ALASKA LEGISLATURE COMMITTEE FILES 1993-1994 8672

7811 HOUSE HEALTH EDUCATION & SOCIAL SERVICES

1 (B) for guardianship purposes;
2 (7) "department" means the Department of Health and Social Services;
3 (8) "facility" means the administration, program, and physical plant of
4 a foster home, child care facility, residential child care facility, or maternity home;
5 (9) "foster home" means a place where the adult head of household
6 provides 24-hour care on a continuing basis to one or more children who are apart
7 from their parents;
8 (10) "home study" means a written report of an investigation of the
9 prospective adoptive or foster parent or parents' ability to care for a child that has been
10 prepared in accordance with AS 25.23.100(f);
11 (11) "licensee" means a person to whom a license has been issued
12 under this chapter;
13 (12) "maternity home" means a place of residence whose primary
14 function, with or without compensation, is to give care to pregnant individuals,
15 regardless of age, before or after the individual gives birth, or that provides care, as
16 needed, to mothers and their newborn infants;
17 (13) "nonsecure attendant care setting" means an unlocked place that
18 is an alternative to an adult jail or other locked setting, where an employee, adult head
19 of household, or volunteer provides care for one or more children 10 years of age or
20 older who are under arrest and who are apart from their parents;
21 (14) "parent" means a birth or adoptive parent or a legal guardian;
22 (15) "recreational camp" means a place that provides recreational
23 opportunities to children who attend with the consent of their parent;
24 (16) "relative" means an individual who is related to another through
25 any of the following relationships, by blood, adoption, or marriage: parent,
26 grandparent, great grandparent, brother, sister, stepparent, stepsister, stepbrother,
27 cousin, aunt, uncle, great-aunt, great-uncle or step-grandparent;
28 (17) "residential child care facility" means a place, staffed by
29 employees, where one or more children who are apart from their parents receive 24-
30 hour care on a continuing basis.
31 * Sec. 19. AS 47.40.110 is amended to read:

1 Sec. 47.40.110. LICENSING AND SUPERVISION. A person providing
2 services purchased by the Department of Health and Social Services under
3 AS 47.40.100 - 47.40.120 shall, if required to be licensed under AS 47.35, be licensed
4 and supervised in the same manner as foster homes <u>and</u> [, BOARDING HOMES,]
5 maternity homes [, AND OTHER AGENCIES AND INSTITUTIONS] under
6 AS 47.35.

7 * **Sec. 20.** AS 47.35.020, 47.35.030, 37.35.035, 47.35.040, 47.35.055, 47.35.060, 47.35.070,
8 47.35.075, 47.35.090, and 47.35.100 are repealed.

9 * **Sec. 21.** APPLICABILITY; IMPLEMENTATION. (a) AS 47.35, as amended by this
10 Act, applies to all foster homes, child care facilities, residential child care facilities, child
11 placement agencies, and maternity homes, as defined in AS 47.35.900, as amended by sec. 18
12 of this Act, that are in operation on January 1, 1996, as well as to all such facilities and
13 agencies that begin operation on or after January 1, 1996.

14 (b) A foster home, child care facility, residential child care facility, child placement
15 agency, or maternity home, as defined in AS 47.35.900, as amended by sec. 18 of this Act,
16 that is in operation on January 1, 1996, and that was licensed by the Department of Health and
17 Social Services before January 1, 1996, may continue to operate under that license until the
18 expiration date of the license, or until a complaint is filed, whichever occurs first. On the date
19 that the license expires or a complaint is filed, whichever occurs first, the procedures in
20 AS 47.35, as amended by this Act, including license renewal procedures, first apply to such
21 a facility or agency.

22 (c) If AS 47.35.210 - 47.35.250, enacted in sec. 17 of this Act, take effect, AS 47.35,
23 as amended by this Act, applies to residential facilities for dependent adults and to foster
24 homes for adults that are in operation on January 1, 1996, as well as to adult residential care
25 facilities that begin operation on or after January 1, 1996. A residential facility for dependent
26 adults or a foster home for adults that is in operation on January 1, 1996, and that was
27 licensed by the Department of Health and Social Services before that date may continue to
28 operate under that license until the expiration date of the license or until a complaint is filed,
29 whichever occurs first. On the date that the license expires or a complaint is filed, whichever
30 occurs first, the adult residential care facility procedures in AS 47.35, as amended by this Act,
31 including license renewal procedures, first apply to such a facility or foster home.

1 * Sec. 22. TRANSITION; REGULATIONS. Notwithstanding secs. 25 and 26 of this Act,
2 the Department of Health and Social Services may proceed to adopt regulations necessary to
3 implement the provisions of this Act. The regulations take effect under AS 44.62
4 (Administrative Procedure Act), but not before January 1, 1996.
5 * Sec. 23. AS 47.35.210 - 47.35.250, enacted in sec. 17 of this Act, take effect only if a
6 bill that provides for a licensing and regulatory structure for residential facilities for adults
7 other than this Act is not enacted into law after passing the Second Session of the Eighteenth
8 Alaska State Legislature.
9 * Sec. 24. Sections 22 and 23 of this Act take effect immediately under AS 01.10.070(c).
10 * Sec. 25. Except for AS 47.35.210 - 47.35.250, enacted in sec. 17 of this Act, secs. 1 -
11 21 of this Act take effect January 1, 1996.
12 * Sec. 26. Subject to sec. 23 of this Act, AS 47.35.210 - 47.35.250, enacted in sec. 17 of
13 this Act, take effect January 1, 1996.

