>				
	<i>Dave Donley</i> → Dave Donley			X	
	<i>Pat Parnell</i> → Pat Parnell		✓		
(Juan)	<i>Ivan Ivan</i> → Ivan Ivan		✓		
	<i>Jim Zwack</i>				
	<i>Richard Taylor</i>				
(Juckman)	<i>Betty Brunson</i>				

[Signature]
Chairman's Signature FINKELSTEIN

DIVISION OF LEGAL SERVICES

LEGISLATIVE AFFAIRS AGENCY STATE OF ALASKA

P.O. Box Y, Juneau, Alaska 99811
(907) 465-3867 or 465-2450
FAX (907) 465-2029

Deliveries to: 240 Main Street
Court Plaza, Room 500
Mail Stop 3101

MEMORANDUM

March 18, 1991

SUBJECT: Confirmation of Alaska Racing Commission members (CSHB 16())

TO: Representative Dave Donley, Chair
House Judiciary Committee
Attn: Hayden Kaden

FROM: John B. Gaguine *JBG*
Legislative Counsel

You have asked some questions regarding the members of the Alaska Racing Commission that would be created by CSHB 16(). This memorandum will address those questions.

1. If legislation creating the commission is enacted, would those members be subject to confirmation by the legislature under Article III, Section 26 of the Alaska constitution? Yes. The commission would clearly be a regulatory agency under that section.
2. Does that section of the constitution require the law creating the Alaska Racing Commission to provide for legislative confirmation? No. The section is self-executing; it does not require legislation to put it into effect. The law would be read as though it included the confirmation language.

It could be argued that the failure of a law to include the confirmation language meant that the legislature had waived its right to confirm. I do not think that this argument would convince a court, because the language of Article III, Section 26 is mandatory; members of regulatory agencies shall be subject to confirmation. I do not think that the legislature may waive confirmation any more than it could waive the three-reading requirement or the single-subject rule. However, it certainly would be a good idea to include the confirmation language in CSHB 16().

3. If a bill either included a confirmation requirement when one was not constitutionally allowed, or failed to include one when it had to be included, would that invalidate the entire bill? No. As to the first situation, inclusion of an unconstitutional provision in a bill does not invalidate the entire bill unless the court concludes that

Representative Dave Donley

March 18, 1991

Page 2

the legislature would not have enacted the bill without the unconstitutional provision. It would seem wholly unreasonable here to say that the legislature would not have enacted CSHB 16() if it could not confirm Alaska Racing Commission members. See also AS 01.10.030 (establishing a presumption of severability, although one labeled "weak" by the Alaska Supreme Courts). As to the second situation, I believe that the court would apply the rule that a statute will be upheld if it can be construed in a constitutional manner. As noted above, I think that that means that the court would read a confirmation requirement into the bill even if the bill did not include one.

I hope that this has been helpful to you. Please feel free to contact me if I can be of further assistance.

JBG:gc

91-151.glc

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Notarized: _____
State of Alaska
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Parimutuel Wagering

HB 16

Establishing the Alaska Racing Commission and Authorizing Parimutuel Wagering

Representative Ronald Larson

QUESTIONS ABOUT HB16 AND PARIMUTUEL WAGERING

What is parimutuel wagering?

Parimutuel wagering is a system of betting which dates back to the mid 1800's. This type of wagering differs from typical gambling by virtue of the fact that the odds are not arbitrary. Parimutuel wagering occurs when all collective bettors pool their wagers together. The total amount wagered versus the individual bets determines the amount which is divided among the winners.

Where has support been shown for parimutuel wagering?

Both the cities of Palmer and Wasilla had an advisory proposition placed on the ballot in the 1986 municipal election concerning parimutuel wagering. (please see attachments)

The results in Palmer were 62% in favor of the concept of local option parimutuel horse racing. The results in Wasilla were 63% in favor. Also, the Matanuska-Susitna Borough passed a resolution of support for local option parimutuel wagering.

What are some benefits of parimutuel wagering?

The most obvious benefit would be the generation of the racing business itself by the private sector. Infrastructure, such as breeding, training, and racing facilities will be an incentive for the construction industry. Additionally, racing will create a destination and accompanying services for tourism activities. This business can also add an entertainment feature at events such as our state fairs.

How is parimutuel wagering different from other games of chance and skill?

Oversight and regulation is much greater. The complexities of the wagering system and accompanying safeguards were built into it purposefully.

The most important thing about this type of racing is the controlled conditions which will guarantee the integrity of the race. Sophisticated racing equipment would be rented from outside; this is very normal procedure elsewhere, where racing is on a similarly small scale.

HB 16 legislates parimutuel guidelines which will disallow abuse. The regulatory nature of the Commission coupled with the required equipment enhance the parimutuel system to offset tampering and ensure security.

What time frames are envisioned for development?

After the local endorsement of the voters, preparation time could be six months to several years, depending on the level of development. A racing season would be for approximately 10 weeks, with both the Alaska and Tanana Fairs as the more probably exhibitions.

Parimutuel professionals tell us that an average scenario would include typically eight races a day, with eight entries per field. Estimates indicate that 270 animals would be required for a successful start up.

What are the fiscal implications for parimutuel wagering?

Our expectation for the fiscal note is relatively small, based on the assumption of a 10 week season. The Commission will be providing the initial professional expertise in the preparation of regulations, public hearings, and paperwork. Based on the development of races and facilities, the staffing requirements would follow the same growth curve.

What is the role of the Alaska Racing Commission?

The Commission will regulate racing and parimutuel wagering. Their wide range of regulatory responsibilities are outlined clearly in the bill, including their specific enforcement powers regarding prohibited acts and penalties.

The Commission shall adopt regulations; appoint officials; supervise and distribute the pool; ascertain standards for veterinarians, equipment, audits, and other related matters; license races; inspect racetracks and animals; establish dates, durations, locations, fees; account for all records, collections and disbursements; hire staff; compel witnesses; and appoint hearing officers.

Who is a "typical participant" in parimutuel wagering?

Studies have shown that participants are generally white collar workers with one or more years of higher education and an income of \$35,000 or more.

Is parimutuel allowed in other states?

Currently 37 states allow parimutuel wagering for either horse racing, dog racing, or both.

FISCAL NOTE

STATE OF ALASKA
1991 LEGISLATIVE SESSION

BILL NO. HB 16

Revision Date: _____
Title: "An Act establishing the Alaska Racing Commission and...etc..."
Sponsor: Rep. Larson
Requestor: House Labor & Commerce

Department Affected: Public Safety
BRU: Alaska State Troopers
Component: Criminal Investigation Bureau

COMPONENT SERIAL NO.

	8	3	0
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EXPENDITURES/REVENUES: (Thousands of Dollars) (Inflation not Included)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES	35.8	35.8	35.8	35.8	35.8	35.8
TRAVEL						
CONTRACTUAL	5.0	5.0	5.0	5.0	5.0	5.0
SUPPLIES	2.0	2.0	2.0	2.0	2.0	2.0
EQUIPMENT	10.0					
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	52.8	42.8	42.8	42.8	42.8	42.8

CAPITAL						
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REVENUE						
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FUNDING: (Thousands of Dollars)

GENERAL FUND	52.8	42.8	42.8	42.8	42.8	42.8
FEDERAL FUNDS						
OTHER/PROG RCPT						
TOTAL						

POSITIONS:

FULL-TIME	1	1	1	1	1	1
PART-TIME						
TEMPORARY						

Estimate of current year impact _____

ANALYSIS: (Attach a separate page if necessary)
The estimated 235 investigations will be primarily of an administrative nature and are not anticipated to require more than oversight of a Clerk III by State Trooper personnel. First year equipment costs include the cost for a word processor/microcomputer and office furniture.

Prepared by: Francis C. Allan Phone: 269-5691
Division: Alaska State Troopers Date: January 29, 1991
Approved by Commissioner: *Richard L. Burton* Richard L. Burton
Agency: Department of Public Safety Date: January 30, 1991

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

Determining if a person has ever been CHARGED, as required by the amendment under Sec. 2. AS 18.65.080(b), with a crime as set out in AS 05.45.010 (c) entails investigative work beyond solely running a Criminal History Record Information (CHRI) inquiry through the state and federal computer systems. Because criminal charges may be brought against a person without the normal arrest procedures occurring (including fingerprinting for records and identification purposes), it will be necessary to communicate directly with those law enforcement agencies where the persons identified in AS 18.65.080(b)(1)-(4) may have resided during their adult lives. This is necessary to ensure, to the fullest extent possible, that the criminal backgrounds of those who were CHARGED but never arrested and convicted are reported as required by the language of this bill.

This procedure would be handled by requiring that each applicant submit a personal history statement to the Department of Public Safety which listed all of the places in which they had lived as an adult. Letters of inquiry would then be sent to the appropriate law enforcement agencies in that locale requesting information about any crimes CHARGED as specified in this bill. It is anticipated that this function would be handled by clerical staff. It should be noted that this procedure will be extremely slow in receiving data back from these agencies as such inquiries are generally not considered an important priority. Delays of 60 to 90 days or more should be anticipated.

Because the proposed activities described in this bill address events and activities not presently occurring in Alaska, there is little or no hard data available on which to base the estimate of the numbers of inquiries which would have to be made. The bill itself identifies the following groups of persons on whom background checks must be made. With the exception of the Commissioners, all numbers are estimates:

1. Commissioners (5)
2. Race meet operators (5)
3. Animal owners (20)
4. Trainers (20)
5. Jockeys (10)
6. Drivers (10)
7. Attendants (20)
8. Grooms (20)
9. Stable persons (20)
10. Veterinarians (5)
11. Concessionaires (20)
12. Concessionaire employees (60)
13. Other employees of race meet operator (20)

This is a total of 235 prospective applicants who must be processed under AS 18.65.080. It is expected that a minimum of five mailings per applicant will be required which means that approximately 1200 inquiries will be processed. Along with the correspondence there will be an attendant responsibility to manage the files and create reports to the Commission on each of the applicants.

FISCAL NOTE

STATE OF ALASKA
1991 LEGISLATIVE SESSION

BILL NO.

Revision Date: _____ Department Affected: Department of Law
 Title: "An Act establishing the Alaska Racing Commission." BRU: Legal Services
 Component: Operations
 Sponsor: Representative Larson
 Requestor: House Labor and Commerce COMPONENT SERIAL NO.

		9	3
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Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL		100.0				
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		100.0				

CAPITAL						
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REVENUE						
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FUNDING: (Thousands of Dollars)

GENERAL FUND		100.0				
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME		-0-				
PART-TIME						
TEMPORARY						

Estimate of current year impact: _____

ANALYSIS: (Attach a separate page if necessary.)

Please see the attached analysis.

Prepared By: Richard I. Pegues, Director Phone: 465-3672
 Division: Administrative Services Date: January 30, 1991
 Approved by Commissioner: Richard I. Pegues/AGC/
Charles E. Cole, Attorney General
 Agency: Department of Law Date: January 30, 1991

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. HB 16

This bill amends AS 05 by establishing the Alaska Racing Commission and by authorizing parimutuel wagering at sanctioned horse race events. The bill provides that the commission, and its staff, would be responsible for regulating all sanctioned events under a comprehensive regulatory scheme that covers nearly every aspect of race operations and wagering. It is our view that a substantial body of regulations will need to be drafted and adopted to carry out the purposes of this bill. We are therefore requesting \$100,000, as a one-time expense, to handle the drafting effort. We believe that this is the minimum amount necessary to insure proper regulatory oversight, if this form of legalized wagering is authorized in the state. Outside counsel costs for this purpose average about \$150 per hour.

It is also our view that at some point the Department of Law will become heavily involved in the operations of the racing commission if horse racing becomes well established. For example proposed AS 05.45.050, which spells out the duties and powers of the commission, provides that the commission's considerable regulatory activities shall be carried out in consultation with the attorney general. Furthermore, proposed AS 05.45.070 provides that the attorney general shall enforce the regulations of the commission.

Unfortunately, we cannot predict future legal costs because of our total lack of experience in this area. It is conceivable, however, that at least one civil attorney and one criminal attorney, plus support costs, could be required on a continuing basis due to future racing activity. Because of the severe budget constraints being felt by the department it will be necessary to request additional funds when and if racing activities warrant, otherwise the department will not be able to fulfill its responsibilities under this bill.

FISCAL NOTE

STATE OF ALASKA
1991 LEGISLATIVE SESSION

BILL NO. HB 16

Revision Date: _____ Department Affected: Commerce & Economic Dev.
 Title: Alaska Racing Commission and BRU: Occupational Licensing
authorizing parimutuel wagering. . . Component: Administration

Sponsor: Rep. Larson

Requestor: Rep. Larson

COMPONENT SERIAL NO.

0	3	5	6
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Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES	0	52.8	105.7	162.5	162.5	162.5
TRAVEL	0	10.3	12.1	13.5	13.5	13.5
CONTRACTUAL	0	20.4	40.8	25.8	25.8	25.8
SUPPLIES	0	2.5	2.5	2.5	2.5	2.5
EQUIPMENT	0	11.6	0	0	0	0
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	97.6	161.1	204.3	204.3	204.3

CAPITAL	0	0	0	0	0	0
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REVENUE	0	68.4	261.4	522.8	522.8	522.8
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FUNDING: (Thousands of Dollars)

GENERAL FUND	0	97.6	161.1	204.3	204.3	204.3
FEDERAL FUNDS						
OTHER						
TOTAL	0	97.6	161.1	204.3	204.3	204.3

POSITIONS:

FULL-TIME	0	0	2	2	2	2
PART-TIME	0	2	0	2	2	2
TEMPORARY	0	0	0	0	0	0

Estimate of current year impact: None

ANALYSIS: (Attach a separate page if necessary.)

See attached for analysis.

Prepared By: Jennifer Strickler, Administrative Officer Phone: 465-2144

Division: Occupational Licensing Date: January 28, 1991

Approved by Commissioner: Glenn A. Olds

Agency: Department of Commerce & Economic Development Date: January 28, 1991

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

FISCAL NOTE ANALYSIS

HB 16

FY 93 EXPENDITURE DETAIL

PERSONAL SERVICES

Executive Director, PX, Range 22A, 6 months	\$36,360.00
Clerk Typist III, PX, Range 8A, 6 months	<u>16,479.51</u>
SUB-TOTAL:	\$52,839.51

TRAVEL

FY 93: Three commission meetings in the Anchorage area at 2 days each. This travel assumes three commissioners are appointed from the Anchorage area, one from Fairbanks, and one from Juneau. The staff positions are located in Anchorage.

	TRAVEL	PER DIEM
3 Anchorage members (115x3x3)	\$ 0.00	\$2,070.00
1 Juneau to Anchorage (436x3)	1,308.00	1,035.00
1 Fairbanks to Anchorage (300x3)	900.00	690.00
1 Staff person	0.00	0.00
Director's Travel (one trip to inspect and review small racing commission operations in Michigan, Maine and New Hampshire)	1,200.00	1,000.00
1 Site inspection (2 Anch. mbrs)	0.00	230.00
1 Event (8 days; 2 Anch. mbrs)	<u>0.00</u>	<u>1,840.00</u>
	\$3,408.00	\$ 6,865.00
SUB-TOTAL:		\$10,273.00

CONTRACTUAL

Postage, Communications, Printing, Advertising
and other operating costs. \$15,000.00

Office Space rent 5,400.00

SUB-TOTAL: \$20,400.00

SUPPLIES \$ 2,500.00

EQUIPMENT (one time costs only)

Desk, double pedestal, 70" x 36"	\$ 837.00	
Chair, swivel with arms	400.00	
Typewriter, IBM Selectric III	700.00	
Chair, side without arms	420.00	
Desk Calculator	220.00	
File Cabinet, 5-drawer, legal w/lock	553.00	
Table, 72" x 36"	324.82	
Wang Terminal	<u>2,350.00</u>	
	\$5,804.82 x 2	\$11,609.64

FY 93 TOTAL GENERAL FUND EXPENDITURES \$97,622.15

FY 93 REVENUE DETAIL

One six day event:

18,000 players (estimate based on 3,000 per day for six days)

Handle of \$504.0 in total receipts based on an average wager of \$28
(Montana's average)

A takeout of 35%, with a State share of 10%, equals generated State
Revenues of \$50.4 per event.

- \$1.00 per person gate fee equals \$18.0 in State Revenues (\$1.00 times 18,000
players)

- Various permit fees will also be charged based on regulations set by the
Racing Commission, but it is not possible to estimate the revenues that will
be generated by those fees at this time.

FY 93 ESTIMATED REVENUE TOTAL: \$68,400.00

FY 94 EXPENDITURE DETAIL

PERSONAL SERVICES

Executive Director, PX, Range 22A, 12 months	\$ 72,721.53
Clerk Typist III, PX, Range 8A, 12 months	<u>32,959.03</u>
SUB-TOTAL:	\$105,680.56

TRAVEL

Four Commission meeting in Anchorage area	\$ 8,004.00
2 - Site inspections (two Anchorage Area members)	460.00
2 - Events (8 days; 2 Anch area Commissioners @ \$1840ea.)	<u>3,680.00</u>
SUB-TOTAL:	\$ 12,144.00

CONTRACTUAL

Postage, Communications, Printing, Advertising and other operating costs.	\$ 15,000.00
Office Space rent	10,800.00
Contractual costs to provide services of an auditor and Investigator.	<u>\$ 15,000.00</u>
SUB-TOTAL:	\$ 40,800.00

SUPPLIES

\$ 2,500.00

FY 94 TOTAL GENERAL FUND EXPENDITURES	\$161,124.56
----------------------------------------------	---------------------

FY 94 REVENUE DETAIL:

- Two (2) six day events:
 - 34,400 players per event (estimate based on 5,700 players per day during each six day event)
 - Handle of \$963.2 in total receipts at each six-day event based on an average wager of \$28 (Montana's average)
 - A takeout of 35%, with a State share of 10%, equals generated State Revenues of \$96.3 per event, or \$192.6 for the two events

- \$1.00 per person gate fee for the two events equals \$68.8 in revenue (\$1.00 times 68,800 people equals \$68.8)

- Various permit fees will be charged by the Racing Commission, pending the adoption of regulations setting those fees, it is not possible to estimate that additional revenue for this fiscal note.

FY 94 ESTIMATED REVENUE TOTAL: \$261,400.00

FY 95 EXPENDITURE DETAIL

PERSONAL SERVICES

Executive Director, PX, Range 22A, 12 months	\$ 72,721.53
Clerk Typist III, PX, Range 8A, 12 months	32,959.03
Auditor, PX, Range 18A, 6 months	28,382.68
Investigator III, PX, Range 18A, 6 months	<u>28,382.68</u>
SUB-TOTAL:	<u>\$162,445.92</u>

TRAVEL

Four Commission meeting in Anchorage area	\$ 8,004.00
3 - Site inspections (by 3 members from Anchorage area and one from Fairbanks)	990.00
(2 Anch. P/D = 230 x 2 inspections = 460)	
(1 Anch. P/D = 115 + FBX Airfare = \$300 + 115 = 530)	
4 - Events (8 days; by 3 members from Anchorage area and one from Fairbanks)	<u>4,510.00</u>
(2 Anch. mbrs.: \$115 x 8 x 2 = 1840)	
(1 Anch. mbr.: \$115 x 8 x 2 = 1840 +	
1 Fbx. mbr.: \$300 + \$115 x 9 (extra day)	
x 2 = 2670)	
SUB-TOTAL:	\$ 13,504.00

CONTRACTUAL

Postage, Communications, Printing, Advertising and other operating costs.	\$ 15,000.00
Office Space rent	<u>10,800.00</u>
SUB-TOTAL:	\$ 25,800.00

SUPPLIES

\$ 2,500.00

FY 95 TOTAL GENERAL FUND EXPENDITURES \$204,249.92

FY 95 REVENUE DETAIL:

- Four (4) six day events:

34,400 players per event (estimate)

Handle of \$963.2 in total receipts based on an average wager of \$28 (Montana's average)

A takeout of 35%, with a State share of 10%, equals generated State Revenues of \$96.3 per event, or \$385.2 for the four estimated events.

- \$1.00 per person gate fee per event generates \$137.6 in revenue (\$1.00 times 34,400 times four events)

- Various permit fees will be assessed and generate revenue; however, pending the adoption of regulations setting those fees, it is not possible to identify or estimate those revenues for this fiscal note.

FY 95 ESTIMATED REVENUE TOTAL:

\$522,800.00

SAMPLE BALLOT

To Be Removed by Election Judge

To Be Removed by Election Judge

FOLD TO THIS LINE

CITY OF PALMER GENERAL ELECTION October 7, 1986

- Mark only by use of cross marks, "X" marks, check or plus signs. Place marks in squares.
- Marks must be inside or touching the squares so as to indicate the intent of the voter. Erasures and corrections will invalidate only that part of the ballot on which it appears.
- If you spoil or mar your ballot you may return it to the election judge and receive another ballot.

Mayor

Three Year Term
(Vote for not more than One)

GEORGE W. CARTE'

Council

Three Year Term
(Vote for not more than Two)

ROBERT M. "RED" HENDERSON

JEANNINE L. JOHNSON

Advisory Proposition No. 1

"Do You Support the Concept of Local Option Pari-Mutuel Horse Racing?"