OFFERED TO HESS COMMITTEE IN THE HOUSE BY: DEPT. H&SS

Amendments to: HB 412

DHSS AMENDMENT # 1

Page 4, line 14 delete existing language and

Insert (2) a facility located on a United States Department of Defense or Coast Guard installation, which is on federal property;

Rationale: Commander Gary Palmer of Legal Services in the US Coast Guard has informed the department that this amendment is necessary to exempt child care on Coast Guard installations from licensure. It was the department's intent to continue the current exemption on Kodiak Island and the exemptions for the large military bases in Anchorage and Fairbanks. The department has agreed to continue to license family child care homes under voluntary provisions on Coast Guard Installations in communities like Cordova and Sitka. Child care is very limited there and the Coast Guard has no means to provide oversight. This licensure will be on a time available basis.

DHSS AMENDMENT # 2

Page 4, following line 27 insert

..."who are unrelated to the resident caregiver."

Rationale: Licensing laws generally do not apply to care from relatives. The amendment is needed to correct a drafting error. Without the amendment a grandmother could not care for her five grandchildren without a license.

DHSS AMENDMENT # 3

Page 7, line 23 after (a)

Insert "Except in an emergency in which a child must be placed,..."

Page 7, line 30

Insert a new subsection to read: "(b) In an emergency in which a child must be placed, the department or the department's designee may authorize issuance of a provisional foster home license for a period up to 90 days, if the department determines that the applicant meets minimal requirements for emergency conditions."

Renumber the following subsections accordingly.

Rationale: As a practical matter usual licensing requirements cannot be met in the middle of the night in a village under emergency conditions. Alaska Native Grantees recommended a straight forward approach in the bill, with additional specifics to be worked out in regulations.

DHSS AMENDMENT # 4

Page 10, line 2

Delete ..., and variances approved by,....

Page 10, line 3

Delete ...and...

Insert new text to read

(8) variances approved by the department for the duration of the license; and

Renumber the following item as (9)

Page 10, line 9 after "...agency staff."

Insert "A licensee, except a foster home licensee, shall post, near the license, any variance approved by the department, but not stated on the license."

Rationale: Issuing a revised license for a variance and then re-issuing the license within the license period results in extra paperwork. The licensee could post a shorter term variance to notify the public.

Fairbanks North Star Borough

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To: House Health, Education and Social Services Committee
Representatives Toohey, Bunde, Davis, Vezey, Kott, Olberg, Davis, Nicholia and Brice

VIA: Legislative Information Office, Fairbanks

From: Cheryl Keepers, Administrator
Child Care Assistance

Date: 3/14/94

Subject: HB 412, Community Care Licensing

I am sorry I was not able to participate in the teleconferenced hearing today, but I do want to convey to the Committee that I support this bill with the amendments proposed by the Department.

I have reviewed it with child care licensing in mind, as that is the portion of community care licensing I am familiar with. This bill as amended will permit some streamlining of administrative functions, which will help both licensing staff and the public. It will have no adverse impacts that I can see.

Please pass the bill.

Thank you for the opportunity to comment.

NAEYC Position Statement on Licensing and Other Forms of Regulation of Early Childhood Programs in Centers and Family Day Care

Subjects & Predicates

The importance of regulating early childhood programs Increasing numbers of young children are spending significant portions of their day in settings outside their home. The latest census figures indicate the majority of mothers of young children are employed outside the home. Moreover, a growing percentage of preschool children attend early childhood programs regardless of their mother's employment status. Quality early childhood programs provide important educational and nurturing experiences to young children. Early childhood programs also enable parents to work or attend educational or training programs. Thus, the provision of early childhood programs that will nurture, protect, and educate young children benefits not only the children themselves but also their families, their communities, and the larger society.

When parents seek child care outside their homes, they can choose among a variety of options reflecting the diverse needs of today's families. These options can be grouped in two major settings: *family day care* or care in the home of a caregiver who is not a relative or close family friend and *center care*, generally in a non-residential setting. Close to half the states define an additional care setting: the *group home*. Group homes usually care for 7 to 12 children in a caregiver's home, employing additional staff as necessary to meet the adult-child ratios necessary for the age of the children served. States not recognizing the group-home category regulate this arrangement as a center. Regardless of the setting, services may be provided to infants; toddlers; preschool, school-age, and special needs children. Each type of care may provide full- or part-day care on a regular or flexible basis.

POSITION

The National Association for the Education of Young Children believes all forms of out-of-home care settings must be subject to public regulation. Public regulation of early childhood programs is administered by the states and takes the form of licensing center programs and licensing or registering family day care homes. When these regulatory systems are well-designed and effectively administered, they can help to assure the provision of early childhood programs that will nurture, protect, and educate young children. As such, regulation should not be perceived as unwarranted intrusion, but as vigorous and necessary consumer protection for parents and their young children.

The benefits of public regulation of early childhood programs The primary benefit of regulation is that it helps assure children's rights to an acceptable level of care. Licensing standards set forth the public definition of acceptability; programs must meet at *least* this level of quality in order to legally operate. States vary considerably at where they set the baseline of acceptable quality. Such variation reflects differences in the degree of public understanding of children's needs.

In addition to assuring the well-being of young children, a well-administered regulatory system offers important benefits to providers of care. It gives official recognition of the importance of their work in caring for the community's children, brings them into contact with other providers and sources of business assistance and training, helps them recruit children, facilitates getting insurance

coverage, educates parents about standards and provides rationale for the cost of a program, and prevents unscrupulous competition from offering grossly substandard services. The benefits to providers, while important, are secondary to the central purpose of protecting consumers.