Yes

No

ATTACHMENT "A"

ELECTION WORKSHEET REGULAR ELECTION 10-7-76

SEAT "C" CANDIDATES	REGULAR		ABSENTEE		QUESTIONED		TOTAL	%
	#37	#38	#37	#38	#37	#38		
MOSLEY, VINCENT T.	168	108	12	11	0	0	299	47.54%
PATTERSON, DONALD C.	177	130	11	7	0	0	325	51.67%
WRITEINS	3	2	0	0	0	0	5	.79%
TOTAL	348	240	23	18	0	0	629	100.00%

SEAT "D" CANDIDATES	REGULAR		ABSENTEE		QUESTIONED		TOTAL	%
	#37	#38	#37	#38	#37	#38		
BEUTLER, CLYDE	93	66	3	7	0	0	169	26.04%
CARNEY, DOMONIC	129	127	13	6	0	0	275	42.37%
GROB, DONALD (RICK)	125	63	7	8	0	0	203	31.28%
WRITEINS	2	0	0	0	0	0	2	.31%
TOTAL	349	256	23	21	0	0	649	100.00%

SEAT "E" CANDIDATES	REGULAR		ABSENTEE		QUESTIONED		TOTAL	%
	#37	#38	#37	#38	#37	#38		
HJELLEN, PAT	157	108	13	12	0	0	290	43.22%
KEMP, MICHAEL	207	151	10	10	0	0	378	56.33%
WRITEINS	2	1	0	0	0	0	3	.45%
TOTAL	366	260	23	22	0	0	671	100.00%

SEAT "F" CANDIDATES	REGULAR		ABSENTEE		QUESTIONED		TOTAL	%
	#37	#38	#37	#38	#37	#38		
CARTER, THOMAS L.	157	149	10	5	0	0	321	50.00%
MAW, TERRY R.	69	46	1	2	0	0	118	18.38%
POSEY, DONALD R.	118	59	12	12	0	0	201	31.31%
WRITEINS	2	0	0	0	0	0	2	.31%
TOTAL	346	254	23	19	0	0	642	100.00%

ELECTION OF 1976

CANDIDATES	REGULAR		ABSENTEE		QUESTIONED		TOTAL	%
	#37	#38	#37	#38	#37	#38		
BUSHNELL, KILLET A.	0	22	2	2	0	0	26	14.15%
COTTLE, COLLEEN J.	27	21	1	1	0	0	50	7.00%
DeCAMP, RICHARD J. (D)	47	43	2	5	0	0	117	15.39%
LANGILL, FRANK S.	14	0	0	0	0	0	14	3.22%
MCCARTHY, RAYMOND P.	15	10	0	0	0	0	25	3.50%
MARTIN, ED SR.	54	37	5	2	0	0	99	13.87%
NEWCOMB, HAROLD S.	0	52	7	7	0	0	66	26.47%
PAGE, DOROTHY G.	57	44	3	5	0	0	109	14.57%
WRITEINS	5	1	0	0	0	0	6	.81%
TOTALS	383	285	24	22	0	0	714	100.00%

ADVISORY QUESTIONNAIRE

PARI-MUTUEL HORSE RACING

YES	181	181	15	16	0	0	393	61.99%
NO	130	99	6	6	0	0	241	38.01%
TOTAL	311	280	21	22	0	0	634	100.00%

2071
CITY OF PALMER SPECIAL CITY COUNCIL MEETING MINUTES - OCTOBER 9, 1986

June Tull	Council	1	0	1
Eve Hermon	Council	1	0	1
Roger Saunders	Council	1	0	1
S. Luse	Council	1	0	1
Dorothy Saxton	Council	1	0	1
Jerry Hann	Council	3	0	3
ADVISORY PROPOSITION NO. 1	YES	264	6	270
	NO	155	1	156

There was a total of 464 votes cast.

MOVED BERBERICH, SECONDED JOHNSON to certify the election results as presented. MCU.

2. Award Bid - Water Well.

On October 3, 1986 bids were opened for the new water well located at the southwest corner of the airport. Two bids were received, one from RG&B Contractor for \$74,400 and the other from M-W Drilling for \$44,428. The administration recommended award to M-W Drilling as the low bidder. There were no irregularities in either of the bids.

MOVED BERBERICH, SECONDED PIPPEL to award the bid for the new water well to M-W Drilling, the low bidder in the amount of \$44,428. MCU.

3. Award Bid - Runway Paving.

Bids were opened at 10:30 A.M. today for the runway paving project. Three bids were received as follows: Hermon Brothers for \$159,166.80; Wilder Construct for \$163,300 and Rasco for \$309,630. The engineer's estimate was \$185,350. The administration recommended award to the low bidder, Hermon Brothers in the amount of \$159,166.80. These bids were reviewed by both the engineer and attorney and there were no irregularities.

MOVED BERBERICH, SECONDED LONG to award the Runway Paving bid to the low bidder, Hermon Brothers in the amount of \$159,166.80. MCU.

4. Award Bid - Town Square Project.

Four bids were received and opened at 11 A.M. today on the town square earthwork project which entails contouring the land and building berms. Bids were received from: Alaska Central Construction for \$12,800; Kopperud Transportation for \$21,695; Hermon Brothers for \$27,758; and Ohno Construction for \$35,280. The engineer's estimate was \$17,500. The administration recommended awarding this bid to the low bidder, Alaska Central Construction in the amount of \$12,800. These bids were also reviewed by the attorney.

MOVED LONG, SECONDED JOHNSON to award the Town Square Earthwork to the low bidder, Alaska Central Construction in the amount of \$12,800. MCU.

CITY OF
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D. ADJOUR

DAVID L. SC

Presented by: Silvers
Introduced: -03/03/87
Drafted by: G.L.S.

MATANUSKA-SUSITNA BOROUGH

Resolution Serial No. 87-~~433~~

A RESOLUTION OF THE MATANUSKA-SUSITNA BOROUGH SUPPORTING
HOUSE BILL 32 AND SENATE BILL 63.

WHEREAS, the Alaska State Legislature has pending before it House Bill 32 and Senate Bill 63 that would authorize state controlled parimutuel betting on horse and dog racing where approved at a local option election, and

WHEREAS, the voters in the cities of Palmer and Wasilla have previously approved in an advisory vote the conduct of certain parimutuel wagering within their boundaries, and

WHEREAS, parimutuel wagering would create a direct source of revenue for the state and thereby reduce the need for new or increased state taxes, and

WHEREAS, authorization of parimutuel wagering would make possible a new, non-polluting industry in Alaska, and

WHEREAS, horse and dog racing in the borough would create a demand for feed, pasture and other agricultural products and services related to animal husbandry that are readily available in the borough, and

WHEREAS, horse and dog racing in the borough would be a tourist attraction for Alaska, bringing visitors from other states as well as other areas of Alaska, and

WHEREAS, horse and dog racing in the borough would generate additional use of the Alaska Railroad, and

WHEREAS, construction and operation of a race track and associated facilities and concessions in the borough would provide new employment opportunity for Alaskans;

NOW, THEREFORE, BE IT RESOLVED BY THE ASSEMBLY OF THE MATANUSKA-SUSITNA BOROUGH:

1. That the Assembly supports the concept of state controlled parimutuel wagering on horse and dog racing when locally approved and as generally set out in House Bill 32 and Senate Bill 63 and strongly urges the legislature to adopt legislation authorizing parimutuel wagering on such racing.

2. That copies of this resolution be sent to The Honorable Steve Cowper, Governor of the State of Alaska, and to each member of the Alaska Legislature.

PASSED AND APPROVED by the Assembly of the Matanuska-Susitna Borough this 4th day of March, 1987.

Dorothy A. Jones
Dorothy A. Jones, Mayor

ATTEST:

Chris Seagraves
Chris Seagraves, Clerk

(SEAL)



CITY OF WASILLA

P.O. BOX 870430
WASILLA, ALASKA 99687
PHONE: 376-5227

Requested by: Mayor Bumpus
Prepared by: Mayor's Office

RESOLUTION NO. W85-J-6

A RESOLUTION OF THE CITY OF WASILLA SUPPORTING LOCAL OPTION FOR PARI-MUTUEL GAMBLING.

WHEREAS, the State of Alaska no longer has the funds to support local Capital Improvements that accomodates current growth patterns; and

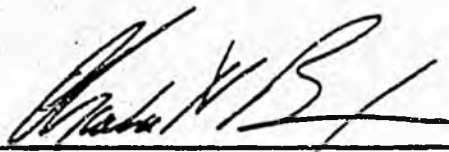
WHEREAS, it is the City of Wasilla's goal to become financially independent, if possible; and

WHEREAS, Pari-Mutuel Gambling would enhance economic development and provide a major tax revenue source for the City of Wasilla;

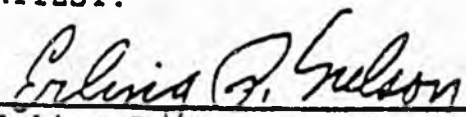
NOW, THEREFORE BE IT RESOLVED that the City of Wasilla supports local option for pari-mutuel gambling.

I certify that a resolution in substantially the above form was passed by a majority of those voting at a duly called and conducted meeting of the governing body of the City of Wasilla this 12th day of August, 1985.

APPROVED:

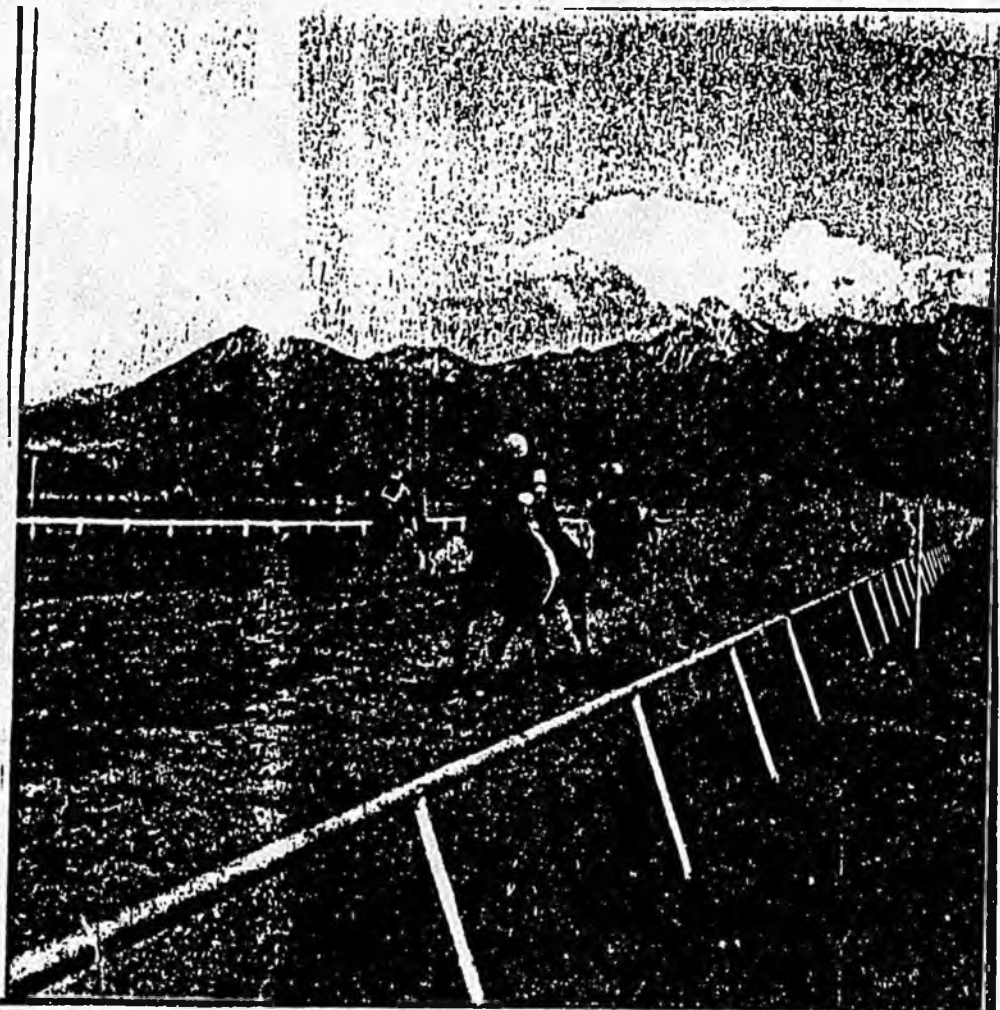

Charles H. Bumpus, Mayor

ATTEST:


Erling P. Nelson, City Clerk, CMC

(SEAL)

Horse Racing At The Fair



TRIPLE TUFF leads the field in one of last year's races at the new Alaska State Fair race track south of Palmer.

Riding is Bobby McCarthy Jr. Triple Tuff is now owned by Len and Marsha Meiton.

Photo Finish At State Fair

6-28-74
Times

Nearly 1,000 people gathered at the Alaska State Fair race track in Palmer over the weekend to watch 22 horses with one race so close only the photo finish camera could tell the winner. Great interest has generated among the crowd in racing.

Friday night the 220 winner was Pow Wow Gidget owned by Ellis Enterprises and ridden by Dana Richmond; second Thanks Doc, owner Jinx Coster, jockey Sissy Melton; third was Dungaree ridden by Steve Clark and owned by Dennis Clark. In the 350, Doc won over Pow Wow Gidget.

The 440 saw Babe's Twig owned and ridden by Cecil Premus take the race with Triple Tuff owned by Len Melton, ridden by Hoot Melton, hot on his heels and Moon's Hotshot, Ellis Enterprises and jockey Dana Richmond taking third. Just a Bird and Mac's Little Kid also ran.

General Bars ridden by Bob McCarthy, owner Dennis Clark, won over Nile Queen ridden by Kris Ruetman, owned by Emmett Roetman. Both are thoroughbreds.

An exciting cow pony race

with eight entries had only a third place winner, Danny owned and ridden by Kelly Wilson. The first and second place animals were disqualified for fouls.

Outstanding weather contributed to standing room only for Saturday afternoon racing. Pow Wow Gidget took 11anks Doc and Ragged Ann owned by Esther Erikson and ridden by Terry Erickson in the 220.

The next racing date will be Saturday and Sunday at 2 p.m. on July 6 and 7. Race horse owners may practice at the Alaska State Fair, Inc. race track one mile from Palmer on Tuesday and Thursday evenings, 7:30-9:30 p.m. and Sunday afternoon from 2-4 p.m. (except on racing days). Ed Premus will be the gate keeper while Vernon France is on vacation.

H B

I 8

HOUSE COMMITTEE REPORT

(7)
Date Referred: February 20, 1991

FURTHER REFERRALS:

Finance

Date of Committee Action: 3-11-91

The JUDICIARY Committee considered:

HB 18

HOUSE BILL NO. 18

MARRIAGE & FAMILY THERAPISTS

"An Act regulating the practice of marital and family therapy; amending Alaska Rule of Evidence 504(a)(3); and providing for an effective date."

RECOMMENDATIONS:
be replaced with CSHB 18 (JUD) the same title
 a new title

have attached amendments(s)

do pass

do not pass

no recommendations

individual recommendations

additional referral to the _____ Committee

ADOPTS: _____ letter of Intent

ATTACHES NEW FISCAL NOTE(s): (Dept) _____

APPROVES PREVIOUS: (Dept/Date) _____

fiscal impact _____

fiscal note(s) CEB 2-20-91

zero fiscal note _____

zero fiscal note(s) _____

SIGNING DO PASS:

SIGNING OTHER RECOMMENDATIONS:

Signature	Check appropriate column:	Do Not	No Rec	Amend
		Pass		
<u>Doreen Ouley</u>				
<u>Ms. Shumaker</u>				
<u>Terry Martin</u>				
<u>Mark Angles</u>				
<u>Kevin Pat Plinski</u>				

Doreen Ouley
Chairman's Signature

A M E N D M E N T

OFFERED IN THE HOUSE

TO: CSHB 18

Page 2, following line 10:

Insert a new paragraph to read:

"(6) ensure that licensees are aware of the requirements of AS 47.17.020;"

Renumber the following paragraphs accordingly.

A M E N D M E N T

OFFERED IN THE HOUSE

TO: CSHB 18

Page 3, line 14:

Delete "and"

Page 3, following 14:

Insert a new subparagraph to read:

"(D) has received training related to domestic violence; and"

Reletter the following subparagraph accordingly.

State of Alaska

Committees

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



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

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

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

MEMORANDUM

DATE: February 19, 1991

SUBJECT: Analysis of CSHB 18 (HESS), "An Act relating to the practice of marital and family therapy."

TO: Representative Max Gruenberg

FROM: Mark Handley

Following is a sectional description of HB 18:

Sec. 1. Article 1 establishes the Board of Marital and Family Therapy and sets out its powers and duties.

Article 2 describes the various types of licenses that can be issued by the board and sets out the requirements that must be met for each type of license.

Article 3 contains general provisions relating to fees, confidentiality of communications, and imposition of disciplinary sanctions. It also contains the basic provision in Sec. 08.63.240 that, unless a person is licensed by the board, the person may not hold himself or herself out to be a licensed marital and family therapist. The bill does not require a person to be licensed in order to practice in the profession.

Sec. 2. Adds the new board to the list of boards in AS 08.01.010.

Sec. 3. Adds licensed marital and family therapists to the listing in AS -8.02.010.

Sec. 4. Adds the new board to the list of boards in AS 08.03.010, sunseting it in 1994.

Representative Max Gruenberg
February 19, 1991
Page 2

Sec. 5. Adds the new board to the list of agencies governed by the Administrative Procedure Act.

Sec. 6. Adds licensed marital and family therapists to the list of persons required to report suspected child abuse.

Sec. 7. Adds communications between a patient and a marital and family therapist to the privileged communications excluded under Evidence rule 504(a)(3).

Sec. 8. Provides for initial appointees to the board.

Sec. 9. "Grandfather" provision.

State of Alaska

Committees

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



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(SESSION)

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

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

MEMORANDUM

TO: Representative Dave Donley
Chair, House Judiciary Committee

FROM: Representative Max Gruenberg *Max Gruenberg*

DATE: February 18, 1991

RE: Scheduling of CSHB 18 (HESS), "An Act relating to
Licensing of Marital and Family Therapists."

I would very much appreciate it if you would schedule CSHB 18 (HESS), "An Act relating to Licensing of Marital and Family Therapists Bill," for a hearing as soon as it is possible.

CSHB 18 (HESS) will protect the public by providing standards and regulation for those who wish to become licensed marital and family therapy practitioners in this state.

It is critical that CSHB 18 (HESS) receive early attention in order to prevent a disruption of services for the clients of Alaskan marital and family therapists who will no longer qualify for public assistance reimbursement if a marital and family therapist licensing bill does not become law this year.

If you have any questions, please call me or my Legislative Assistant, Mark Handley, at 465-4968.

Thank you very much.



Alaska Association for Marriage and Family Therapy

a division of The American Association for Marriage and Family Therapy, Inc.
2550 Denali Street, Suite 905, Anchorage, Alaska 99503 (907) 272-2063

January 15, 1991

RECEIVED
FEB 1 - A.M.

Dear Legislator:

During this session, there is a bill sponsored by Representative Max Gruenberg and Senator Drue Pearce for the licensure of Marriage and Family therapists. The bill numbers are SB40 and HB18. We would like to take the opportunity at this time to inform you on the field of Marriage and Family Therapy and the arguments for licensure. Included in this packet are fact sheets about Marriage and Family Therapy and a newsletter update about both the Alaska Association for Marriage and Family Therapy as well as its impact on a national scope. Also included in this packet are a sample of the broad base of support the mental health professions and others have shown for licensure of Marriage and Family therapists.

We feel that consumer advocacy and freedom of choice is an utmost priority, particularly in light of the changes in Medicaid regulations that require licensed providers. Many people who are being helped by MFTs and services paid for by Medicaid will no longer be able to receive that help when those regulations go into effect. Licensure can insure that no one will be left without the necessary mental health services.

We hope you and your aides will take some time to read through the material presented. Thank you for your time and consideration.

Sincerely,

Robert Nelson, Rel.D.
President, AkAMFT
Mercy Dennis, M.A.
Randall G. Jones, M.A.
Co-Chair, Legislative Affairs

President Robert W. Nelson, Rel.D. ++ Presi
Treasurer Lowell Roddy, M.Ed. ++ Board Mem
Board Member Richard Stenbakken, M.A. ++

b. ++ Secretary Sara Griffeth, M.Ed.
++ Board Member Phillip S. Klees, Ph.D.
tive to Board Martin Garrigues, M.S.

Letters of Support

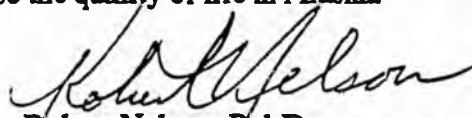
THE ALASKA ASSOCIATION FOR MARRIAGE AND FAMILY THERAPY

NEWSLETTER

SPECIAL BULLETIN FOR STATE LEGISLATORS

This special bulletin of the Alaska Marital and Family Therapists is being distributed to all state legislators and their staff. This is AkAMFT's way of thanking legislators for taking time to learn more about the practice and profession of marriage and family therapy; acquainting them with the many ways with which our profession impacts family life at both the national and state levels; and encouraging an atmosphere of mutual cooperation and assistance between AkAMFT and Alaska legislators.

AkAMFT and its members welcome future opportunities to provide assistance and information to legislators and staff in their efforts to increase the quality of life in Alaska.