An effective regulatory system not only assures an acceptable level of care, but can help to raise the level over time. Regulatory requirements educate the community as to the necessary components of acceptable care. As public understanding and support grow, and as more providers are able to improve the quality of care they offer, standards can be raised and higher levels of quality are provided to all children in care.

Michael Siluk

Regulation should not be perceived as unwarranted intrusion, but as rigorous and necessary consumer protection for parents and their young children.

Assuring an effective regulatory system States regulate center programs by *licensing;* some states also use this system for family day care homes. The goal of licensing is to assure a minimum level of good quality care while taking into account the different types of settings and the number of children served. Licensing includes an on-site visit to assure that basic requirements are met prior to licensure and periodic inspections to monitor continued compliance.

Registration is a variation of licensing used by some states for family day care homes. Registration relies more heavily on parents as monitors than does traditional licensing. Generally, inspections are not required prior to registration, and states vary in degree to which registered homes are monitored. Parents are informed of the standards, are encouraged to inspect for themselves, and are told to report serious violations. Registration of family day care homes offers a viable alternative to licensing when it includes an effective monitoring process. At a minimum, the monitoring process should assure that at least 20% of registered homes receive random inspection visits on a regular, rotating basis.

NAEYC affirms the importance of a well-designed and effectively administered system of state regulation to secure the provision of safe, nurturing, and educational early childhood programs for young children. The criteria for assuring regulatory systems are well-designed and effectively administered include

1. Mandatory compliance is enforced.

Basic levels of quality care must be assured through regulation for all children participating in any form of out-of-home care. Thus, regulatory systems designed to provide basic protection of children must apply to all programs, without limiting definitions, exemptions, or exceptions. Whenever programs are exempted, not covered, or given special treatment, the entire regulatory structure is weakened.

Sanctions should be included in the regulatory system to give binding force to its requirements. Enforcement provisions should give the state the ability to impose fines, to revoke or suspend licenses or registration, and to take emergency action to close a program in those rare cases that are dangerous to children. The vulnerability of children mandates the highest level of official scrutiny of their child care environments.

2. Programs are regulated

—regardless of sponsorship

NAEYC opposes the exemption of programs on the basis of sponsorship, such as the exemption of church-run programs. When public schools operate programs for young children, it is usual for the state Department of Education, rather than the licensing agency, to assume responsibility for approval. In such cases, the responsible agency should adopt standards equal to or better than those of the licensing agency, implemented through a system that includes monitoring visits.

—regardless of the length of the program day

Both full- and part-day programs should be regulated, including programs that provide drop-in care.

—regardless of the age or number of children served

The system should provide developmentally appropriate standards that cover the care of all children in infant/toddler care, preschool care, school-age care, and special needs programs.

3. Standards are appropriate to the type of setting and the number of children served, and reflect current research findings concerning the determinants of quality child care, including factors such as

- —group size
- —adult-child ratios
- —staff knowledge and training in early childhood education and child development
- —parent involvement and access
- —positive discipline
- —developmental appropriateness of the program

4. The regulatory system is highly visible and accessible to parents and providers.

The general public, and in particular parent-consumers, should have access to information about the requirements for legal and safe operation of an early childhood program. Public service announcements, the development and dissemination of brochures and flyers that describe state/local standards, open workshops, and communication with organized parent groups are all excellent ways for the regulatory agency to raise the child-caring consciousness of a community. A highly visible regulatory system also helps to inform potential and current providers of the existence of standards and the need to comply with the law.

There should be physical evidence that a given program setting has been duly inspected and found to meet the standards imposed by the state and/or local authorities. Mechanisms for registering complaints about the care of children should be widely publicized and accessible to both parents and the general public. All these materials and services should be presented in languages consistent with the needs of local communities.

Publicizing the requirements of the regulatory system is particularly important when states use registration systems with random inspections of family day care providers. Parents must be warned that under such a system not all registered providers have been inspected, and the state cannot verify that the registration requirements have been met. When such systems are used, parents must play an especially active role in inspecting and monitoring the quality of a program.

5. Standards are clear, reasonable, and vigorously enforced.

The authority invested with the responsibility of licensing programs should develop written materials and presentations that clearly communicate what is necessary to obtain and maintain official approval. Confusing or intimidating legal language should be kept to a minimum.

Applications and inspection procedures should be simple and handled in a timely fashion. A timeline for the accomplishment of registration or licensure should be presented and discussed with each applicant. Application materials should describe, in writing, what will happen and when. Where possible, one individual should be assigned to oversee the licensing process to completion for each applicant.

6. Funding for the implementation and monitoring of the regulations is adequate.

Regulations are compromised if funds are inadequate to assure effective implementation and monitoring by the administering agency. A regulatory system can accomplish its objectives only with sufficiently trained staff and adequate resources. Staff must be able to meet their inspection goals, to follow up on all parent complaints, and to investigate unregulated care. Staff should be sufficient to avoid long waiting lists of pending licenses or registration.

NAEYC believes that centers and group homes should be regulated by a licensing system that includes an on-site visit prior to licensure and periodic visits thereafter. It is important to visit center programs at least once a year, and preferably twice a year, to assure continuing maintenance of the required level of quality. At least one visit a year should be unannounced. NAEYC suggests that in order to make the needed visits and follow up on complaints, one full-time licensor (or full-time equivalent) should have 50 centers assigned, and never more than 75 centers.