Robert Neison, Rel.D.
President-AkAMFT

Mercy Dennis, M.A.
Randall G. Jones, M.A.
Co-Chair, Legislative Affairs

LEGISLATIVE UPDATE:

Since the early 1980's, the Alaska Association for Marriage and Family Therapy has been engaged in the process of developing legislation which would license the mental health profession of marriage and family therapy. Founded on the belief that licensure is one of the most effective recognized vehicles at the state level to protect the public, AkAMFT is committed to the development of licensure for all health education professionals. Currently, there are six free-standing legitimate, fully-accredited, and educationally sound mental health professions which form the major component of mental health industry, i.e., psychology, marriage and family therapy, mental health counseling, and clinical social work, making up the non-medical arm, while psychiatry and psychiatric nursing form the medical branch.

The need for licensure arises out of several factors. All mental health professions, by whatever name they call themselves "dispense strong medicine" which takes many system-psychotherapeutic forms. The various therapeutic interventions have the power to profoundly impact the family relationship or individual for better or for the worse at the deepest levels. It is the mandated responsibility of the state to protect the (mental) health of its citizens. One way the state has chosen to protect its citizens is through the vehicle licensure. Four mental health professions to this date are licensed by the state. They are: psychiatry, psychiatric nursing, psychology, and social work. Unfortunately, instances where consumers have been disadvantaged or mistreated by those claiming to be mental health professionals are well-documented. It is our strong belief that by

responsibly regulating all mental health professions by means of licensure, the state could effectively close many existing gaps which allow those who are untrained and unqualified to identify themselves, by the same time as those who are highly trained, competent, and ethical in their practice. Licensure would serve to better inform the public regarding qualifications, provide identified and state-sanctioned avenues of redress of which there are none, should violation occur and establish minimal levels of education and supervision requirements. In addition, it is believed that the infusion of qualified professionals will affect the supply/demand ratio by possibly lowering or at least slowing the rise in the cost of services. The need and time is now to license marriage and family therapists.

AN OPEN LETTER TO ALASKA LEGISLATORS

Dear Legislator:

On behalf of the members of the Alaska Division of the American Association for Marriage and Family Therapy (AkAMFT), I am writing to introduce our organization and the profession it represents. As a prelude to a fuller discourse, some highlights are listed below.

1. Marriage and Family Therapy (MFT) is a well-established profession with a distinct body of knowledge and established code of ethics.
2. The scope of knowledge of marriage and family therapy and its related practice are unique in the relationship to other allied professions.
3. Many who provide family therapy services have not obtained the requisite training nor been introduced to the rigorous code of ethics necessary to maintain appropriate practice standards.

Marriage and family therapists provide necessary mental health services to individuals, children, couples, and families. Clinical members of the American Association for Marriage and Family Therapy (AAMFT) are well-trained professionals who subscribe to a rigorous code of ethics for the practice of their profession. Since 1942, the AAMFT has been involved with the problems, needs, and changing patterns of marital and family relationships. The AAMFT is a multi-disciplinary association which has members from all mental health professions (psychiatry, psychology, social work, nursing).

The AAMFT requires that all its members, regardless of discipline of origin, acquire specific and rigorous training including academic work and supervised clinical experience in marriage and family therapy. The AAMFT's membership requirements have become the standards acceptance throughout the United States by which the independent practice of marriage and family therapy is regulated. Currently, 20 states regulate the practice of marriage and family therapy through either licensing or certification. The training of marriage and family therapists is overseen by AAMFT's commission of accreditation for marriage and family therapy education. This commission has been reorganized since 1978 by the U. S. Department of Education as the sole accrediting body for marriage and family therapy education in the United States. In 1986, the Clearinghouse on Licensure Enforcement and Regulation (CLEAR), an affiliate of the council of state governments published a study which reviewed the credentialing of the behavioral science professions. According to that study, an important criteria for determining the existence of a profession is that there is a well-defined body of knowledge and set of skills which thus becomes the basis for defining a profession's scope of practice. In the review conducted by CLEAR, the scope of practice and sample of current regulatory laws of social work, psychology, and marriage and family therapy were examined. CLEAR concluded that while there was some overlap, all mental health professions provide services such as psychotherapy, each of the professions identified unique skills or practiced principles.

It is noteworthy that this non-biased source comprised of state regulators, believes that there is a separate profession of marriage and family therapy. A considerable body of research suggests that marriage and family therapy is an efficient and effective treatment alternative to traditional approaches for a wide variety of emotional and behavioral disorders. For this and other reasons, the federal government has recognized marriage and family therapists for some time. For many years, marriage and family therapists have been eligible mental health providers under the Civilian Health and Medical Program of the Unified Services (Champus). Additionally, marriage and family therapists are listed as one of the core mental health professions by the National Institute of Mental Health, and under federal law (Public Service Act, PL100-6900), as one of the core mental health professions, training programs in marriage and family therapy are eligible to receive clinical training grants on the same basis as programs in medicine, psychology, social work, and nursing. Thus, there is a consistent consensus among federal agencies and national committees that MFT carries distinct status as a profession.

Unfortunately, however not all who provide family therapy services have attained the necessary training for the practice of the profession, nor have they necessarily agreed to be bound by a code of ethics established by their peers. Given the fact that the State of Alaska does not regulate our profession, there exists the potential for untrained individuals to present themselves as marriage and family therapists. This is a source of concern for the qualified professionals and members of the public. Since we know that psychotherapy of any kind can do damage, the public, without the capacity to distinguish qualified professionals, remains more vulnerable to mistreatment. The lack of regulation of the profession of MFT in Alaska may present a greater loss to the public than it does to our professional membership, since many of our members can identify with other professions.

A growing number of marriage and family therapists have received the most contemporary training developed in the field. Often this training is through graduate programs in marriage and family therapy. These mental health professionals are prepared to offer effective treatment options to Alaskan families, yet these professionals are neither recognized nor regulated. Trained family therapists, although sanctioned nationally as legitimate providers in mental health services, have no such status in Alaska. The result is that in many contexts, Alaskan do not have a real option to select a qualified family therapist for treatment because most reimbursement systems do not recognize unregulated providers. This denies freedom of choice for mental health services to Alaskans who may already be disadvantaged.

We do not believe this state of affairs, with the public being exposed to unqualified and unprofessional practitioners, and potentially prohibited from legitimate treatment options has been the Governor's nor the legislators' intent. Rather, it may be due to limited awareness of the part of state officials regarding the professional of marriage and family therapy. In a state known to be in the vanguard when it comes to protecting the general welfare of its citizenry, these seems unfortunate. As mentioned, some twenty states have now recognized the need to regulate and recognize the profession of marriage and family therapy. Alaska should not be among the last to do so. We strongly urge that you consider exploring with us ways to address this issue. Members of AkMFT are available to meet with you to discuss appropriate options. AkMFT members also stand ready to act as consultants with regard to a wide variety of issues relevant to families in Alaska. We hope you find the enclosed special issue of our newsletter helpful in increasing your knowledge of our organization.

Sincerely,

Robert Nelson, Rel.D.
President-AkAMFT

FACT SHEET

LICENSING MARRIAGE & FAMILY THERAPISTS

++ The Alaska Association for Marriage and Family Therapy (a division of the American Association for Marriage and Family Therapy which represents over 17,000 qualified marriage and family therapists in the United States, Canada and abroad) believes that licensure and regulation by the State, as the steward of the public cause, is one of the most effective vehicles to protect the public. AkAMFT advocates the licensure by the State of Alaska of all mental health professions.

++ There are six distinct and fully accredited mental health professions in Alaska: medical branch (including psychiatry & psychiatric nursing) and non-medical branch (including psychology, social work, marriage & family therapy, and mental health counseling). The only clearly defined clinical discipline not licensed and regulated by the State of Alaska is marriage & family therapy.

++ Marriage and family therapy has long been recognized by the Federal Government as a separate and distinct mental health discipline . . . not simply a part of psychiatry, psychology or social work.

++ Listed in the Sourcebook on Health Professions (published by the U.S. Dept. of Health Human Services, through the Health Resources and Services Administration)

++ The Public Health Service Act lists marriage and family therapy as separate and distinct for receiving training funds through the National Institute of Mental Health.

++ The U. S. Dept of Health, Education and Welfare have designated AAMFT's Commission on Accreditation as the sole national accrediting agency for graduate and post-degree educational and training programs in the field of marriage and family therapy.

++ CHAMPUS has clearly defined marriage and family therapy and qualified Clinical Members of AAMFT as providers.

++ Marriage and family therapists have been providers under Medicaid for many years.

++ Alaska needs to regulate and license marriage and family therapists. 22 States currently license and regulate marriage and family therapists . . . and an additional 22 States have licensure legislation before them.

++ All of the mental health professions "dispense strong medicine" . . . mental health interventions profoundly impact the individual or family at deep levels and in profound ways (for good or ill).

++ The State of Alaska exists to serve the people of Alaska and their needs and interests. (Some marriage and family therapists choose membership in the American Association for Marriage and Family Therapy. And, whereas Clinical Membership in AAMFT . . . much like other clinical professionals being a part of NASW, AMA or APA . . . set high standards for those who qualify and choose such membership, voluntary "certification" is no substitute for regulation by the State of Alaska.)

++ The State of Alaska holds the only possibility of responsibly and effectively regulating all mental health professions and thereby effectively closing many existing gaps that allow persons who are untrained and unqualified to identify themselves . . . and at the same time enable those who are highly trained, competent, and ethical in their practice to be identified as well.

++ Faced with marital or family stress, Alaskan families are not in optimum position to evaluate the stated credentials of persons holding themselves out as marriage and family therapists. But under such stress, they need the help of well-qualified therapists who are identified as such by State regulation. Licensing will provide Alaskan consumers with information about qualifications of professionals in the field, and they can then make more informed decisions based on objective criteria administered by a public body.

++ There is a special danger in the mental health field: Persons holding themselves out to the public in misleading ways about their qualifications. It can be very lucrative to hang up a shingle or represent oneself as a "marriage and family therapist" regardless of training, clinical experience or supervision in the field. It has not been the intent of either the governor's office or the legislature to allow the Alaskan consumer to be exposed to unqualified, untrained and unsupervised treatment. It has rather been a result of limited awareness on the part of state officials regarding the profession of marriage and family therapy. But the result is the same.

++ The Division of Medical Assistance of the Alaska State Department of Health and Social Services, under federal mandate, is establishing new regulations for Medicaid in June 1991. Under the revised regulations, marriage and family therapists will be required to be licensed by the State of Alaska. The Division strongly supports licensing of marriage and family therapists as a means to ensure standards of care under Medicaid. Many marriage and family therapists presently provide therapy to Medicaid patients, maintaining AAMFT Clinical Membership and standards and carrying a high percentage of Medicaid caseloads for many years now. Such provider services will no longer be available to Alaskans. The proposed licensing legislation, if passed during this First Session of the Senevteenth Legislature and signed by the Governor will ensure that these services continue uninterrupted.

++ Because the function or practice of doing marriage and family therapy is not prohibited as such under the proposed legislation . . . other mental health therapists would continue to be able to work with couples and with families under their own respective State-approved licensing and regulating Statutes.