Licensors who regulate family day care through an inspection visit prior to licensing and conduct at least annual visits should have 100 homes assigned, and never more than 150 (exclusive of

other responsibilities). If a registration process is used to regulate family day care, visits should be made to at least 20% of the homes on a random, rotating basis, not counting visits to follow up complaints. A full-time inspector could handle 500 homes and never more than 750 with backup assistance.

7. The regulatory system is responsive to the needs of both providers and parents.

The regulatory authority should play a central role in the child care delivery system at both the local and state levels. Interface with referral programs, resource networks, and training/technical assistance programs should also be an important function of the regulatory staff. Regulatory materials, such as application forms, brochures, licenses, or other certificates should include up-to-date information about available training and technical assistance, including referral to local organizations sponsoring the Child Care Food Program, and local/state professional associations.

Special considerations for various care settings

NAEYC believes all forms of out-of-home care should be publicly regulated. However, the diverse characteristics of types of care make it important that the regulatory system has the flexibility to deal with variation without compromising the safety and developmental appropriateness of the program. For example, it is especially important that standards for family day care be clear and few in number.

Albert J. Miller, M.D.

Whenever programs are exempted, not covered, or given special treatment, the entire regulatory structure is weakened.

Marietta Lynch

A highly visible regulatory system helps to inform potential and current providers of the existence of standards and the need to comply with the law.

Special considerations also need to be made for group homes, which combine characteristics of both family day care and center programs. About half the states recognize the group home category, although other names may be used (e.g., "large home" or "mini-center"). This form of care is not widely prevalent, and is not expected to proliferate because large homes are required for operation. Group homes are, however, a viable way of providing good quality care to young children, and offer the opportunity for two or more caregivers to work together rather than in isolation. NAEYC supports the recognition and regulation of group homes as a care setting, if

- adult-child ratios are the same as center ratios;
- training of caregivers is required;
- group homes are licensed like center programs with pre-licensing inspections; and
- group homes are approved by building inspectors as meeting appropriate group home building and fire codes, and are approved by health officials as meeting sanitation requirements appropriate for these small programs.

The role of early childhood professionals to assure effective regulation It is a professional responsibility to report serious violations of regulatory requirements, and to support members of the profession who make such reports. All states should consider establishing "whistle blowing" laws, such as those in California and Ohio that make it illegal to discharge an employee for reporting a licensing violation. Moreover, the early childhood professional should be well versed concerning the regulatory system in her or his state and community, should take part in the rule-making process, and should help to build increased public awareness and support for appropriate standards and their effective implementation.

Other forms of regulation

Health, building, and fire safety codes

In addition to state licensing requirements, early childhood programs are subject to other publicly administered requirements. Local building and fire safety requirements and sanitation codes are locally applied, each enforced by a different agency. While the trend is for such codes to be uniform, statewide standards, additional local requirements may also be applied. NAEYC believes that inspection, monitoring, and enforcement of all applicable codes should be coordinated to ensure that public personnel and fiscal resources are wisely used, and to avoid undue delays, barriers to services, and unnecessary red tape. Local regulation should be added only in coordination with licensing or registration requirements.

Zoning

Zoning is the regulation of land use by local planning officials under the state enabling law. Zoning affects the provision of child care by determining where programs may be offered. NAEYC's position on zoning is based on the recommendation of the American Planning Association. NAEYC believes that center programs, group homes, and family day care should be regarded as a needed community service rather than as a commercial use, and should be permitted in any residential zone. Center programs should be regarded as a class of use similar to a school, although it is rare to find a center as large as the smallest of schools. Group homes should be regarded in the same way, except that they are even smaller. The effect on neighborhoods by these types of early childhood programs is less than the effect of a school. As an educational service, they should be permitted in any zone where schools would be permitted. Planning should take into account the need

for these services as communities develop new housing and commercial use.

Family day care homes should be regarded as a residential use for zoning purposes. Family day care is indistinguishable from family occupancy in terms of traffic, noise, effects on neighbors, and other factors. It should be permitted without further restriction in any zone in which families are permitted to live or in which working families might need child care services.

Zoning stipulations should not make additional requirements for the protection of children because that is the responsibility of the state licensing system. Cities and towns should use uniform definitions for center programs, group homes, and family day care, referring to the definitions in the state licensing law.

Early childhood regulation in context

An effective system of public regulation is the cornerstone of any effort to assure the quality of early childhood programs because it alone reaches all programs. There are additional methods, both regulatory and non-regulatory, of pursuing quality in early childhood policy. Additional levels of quality may be established above that required for licensing through administrative standards, funding standards, and accreditation standards. However, licensing provides the necessary foundation of acceptable quality upon which all other efforts are built.

Administrative standards are applied by public agencies who administer programs, such as the schools or a health or mental health department. Programs administered by public agencies may not be licensed, but their standards for quality and methods for assuring the maintenance of quality should be at least equal to those used for licensing. When the government (whether state or federal) pays for a program, it often sets standards for its grant or purchase. For example, Head Start has performance standards, and some states require higher standards of their Title XX programs in addition to being licensed. Many of the states that have funded prekindergarten programs in recent years have set forth comprehensive standards beyond licensure to be met by funded programs.

Accreditation offers a way of distinguishing early childhood programs of high quality. While it is possible that accreditation could be required of a program (for example by its funding source), it is usually voluntary. A few states offer voluntary accreditation above the licensing level. The National Academy of Early Childhood Programs, a division of NAEYC, offers the only national, voluntary, professionally recognized system for accreditation. For more information, contact the Academy at 1834 Connecticut Avenue, N.W., Washington, DC 20009.