++ Under the proposed legislation, however, consumers would be able to clearly identify therapists who meet the qualifications to be a "Licensed Marriage and Family Therapist" (LMFT) or "Licensed Marriage and Family Counselor" (LMFC).

++ A growing number of mental health professionals have received specialized training in marriage and family therapy. Some of those may choose to seek licensure as "LMFT" or "LMFC" under the proposed legislation. A growing number of students in training are anticipating their primary area of work will be in the field of marriage and family therapy and will be seeking licensure under this legislation.

+ + +

++ Alaska has been in the vanguard of establishing social policy and maintaining progressive legislation in the field of alcohol treatment and general mental health care.

+ + +

++ Alaska must not be one of last States to establish clear-cut regulation of the profession of marriage and family therapy.

+ + +

++ Alaskan Medicaid patients must continue to be given the opportunity to choose marriage and family therapy as their choice of care.

+ + +

++ Alaskans must be allowed the opportunity to set public standards and regulate a clinical field that touches lives so profoundly.

++ Research as shown that marriage and family therapy is one of the most effective treatment approaches for many of the problems facing Alaska's families: family violence, substance abuse, delinquency and school problems, childhood and adolescent disorders, eating disorders, and marriage and families in trouble. (See: A Report of the Governor's Commission on Children and Youth, Our Greatest Natural Resource, Investing in the Future of Alaska's Children, January 1988).

2062

David R. Samson M.D.
Board Certified Psychiatrist

November 21, 1990

Jim Nordlund
% Representative Johnny Ellis
3111 "C" Street, Suite 455
Anchorage, Alaska 99503

Dear Mr. Nordlund:

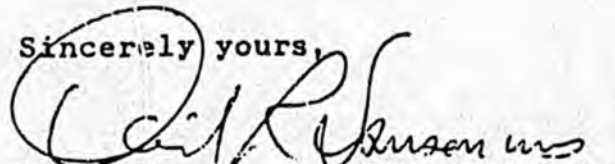
This letter is in support of licensing for marriage and family therapists. I wrote a similar letter on October 20, 1989 supporting it for last year's legislature.

As a psychiatrist, I believe that marriage and family therapists provide specific services that are needed in our communities. I believe it is essential that our state government assures the public that people who claim to be marriage and family therapists do indeed have the necessary advanced educational requirements and experiences to provide marriage and family services. This can best be arranged with specific licensing and re-licensing requirements.

I have worked with multiple therapists in and out of community mental health center settings and in private practice. This includes several trained marriage and family therapists. I have been very impressed with their continuing education efforts over the several years that I have been working with them and think they do an excellent job continuing their professional competence.

I urge that the state legislature pass legislation in the coming year to insure that licensing exists for marriage and family therapists. I wholeheartedly support this effort.

Sincerely yours,



David R. Samson, M.D., F.A.P.A.



515 E. Dahlia
P.O. Box 1687
Palmer, AK 99645
907-745-4813

January 5, 1990

Dear Governor and Legislators,

I strongly support the state of Alaska establishing certification or licensing requirements at the state level for Family and Marriage Therapists.

As Associate Administrator of Health Services at Valley Hospital, I think the assurance licensure provides, that family and marriage therapists have been properly trained, is essential when referring patients and employees to their services.

It has been my observation that at the time a family or couple are referred for therapy, they are often in crisis, and extremely vulnerable to a therapists guidance and influence. An, improperly trained therapist represents a threat to these at risk individuals.

Passage of state legislation, insuring licensure of family and marriage therapists is urgently needed, and has my complete support.

Sincerely,

A handwritten signature in cursive script that reads "Christine Blackgoat".

Christine Blackgoat,
Associate Administrator
of Health Service



GREATER WASILLA CHAMBER OF COMMERCE

COTTONWOOD CREEK MALL

P.O. BOX 871826

WASILLA, ALASKA 99687

(907) 376-1299

RESOLUTION

- WHEREAS there have been cases of abuse and mistreatment by people claiming to be qualified marriage and family therapists.
- WHEREAS there are currently no laws regulating the practice of marital and family therapy in the State of Alaska.
- WHEREAS the public should have the right to know that practitioners claiming to be marital and family therapists have met professional standards and are qualified to perform marital and family therapy.
- WHEREAS the State of Alaska has developed regulations and licensing requirements for other health care providers.
- BE IT RESOLVED that the Greater Wasilla Chamber of Commerce supports the concept of regulation and licensing of practitioners of marital and family therapy, the establishment of a board of marital and family therapy, and the qualifications for license to practice marital and family therapy as outlined in House Bill - 305.

Signed,
Rocky Spear

President,
Greater Wasilla Chamber of Commerce

5/18/89



CHARTER NORTH HOSPITAL

COUNSELING CENTERS

1001 Noble Street, Suite 380
Fairbanks, Alaska 99701
(907) 456-7575

240 E. Tudor Road, Suite 240
Anchorage, Alaska 99503
(907) 561-7576

951 E. Bogard Road, Suite 102
Wasilla, Alaska 99687
(907) 373-7575

Optifast Weight Loss
(907) 561-7577
Chemical Dependency
(907) 561-7576

February 13, 1989

Mercy Dennis
2550 Denali Street
Suite 905
Anchorage, Alaska 99503

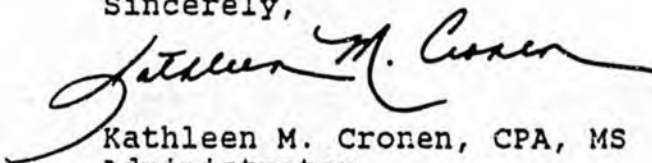
Dear Mercy:

I am writing in support of licensing for Marriage and Family Therapy by the State of Alaska. Alaska currently licenses and regulates psychiatry, psychiatric nursing, clinical psychology and psychological associate, and social work. Marriage and family therapy is recognized as a separate mental health discipline by the Federal government. Currently, 18 states license and regulate marriage and family therapists with an additional 22 states considering such legislation in 1989.

As a certified professional in the State of Alaska, I know that licensure and ongoing regulation is essential to maintaining both quality and integrity. I realize that some marriage and family therapists choose membership in the American Association of Marriage and Family Therapy. However, such voluntary membership is no substitution for regulation by the State. As the Administrator of Charter North Hospital, I am gravely concerned at the lack of regulations and requirements for licensure by individuals performing therapy.

Best of luck in this endeavor. Please feel free to contact me for further support on this matter.

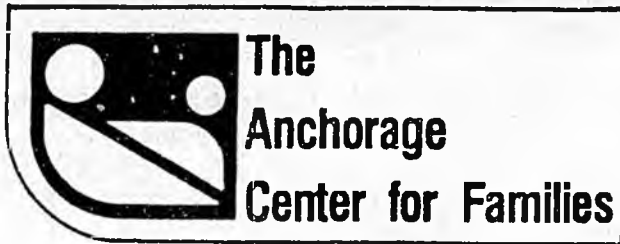
Sincerely,



Kathleen M. Cronen, CPA, MS
Administrator

KMC:rlr
2088





- Intermission
- Family Connection
- The Center for Children and Parents

3745 Community Park Loop, Suite 201 • Anchorage, Alaska 99508 • (907) 276-4994

April 5, 1989

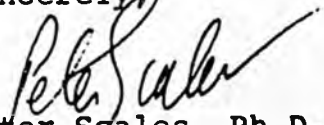
Mercy Dennis
2550 Denali, Suite 905
Anchorage, Alaska 99503

Dear Mercy:

I am writing to express my support of your efforts to put in place a licensing system for private practice marriage and family therapists. Recent data show that more and more mental health services are being provided by a wide variety of practitioners with very different backgrounds. As you know, at present in Alaska, there is no way for a consumer to judge the difference in quality of care that may be provided by these various practitioners. With a licensing system in place, based on accepted professional standards of certification and completion of extensive supervision requirements, Alaskan consumers will be better assured that they are purchasing quality mental health services.

Please let me know if I can assist you in this important effort.

Sincerely,



Peter Scales, Ph.D.
Executive Director



Strengthening Families Since 1972

Southcentral Alaska Chapter
National Committee for
Prevention of Child Abuse



The Family and Children's Clinic

561 SO. DENALI ST., SUITE A

PALMER, ALASKA 99645

(907) 745-3327

KENNETH P. FALLON, JR., M.S.W., A.C.S.W.

CLINICAL SOCIAL WORKER

CHERYL F. MITCHELL, M.S.W.

CLINICAL SOCIAL WORKER

MARY DALL, M.S.W.

CLINICAL SOCIAL WORKER

CHRISTOPHER L. DATTAN, M.D.

PSYCHIATRIST

PATRICIA SANDBERG, M.A.

THERAPIST

CHRISTINE CHILDERS, Ph.D.

CLINICAL PSYCHOLOGIST

December 4, 1989

Dr. Robert Nelson, President-Elect
Alaska Association for Marriage
and Family Therapists
4502 Cassin Drive
Anchorage, AK 99507

Dear Dr. Nelson:

I am writing this letter in support of the certification and/or licensing at the Alaska state level for marriage and family therapists.

As an Alaska state licensed clinical social worker, I feel strongly that licensing of family and marriage therapists is necessary to insure that the public receives the best possible level of services. Licensure would go a long way toward assuring the public that each licensed marriage and family therapist has adequately completed the nationally standardized graduate-level educational requirements as well as several years of supervised training necessary to be competent to deliver these services.

I have worked closely with a number of marriage and family therapists, and have attended seminars and continuing education classes with them. I respect their level of expertise and believe that their services are needed in Alaska.

I strongly recommend passage of state legislation in the coming year to license marriage and family therapists. If I can be of further assistance in this regard, please contact me.

Sincerely,

Cheryl F. Mitchell, M.S.W.

Cheryl F. Mitchell
Licensed Clinical Social Worker



Aron S. Wolf, M.D., F.A.P.A. — President
Thomas Brown, Administrator
Randall Jones, M.D. — Vice President
Nelson Craig, M.S.W., A.C.S.W. — Secretary/Treasurer
Greg McCarthy, M.D.
David Holladay, M.D.
Martin Arago, Ph.D.
Karen A. Seelye, Psy.D.
Mehi J. Milson, M.S.W., A.C.S.W.
Donald Sparrow, M.S.W., A.C.S.W.
Wendy Chase, M.S.W., A.C.S.W.
Jackie E. Jeday, M.S.W., A.C.S.W.

December 11, 1990

Senator Dru Pearce
3111 C Street, Fifth Floor
Anchorage, Alaska 99503

Dear Senator Pearce:

We are very happy that you are sponsoring the Marriage and Family Therapy licensing bill. As you know, MFT is a distinct and separate mental health discipline and should be recognized as such. Licensing insures that adequately trained professionals are in the field. Consequently, we see licensure as a means to protect the public and to protect the integrity of all the mental health fields.