Regulation can also take the form of credentialing qualified individuals. The Child Development Associate Credential is a nationally recognized, competency-based credential for early childhood personnel. Credentials are available for those who work in centers as well as family day care homes. For more information about the CDA Credential, contact the Council for Early Childhood Professional Recognition, 1718 Connecticut Avenue, N.W., Washington, DC 20009.

The quality of early childhood programs can also be improved through non-regulatory approaches. Professional training and preparation, public education, resource and referral services, and other means of provider and consumer education all play an important role in increasing the quality of services available to young children and their families.

For more information

For further information about the licensing requirements in your state, contact your state licensing agency or the NAEYC Information Service, 1834 Connecticut Avenue, N.W., Washington, DC 20009. NAEYC distributes information on the regulation of early childhood programs through a collaborative effort with Work/Family Directions.

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LICENSES

PROVISIONAL LICENSE

A provisional license is the kind of license granted to **new applicants if standard requirements are met.**

Provisional licenses also are issued **when a facility has allowed its biennial license to expire** without obtaining a new one, and when a facility **moves, changes ownership, or changes the type of care offered.**

A biennial license may be reduced to provisional status when substantial noncompliance is found. An acceptable plan to bring the facility into conformity within the time specified on the provisional license is required.

A provisional license is valid for up to one year and may be renewed for an additional period not to exceed one year.

GRANTING THE FIRST BIENNIAL LICENSE

Within the one year, the **facility must show that it can meet standards on a continuing basis in order** to qualify for a biennial (two-year) license.

While the applicant has a provisional license, the licensing representative makes at least one visit to evaluate the facility's compliance with standards, including those which require the presence of children or dependent adults. The representative provides needed help, as time permits. The applicant is informed of the findings.

After inspecting the facility, the licensing representative recommends that a biennial license be granted or denied. The application already submitted suffices for the provisional and the first biennial license — the applicant need not submit another application for the first biennial license.

If the facility is meeting standards, the first biennial license will be granted at the end of the one-year provisional licensing period. **The biennial license replaces the provisional license and is valid for two years from the date issued unless revoked for cause.**

If the facility does not meet standards during the provisional period, the biennial license is denied. The provisional license may be revoked before it expires, and the facility must stop caring for children or dependent adults.

RENEWING THE BIENNIAL LICENSE

About three months before the biennial license is due to expire, the licensee will receive a reminder letter about the expiration date, an application form for another biennial license, and other required forms.

MONITORING

MONITORING OF BIENNIAL LICENSES

After licensing has been approved, the licensing representative makes visits to the facility to substantiate that the facility continues to meet standards. No fewer than six months should elapse between visits to the home. Inspection visits, whether announced or unannounced, are planned and purposeful. The representative is especially alert to any conditions that may be hazardous to persons in care.

An abbreviated standard-by-standard evaluation is completed on the off year during a two year biennial licensure period. This monitoring evaluation is completed during an announced visit. Evaluations of the facility from parents and placement agency staff are also used.

HELP IN MEETING STANDARDS

Licensing is a form of protection for children, dependent adults and other consumers. It seeks to **minimize** risks in out-of-home care and **promote healthy growth.** It also seeks to protect the rights of providers.

Licensing staff seek to work with care providers when problems occur in meeting standards.

An applicant or licensee may at any time request help if there are questions about standards or how a program can comply with standards. There may be several ways a facility can comply; the licensing representative will discuss the options.

If an applicant or licensee disagrees with a decision or action of the licensing staff, he or she may contact the supervisor or regional manager or administrator. Frequently the disagreement can be resolved quickly.

WAIVERS AND VARIANCES

The licensing law allows the Division to grant waivers. **A waiver is permission to meet the intent of a standard in a way other than that specified by the standard.**

A waiver may be requested when making application for license or any time during the duration of a provisional or biennial license.

To request a waiver, the applicant completes the top part of the form and sends it to the licensing representative. The licensing representative fills out the second half. The form then is reviewed and signed by regional office staff. The health, safety and well-being of those in care are the main criteria.

FAILURE TO COMPLY WITH STANDARDS

NOTIFICATION OF NONCOMPLIANCE

The licensing representative notifies the provider in writing of any noncompliance found. Noncompliance may be with the law, regulations, and any conditions of the license, or waivers.

It is common for noncompliances to be found; fortunately, most are resolved. The licensing representative explains how to make necessary corrections and works out a time limit. An applicant or licensee may feel that licensing staff should overlook a minor noncompliance; however, staff must notify the applicant or licensee of all noncompliances, in writing.

A standard-by-standard evaluation form or the annual monitoring form is filled out during a visit to the facility. A plan of correction form may also be completed. The licensing represen-

DENYING AN APPLICATION

After the time limit set in the noncompliance notification letter, the licensing representative conducts a follow-up inspection. If a facility still doesn't comply with standards or the licensing law, the application may be denied and the decision communicated to the applicant. Denials and revocations fall under the Administrative Procedures Act. When a denial is contemplated, Regional Office consultation is secured. The State Office and an attorney from the Department of Law must approve denials prior to notification of the applicant. State Office and Department of Law consultation is available to ensure conformity with the requirements of the Administrative Procedures Act.