We are also well aware that lack of licensure is the only reason many insurance companies do not reimburse therapists for their services. We are seeing that particularly with Medicaid at this time. Consequently, we see licensing for trained mental health professionals as a need that the State needs to address. We strongly support the licensure of MFT's.

Thank you.

Sincerely,

Aron S. Wolf, M.D.
President, Langdon Psychiatric Corporation

ASW/cs



ANCHORAGE
SCHOOL DISTRICT

4600 DeBarr Avenue
P.O. Box 196614
Anchorage, Alaska 99513-6614
AREA CODE [907] 333-9561

SCHOOL BOARD

Sharon Richards
President

Carol Stolpe
Vice President

Darryl Jordan
Clerk

Cabot Christianson
Treasurer

Vince Casey

Walter T. Featherly

Theresa Obermeyer

SUPERINTENDENT

Thomas C. O'Rourke

January 28, 1991

Ms. Maureen Christensen
2836 N. Circle
Anchorage, Alaska 99507

Dear Maureen:

Thank you for the copies of House Bill No. 81 and Senate Bill No. 40.

We at the Anchorage School District are very concerned that our employees, as well as all citizens, have proper protection in the area of health care services, and we are in full support of your efforts to obtain legislation concerning the proper protection in this area of health care.

We hope your efforts are successful, and we look forward to seeing the final legislation that is approved.

Sincerely,

Warren Dvorak, Manager
Benefits Department

bb

WILLIAM A. WORRALL, MD
2550 Denali Street, Suite 603
Anchorage, Alaska 99503
Telephone: (907) 276-1504

December 10, 1990

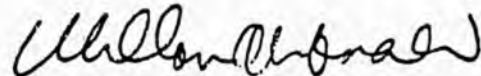
We urge the Alaska State Legislature to support licensing for masters level therapists as proposed by the Alaska Association of Marriage and Family Therapists.

We believe that licensing is one of the few tools available to assure a high level of protection for people who seek counseling from therapists in private practice.

Licensing can be used to:

1. Establish a minimum set of standards for therapists.
2. Verify that therapists have received adequate training, supervision and experience in their fields before they begin to practice.
3. Assure that therapists maintain the highest level of ethics and clinical practice.
4. Provide an avenue of removing therapists who fail to meet these standards.
5. Widen the range of help available to the public since many insurance companies require that mental health providers be state licensed before they will reimburse clients for fees.

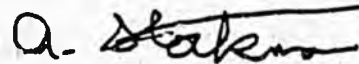
Sincerely,



William Worrall, M.D.



David Sperbeck, Ph.D.



Ann Stockman, MSW, LCSW



Aron E. Wolf, M.D., E.A.P.A. — President
Thomas Brown, Adm. Director
Brendell Jones, D.A. — Vice President
Nolan Craig, M.S.W., A.C.S.W. — Secretary Treasurer
Greg McCarthy, M.D.
David McFadyey, M.D.
Karon A. Smith, Ph.D.
Karon A. Smith, Psy.D.
Nabil A. Motson, M.S.W., A.C.S.W.
Donald Sparrow, M.S.W., A.C.S.W.
Woody Chase, M.S.W., A.C.S.W.
Jacquie T. Jodrey, M.S.W., A.C.S.W.

December 11, 1990

Representative Max Gruenberg
3111 C Street, Fourth Floor
Anchorage, Alaska 99503

Dear Representative Gruenberg:

We are very happy that you are sponsoring the Marriage and Family Therapy licensing bill. As you know, MFT is a distinct and separate mental health discipline and should be recognized as such. Licensing insures that adequately trained professionals are in the field. Consequently, we see licensure as a means to protect the public and to protect the integrity of all the mental health fields.

We are also well aware that lack of licensure is the only reason many insurance companies do not reimburse therapists for their services. We are seeing that particularly with Medicaid at this time. Consequently, we see licensing for trained mental health professionals as a need that the State needs to address. We strongly support the licensure of MFT's.

Thank you.

Sincerely,

G McCarthy —

Greg McCarthy, M.D.

GM/cs

Law Office of
Marvin H. Clark, Jr.

P.O. Box 87-4088
Wasilla, Alaska 99687
(907) 373-0121

TO: State Legislators
FROM: MARVIN CLARK
DATE: 1/10/91

I wish to stress the importance of this State ensuring that Marriage and Family Therapists can be licensed in Alaska. I am aware that Marriage and Family Therapists provide a service that is needed in our community, yet there is no assurance that people who say they are Marriage and Family Therapists indeed possess the training and experience necessary to perform those functions. It is important that the State enact licensing specifically to assure adequate training and experience be required for those who practice the profession of Marriage and Family Therapists.

Other mental health professionals have access to licensing in the State of Alaska; however, Marriage and Family Therapists have different background training and experience and provide an alternative mental health service, therefore, they also need licensing.

Please pass a licensing law for Marriage and Family Therapists during this 1991 session of the legislature. Thank you for your attention to this matter.





Aron S. Wolf, M.B., F.A.P.A. — President
Thomas J. ...
Helen Craig, M.S.W., A.C.S.W. — Secretary/Treasurer
Greg McCarthy, M.B.
David Haddock, M.B.
Martin Alroy, Ph.D.
Karen A. Jentig, Psy.D.
Nehi J. Nelson, M.S.W., A.C.S.W.
Donald Sparrow, M.S.W., A.C.S.W.
Wendy Chese, M.S.W., A.C.S.W.
Jackie T. Jodoy, M.S.W., A.C.S.W.

December 27, 1990

Senator Virginia Collins
3111 C Street, Ste. 412
Anchorage, Alaska 99503

Dear Senator Collins:

I am writing to ask for your consideration of a bill to license marriage and family therapists which is to be introduced in the upcoming legislative session.

I support the intent of this bill which is to ensure that persons who offer their services to the public as marriage and family therapists have both the education, training, and experience to do so competently, and will do so ethically. At the present time, there is no assurance that this occurs in Alaska.

If you have questions concerning this bill, I would be happy to try and answer them.

Sincerely,

Donald Sparrow, A.C.S.W.
2050 Waldron Drive
Anchorage, Alaska 99507

DS/cs



The
Episcopal
Diocese of Alaska

The Rt. Rev. George C. Harris, Bishop

Post Office Box 441

Fairbanks, Alaska 99707-0441

Telephone (907) 452-3040

March 2, 1989

The Honorable Steve Cowper
State of Alaska
Juneau AK 99802

Dear Governor Cowper:

Of the many fiscal issues facing state government at this time, the licensing of marriage and family therapists is an issue of significant importance for consumer protection.

Incompetent people practicing in the mental health professions are very dangerous, and I feel the state needs to provide the people of this state with the necessary protection to ensure their safety and well-being. State regulation is important in providing consumers with information about credentialed professionals.

Currently, 18 states have licensing laws that regulate the practice of marriage and family therapy. Twenty-two additional states are presently considering such legislation.

Clergy in our parishes are on the front-line for referring families for marriage and family therapy. They need to have information about quality referrals. They need to know that persons who advertise themselves as marriage and family therapists do, in fact, have the training, experience, and clinical supervision they claim. The State of Alaska is the only public agency that can provide such through licensing and regulation, as it does in the case of clinical social workers, psychiatrists, clinical psychologists, psychiatric nurses, etc.

I urge you to consider and enact legislation into law that will license and regulate the field of marriage and family therapy in order to protect the people of Alaska and to promote standards of excellence across the entire field of mental health providers in our state.

Yours in Christ,

George C. Harris

George C. Harris

*Dictated by the bishop but signed in his absence.



Alaska State Legislature

Please enter into the record my testimony to the House Judiciary
committee name
committee on HB 18, dated March 11, 1991
bill/subject



A Family Worship Center "
Garry L. Oliver, Pastor

Community Baptist Church

216 Mill Bay Road Box 887
Kodiak, Alaska 99615
Church Phone 486-3458
Parsonage 486-5355

March 7, 1991

I appreciate the opportunity to express my opinion on HB18 to the Judiciary Committee. Thank you. As a pastoral counselor and Clinical Member in the American Association for Marriage and Family Therapy I have some very high expectations of those who call themselves "marriage counselors" or "family counselors." There ought to be a standardization of criteria used to recognize these people as there is of others in most health professions. Unfortunately there are many who call themselves by the title "marriage and family therapist (counselor)" who understand little of the issues involved in working with couples or whole families. It is "an entirely different ball game" when working with two or more people in relationship than with an individual person by themselves in counseling or therapy.

I am personally concerned with the kind of services some people have received that I have encountered. I believe that they might have had more helpful therapy (counseling) had their therapist (counselor) been trained specifically in the mindset and methodology consistent with the modern marriage and family therapy movement. Some marriages and relationships might have been helped to survive. And some might have been helped through the transition of separation and divorce more healthfully than they were, in my opinion. Very well-meaning folks trained only in doing individual therapy (counseling) were unable to see some of the real issues involved. Had they been trained in "systems theory", for example, they might have helped the couples and families avert the disastrous consequences which occurred.

Please understand that I am not suggesting that only American Association for Marriage and Family Therapy members are qualified. I do not believe that! There are many, many qualified persons who do not belong to AAMFT in mental health centers, in private practice, or other places of doing therapy. My personal experience is that there are some extremely qualified clergy who do excellent work with couples and families because they have had adequate training and experience, as well as a "feel" for this very unique discipline. Marriage and family therapy (counseling) is a singular discipline, and ought to be considered such by professionals, insurance companies, consumers and state and federal agencies that provide funding for such.

page two

I heartily endorse the passage of HB18. I think that this is an adequate approach to the licensing of people in Alaska for this discipline. It is not perfect, but which bill ever has been perfect? It would certainly help the consumers of marriage and family therapy (counseling) services immensely. Helping the consumers select qualified therapists (counselors) is my primary concern. All other concerns are way down the list of importance to me.

Thanks for listening.

Signed: With sincere appreciation,



Garry L. Oliver (Pastor, AAMFT Clinical Member)

216 Mill Bay Rd., Box 887 - Kodiak 99615

Address

(907) 486-5355

Phone No.

To: Representatives: Donley
Gruenberg
Ellis (Chair)
Parnell
Martin
Miller
Handley

Please pass HB 18 regulating and providing licensure for marital and family counselors. This legislation is important for the protection of Alaskan families.

We urge you to pass this bill as is.

Thank You.

Maureen Christensen
Maureen Christensen M. Ed.

Linda Hunstiger
Linda Hunstiger MSW

Martha White
Martha White MSW LCSW

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PRACTICE OF PSYCHIATRY

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REPRESENTATIVES;

Ellis
Donley
Gruenberg
Parnell
Martin
Miller
Handley

Please pass House Bill #18---AS IS

Licenses for Marital and Family therapists, which ensures
protection for consumers.

This bill is approved by the Alaska Psychological Association
as well as the Alaska Social Workers Association.