REVOKING A LICENSE

If it is discovered that a licensed facility is not substantially complying with the law or regulations, the Division notifies the facility of what must be done to comply and issues a deadline. Sometimes, if corrections are not made, the Division conducts a standard-by-standard evaluation of the facility before deciding whether to revoke the license. The facility is given ample notice and opportunity to correct the situation.

There are exceptions to the above procedure. If a person dies or is seriously injured as a result of a violation of standards or the law, or if non-

PROCESSING YOUR APPLICATION

GROUP INTAKE MEETINGS

To conserve state staff time, many Division offices hand out applications only at intake meetings scheduled once or twice a month. **The licensing process is explained.** Often licensed providers participate to share their experiences. Planning with the local foster parent association, early childhood organization, or Day Care Assistance agent is helpful. Some Division offices are requiring pre-licensing training for Division foster homes.

SUBMITTING THE APPLICATION

When an application is submitted, **licensing staff have ten days to make sure it's complete.** A complete application consists of the required application form with all supporting documents. Materials must be correctly and completely filled out and signed.

An incomplete application is returned with an explanation of what to do to complete it.

From the date that the complete application is accepted, licensing staff have, by policy, **two months to grant or deny a license,** unless staff cannot determine compliance in that time (usually as a result of lack of reference response, marginal references, or a complaint needing investigation).

APPLICATION INVESTIGATION

Before issuing a provisional license, licensing staff investigate to see if the applicant and his or her home comply with the required standards.

If a facility is already operating, it must meet all standards except those on which waivers have been previously granted. **If a facility is not yet operating,** it must meet those standards which do not require the actual presence of children or dependent adults for evaluation.

The licensing representative **requests and evaluates information** from references and evaluates all other required written materials.

WITHDRAWING AN APPLICATION

An applicant may withdraw his or her application unless children or dependent adults are already in care. An applicant for a family child care home may reduce his/her population to four unrelated children and withdraw the application. A request for withdrawal is confirmed in writing and the application returned.

DECISION ON THE APPLICATION

A license will be issued if the facility complies with the statute and the regulations. A license will be denied if the facility does not comply with the statute and regulations, unless a waiver has been granted.

LICENSING MATERIALS:

WHAT YOU RECEIVE

REGULATIONS and the LICENSING LAW

Each applicant is given a copy of the regulations for the kind of facility he or she plans to operate and a copy of the licensing statute. A home is regulated according to the regulations and the law.

Regulations are developed by the Division of Family and Youth Services with the help of providers, parents, lawyers, doctors and other professionals. Public hearings give interested persons the opportunity to testify on issues regarding standards.

Regulatory standards are basic requirements, the lowest level acceptable for Alaskan community care programs. They reduce predictable risk. They do not guarantee high quality.

APPLICATION FORM

The application form must be filled out, signed and returned with other required supporting documents for the application to be accepted.

COMPLIANCE EVALUATION FORM

The Division uses a standard-by-standard evaluation form to evaluate a home. It is in checklist format with narrative at the end.

OTHER MATERIALS

The Division gives the applicant information on funding sources and provides some sample forms for use. Other Division publications and available resources are provided as applicable.

tative sends a letter to the applicant or licensee, including a copy of the evaluation form and plan of correction, if applicable. The form(s) and the letter cite:

- standards with which the facility did not comply;

- noncompliances with the licensing law, or the conditions of a license or waiver; and

- corrections needed and the date by which corrections must be made.

compliance presents a clear danger to the health and safety of the persons in care, the Division takes **immediate** steps to revoke the license (or deny the application). Again, State Office and the Department of Law must approve the action.

In all instances, the facility is notified of the right to appeal.

REFERRAL FOR LEGAL ACTION

If a license is revoked or denied and no appeal is requested, or if there is an appeal and the decision to revoke or deny the license is upheld, the applicant or licensee must stop caring for children or dependent adults or reduce to four or fewer unrelated children for a family child care home. **A facility which provides care without a license is violating the law and the Division may request injunctive relief through the district attorney or the attorney general.**

COMPLAINT INVESTIGATIONS

Division policy requires a licensing representative to investigate when he or she receives a complaint that a facility is not meeting standards or is violating the licensing law. The licensing representative informs the licensee and investigates.

After the investigation, the licensing representative informs the facility of the findings and any necessary follow-up.

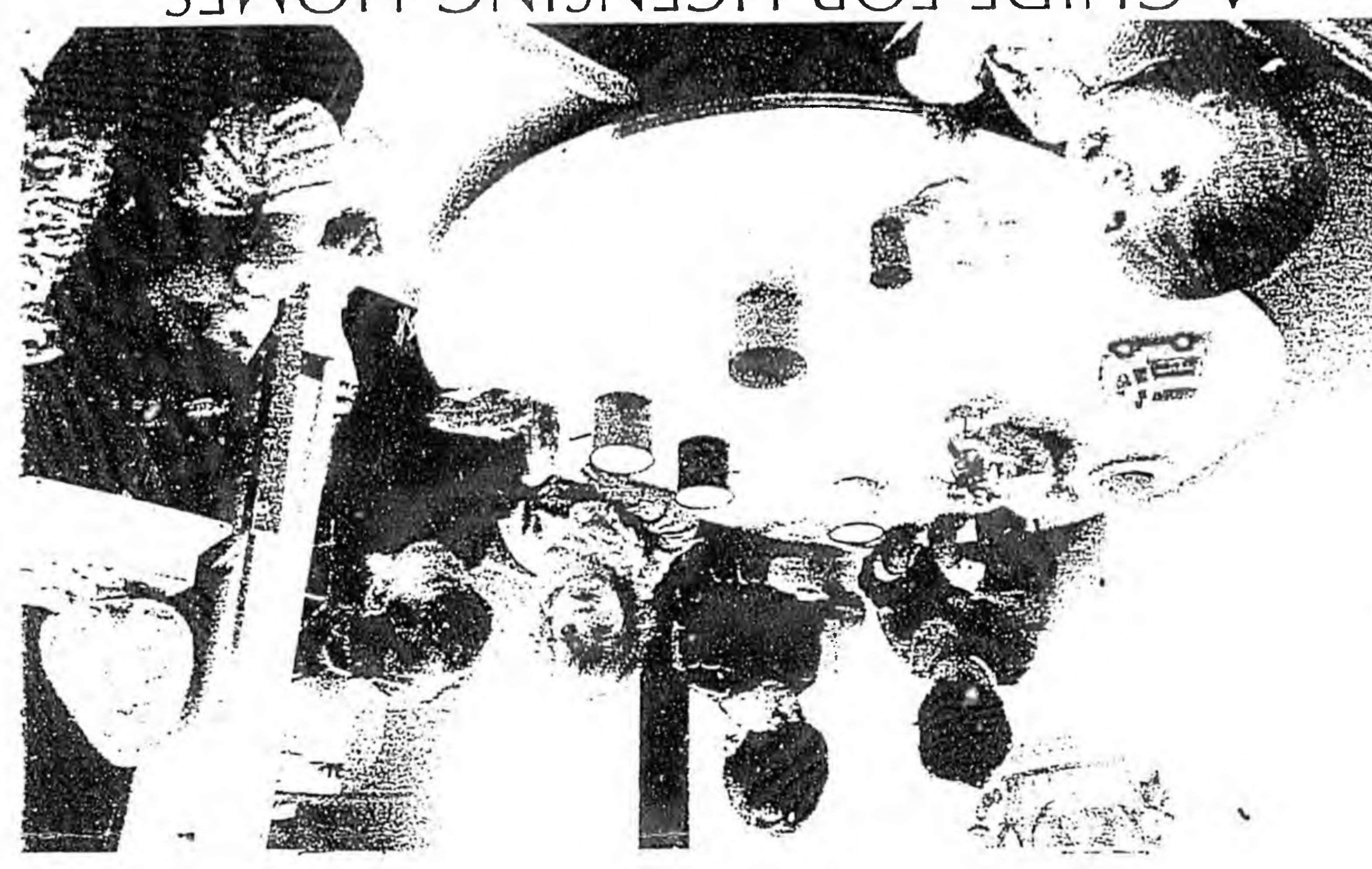
For more information, contact:

The format for this brochure is based in part on "Applicant's Guide to Day Care Licensing," Texas Department of Human Resources.

Layout: Melinda Mattson/ART•PROductions
Photography: Charles Backus and Brian Allen

A GUIDE FOR LICENSING HOMES

FAMILY CHILD CARE HOMES • CHILD FOSTER HOMES • ADULT FOSTER HOMES



State of Alaska
Department of Health and Social Services
Division of Family and Youth Services
P.O. Box 110630
Juneau, Alaska 99811-0630

House Bill 412

For An Act Entitled: "An Act relating to facilities for the care of children; to child placement agencies; to maternity homes; to certain residential facilities for adults; and to foster homes for adults; and providing for an effective date."

There are other methods for pursuing quality in programs, but licensing alone reaches almost all programs. Its benefit is that a disinterested third party (the licensing agent) evaluates an applicant and program against the public's definition of an acceptable level of quality. In this way licensing reduces risk and protects our most vulnerable citizens, who are in care away from their own homes. Regulation should not be thought of as an unwarranted intrusion, but as vigorous and necessary protection for parents and their children or adults in need. This bill is intended to facilitate efficiency in licensing so that this valuable protection may continue as resources are reduced.

The Division of Family and Youth Services (DFYS) licenses 1,900 care facilities and agencies. There is public demand for more licensed care and support for licensing, but there are hurdles to productivity. DFYS workers now must know how to evaluate up to nine kinds of care; workload standards are exceeded by 50% in some locations; many workers also have protective services duties; and they must be familiar with more than 40 pages of procedures in statute and varying regulations.

Passage of Community Care Licensing legislation for children's care coupled with passage of the Assisted Living bill for adult care will focus DFYS staff on children and families. Regulation of care facilities for elders or adults with a disability would be transferred to divisions knowledgeable in those care fields.

The efficiency of DFYS licensing resources will further be enhanced by consolidating procedures now scattered in statute and various regulations. Forty single spaced pages are consolidated to eighteen pages, double spaced, in this bill. To further promote efficiency, DFYS will convene a task force of those affected to assist in forming standards, will publish guidebooks to reduce questions for those getting started and will provide regional licensing training to ensure competency.

Clarity is needed and given on the shared role with parents to ensure their child's safety and development in licensed care. Yet, the state retains primary duty for oversight.

H:\18LEGIS2\HB412-PPL.PP

Expanded partnerships with private agencies could increase the number of regulated homes in additional communities, without increasing state costs. Clear liability protection for licensing agents will go a long way toward meeting that goal.

The department has a considerable investment in the development of this bill and has sought the expertise of key state and national experts. The basics were taken from a national collaborative effort in the form of a model bill published by the American Bar Association. The Assisted Living bill mentioned earlier is based on the model. The department then reduced the volume of model material, tailored provisions to match current Alaska licensing practice and added modest improvements based on recommendations of licensing supervisors, selected providers, the Department of Law and a review by the nation's licensing expert in Washington DC. A Section by Section analysis is avaliable from the Division of Family and Youth Services.