Thanks



W.A. Cassell M. D.

firm had not yet accepted her case and that only raw facts, not legal points, were discussed. *Amer. Nat. Watermattress Corp. v. Manville*, Op. No. 2477, 642 P2d 1330 (Alaska 1982).

In drunk driving prosecution in which the defendant had an independent blood test performed, by hospital personnel at his request to verify the accuracy of the police intoximeter examination, admission of expert testimony regarding the blood test did not violate the attorney-client privilege, since no lawyer participated in defendant's decision to take the blood test, nor did it violate the physician-patient privilege, since the physician-patient privilege does not apply in criminal cases. *Russel v. Municipality of Anchorage*, Op. No. 614, 706 P2d 687 (Alaska App. 1985).

Statements made by an insured to an insurer are not protected by the attorney-client privilege unless it can be shown that the insurer, in receiving such communications, was acting at the express direction of counsel for the insured. *Langdon v. Champion*, Op. No. 3291, 752 P2d 999 (Alaska 1988).

While the attorney-client privilege protects communications regarding acts which the client may have committed prior to seeking representation, it will not protect communications which pertain to ongoing or future wrongdoing. *Munn v. Bristol Bay Housing Authority*, Op. No. 3458, 777 P2d 188 (Alaska 1989).

An attorney for a party is no more entitled to withhold information than any other potential witness, and may be required to testify at a deposition or trial as to material, nonprivileged matters. *Munn v. Bristol Bay Housing Authority*, Op. No. 3458, 777 P2d 188 (Alaska 1989).

Plaintiff would be entitled to depose defendant's attorney if plaintiff could present a prima facie case that defendant consulted the attorney for the purpose of interfering with plaintiff's employment relationship, since such conduct comes within the civil fraud exception to the attorney-client privilege; accordingly, trial court erred in quashing plaintiff's notice and subpoena for the taking of the deposition without considering whether he had made a prima facie showing that the information sought was not protected by the attorney-client privilege. *Munn v. Bristol Bay Housing Authority*, Op. No. 3458, 777 P2d 188 (Alaska 1989).

Rule 504. Physician and Psychotherapist-Patient Privilege.

(a) Definitions. As used in this rule:

(1) A patient is a person who consults or is examined or interviewed by a physician or psychotherapist.

(2) A physician is a person authorized to practice medicine in any state or nation, or reasonably believed by the patient so to be.

(3) A psychotherapist is (A) a person authorized to practice medicine in any state or nation, or reasonably believed by the patient so to be, while engaged in the diagnosis or treatment of a mental or emotional condition, including alcohol or drug addiction, or (B) a person licensed or certified as a psychologist or psychological examiner under the laws of any state or nation or reasonably believed by the patient to so be, while similarly engaged.

(4) A communication is confidential if not intended to be disclosed to third persons other than those present to further the interest of the patient in the consultation, examination, or interview, or persons reasonably necessary for the transmission of

the communication, or persons who are participating in the diagnosis and treatment under the direction of the physician or psychotherapist, including members of the patient's family.

(b) **General Rule of Privilege.** A patient has a privilege to refuse to disclose and to prevent any other person from disclosing confidential communications made for the purpose of diagnosis or treatment of his physical, mental or emotional conditions, including alcohol or drug addiction, among himself, his physician or psychotherapist, or persons who are participating in the diagnosis or treatment under the direction of the physician or psychotherapist, including members of the patient's family.

(c) **Who May Claim the Privilege.** The privilege may be claimed by the patient, by his guardian, guardian ad litem or conservator, or by the personal representative of a deceased patient. The person who was the physician or psychotherapist at the time of the communication is presumed to have authority to claim the privilege but only on behalf of the patient.

(d) **Exceptions.** There is no privilege under this rule:

(1) **Condition an Element of Claim or Defense.** As to communications relevant to the physical, mental or emotional condition of the patient in any proceeding in which the condition of the patient is an element of the claim or defense of the patient, of any party claiming through or under the patient, of any person raising the patient's condition as an element of his own case, or of any person claiming as a beneficiary of the patient through a contract to which the patient is or was a party; or after the patient's death, in any proceeding in which any party puts the condition in issue.

(2) **Crime or Fraud.** If the services of the physician or psychotherapist were sought, obtained or used to enable or aid anyone to commit or plan a crime or fraud or to escape detection or apprehension after the commission of a crime or a fraud.

(3) **Breach of Duty Arising Out of Physician-Patient Relationship.** As to a communication relevant to an issue of breach, by the physician, or by the psychotherapist, or by the patient, of a duty arising out of the physician-patient or psychotherapist-patient relationship.

(4) **Proceedings for Hospitalization.** For communications relevant to an issue in proceedings to hospitalize the patient for physical, mental or emotional illness, if the physician or psychotherapist, in the course of diagnosis or treatment, has determined that the patient is in need of hospitalization.

(5) **Required Report.** As to information that the physician or psychotherapist or the patient is required to report to a public employee, or as to

... or persons who are participating in and treatment under the direction of a physician or psychotherapist, including the patient's family.

Right of Privilege. A patient has a right to disclose and to prevent any disclosure of confidential communications for the purpose of diagnosis or treatment, physical, mental or emotional, including alcohol or drug addiction, by a physician or psychotherapist, or by a person participating in the diagnosis or treatment in the direction of the physician or psychotherapist, including members of the patient's family.

Who May Claim the Privilege. The privilege may be claimed by the patient, by his guardian, conservator, or by the personal representative of a deceased patient. The person claiming the privilege is presumed to have authority to do so but only on behalf of the patient.

There is no privilege under this rule if:

Element of Claim or Defense. The privilege does not apply to communications relevant to the physical, mental, or emotional condition of the patient in any proceeding in which the condition of the patient is an element of the claim or defense of the patient, of the party claiming the privilege, or of the patient, of the patient's condition as an element of any person claiming as a party through a contract to or was a party; or after the proceeding in which any party claims the privilege.

If the services of the physician or psychotherapist were sought, obtained or planned by anyone to commit or plan a crime, to detect or apprehend a crime, or to prevent the commission of a crime or a fraud.

Arising Out of Physician-Patient Relationship. The privilege does not apply to a communication relating to the diagnosis or treatment of the patient, of a duty arising out of the physician-patient or psychotherapist-patient relationship.

Waiver of Privilege. For communications made in proceedings to hospitalize a patient for physical, mental or emotional or psychological reasons, or for treatment, if the physician or psychotherapist, in the course of treatment, has determined that hospitalization is necessary.

As to information that the physician or the patient is a public employee, or as to

EVIDENCE RULES

information required to be recorded in a public office, if such report or record is open to public inspection, or as to information or matters contained in or reasonably raised by a report submitted under AS 08.64.336, other than information that would establish the identity of a patient, unless the court finds that it is necessary to admit the identifying information in order to serve the interests of justice.

(6) **Examination by Order of Judge.** As to communications made in the course of an examination ordered by the court of the physical, mental or emotional condition of the patient, with respect to the particular purpose for which the examination is ordered unless the judge orders otherwise. This exception does not apply where the examination is by order of the court upon the request of the lawyer for the defendant in a criminal proceeding in order to provide the lawyer with information needed so that he may advise the defendant whether to enter a plea based on insanity or to present a defense based on his mental or emotional condition.

(7) **Criminal Proceeding.** For physician-patient communications in a criminal proceeding. This exception does not apply to the psychotherapist-patient privilege.

(Added by SCO 364 effective August 1, 1979; amended by SCO 850 effective January 15, 1988)

Annotations

Cases

The state enactment of the child abuse reporting statute did not abrogate the psychotherapist/patient privilege in child abuse cases. *State v. R.H.*, Op. No. 375, 683 P2d 269 (Alaska App. 1984).

Child abuse reports are not open to the public and therefore are not within the exception to the psychotherapist/patient privilege for information required to be recorded in a public office and open to public inspection. *State v. R.H.*, Op. No. 375, 683 P2d 269 (Alaska App. 1984).

Where court-ordered psychiatric examination of defendant clearly pertained to a child protection proceeding, the exception to the psychotherapist/patient privilege for certain court-ordered examination did not apply to testimony before a grand jury investigating a criminal charge against defendant, since preparing evidence for the grand jury was not the purpose for which the psychiatric examination was ordered. *State v. R.H.*, Op. No. 375, 683 P2d 269 (Alaska App. 1984).

In drunk driving prosecution in which the defendant had an independent blood test performed by hospital personnel at his request to verify the accuracy of the police intoximeter examination, admission of expert testimony regarding the blood test did not violate the attorney-client privilege, since no lawyer participated in defendant's decision to take the blood test, nor did it violate the physician-patient privilege, since the physician-patient privilege does not apply in criminal cases. *Russell v. Municipality of Anchorage*, Op. No. 514, 706 P2d 687 (Alaska App. 1985).

Defense counsel in a personal injury action, may engage in informal ex parte interviews with a plaintiff's treating physician, but the physician cannot be compelled to submit to such interviews. *Langdon v. Champion*, Op. No. 3249, 745 P2d 1371 (Alaska 1987).

The psychotherapist-patient privilege is waived unless someone acts at trial to exercise the privilege. *Clifton v. State*, Op. No. 826, 758 P2d 1279 (Alaska App. 1988).

Rule 505. Husband-Wife Privileges.

(a) Spousal Immunity.

(1) **General Rule.** A husband shall not be examined for or against his wife, without his consent, nor a wife for or against her husband, without her consent.

(2) **Exceptions.** There is no privilege under this subdivision:

(A) In a civil proceeding brought by or on behalf of one spouse against the other spouse; or

(B) In a proceeding to commit or otherwise place his spouse, the property of his spouse or both the spouse and the property of the spouse under the control of another because of the alleged mental or physical condition of the spouse; or

(C) In a proceeding brought by or on behalf of a spouse to establish his competence; or

(D) In a proceeding in which one spouse is charged with:

(i) A crime against the person or the property of the other spouse or of a child of either, whether such crime was committed before or during marriage.

(ii) Bigamy, incest, adultery, pimping, or prostitution.

(iii) A crime related to abandonment of a child or nonsupport of a spouse or child.

(iv) A crime prior to the marriage.

(E) In a proceeding involving custody of a child.

(F) Evidence derived from or related to a business relationship involving the spouses.

(b) Confidential Marital Communications.

(1) **General Rule.** Neither during the marriage nor afterwards shall either spouse be examined as to any confidential communications made by one spouse to the other during the marriage, without the consent of the other spouse.

(2) **Exceptions.** There is no privilege under this subdivision:

(A) If any of the exceptions under subdivision (a) (2) of this rule apply; or

(B) If the communication was made, in whole or in part, to enable or aid anyone to commit or plan to commit a crime or a fraud; or

(C) In a proceeding between a surviving spouse and a person who claims through the deceased spouse, regardless of whether such claim is by testate or intestate succession or by inter vivos transaction; or