DEPARTMENT'S POSITION

The department strongly supports this bill and urges its passage.

Recommended: Deborah R. Wing Date: 2/7/94

Deborah R. Wing, Director
Division of Family and Youth Services

Approved: Margaret R. Lowe Date: 2/8/94

Margaret R. Lowe, M.Ed., Ed.S.
Commissioner
Department of Health and Social Services

H:\18LEG152\HB412-CCL.PP

Community Care Licensing Bill

Goals

- Licensing is intended to reduce risk to our most vulnerable citizens
- The legislation will enhance efficiency to accomplish more with the same resources.

Background

- DFYS licenses nearly 2,000 facilities and agencies.
- The public demands more licensed care settings.

- Workers now license up to nine kinds of care.
- Workload standards: exceeded by 50% in some places.
- Many workers also have protective services duties.
- Workers must know 40 pages of licensing procedures.

Passing Community Care Licensing & Assisted Living will

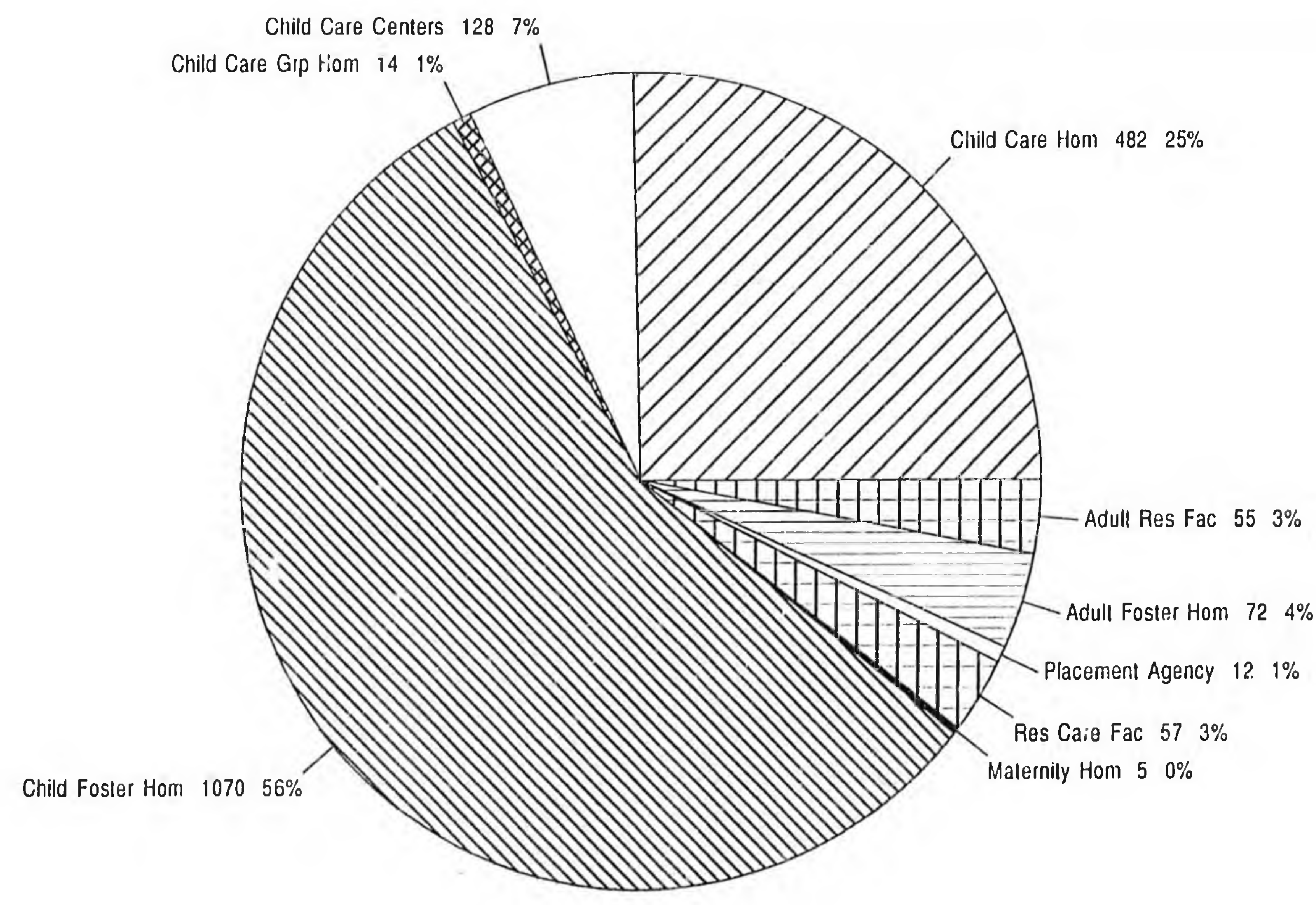
- Focus DFYS on children and families.
- Transfer regulation of care for elders or adults with a disability to divisions in those fields.

- Advance efficiency and competency by
  - Consolidating licensing procedures
  - Convening a task force to form standards
  - Publishing guidebooks and conducting training

- Clarify the shared role with parents to ensure their child's safety and development in licensed care.
  - Yet, the state retains duty for oversight.

- Expand partnerships with private agencies
  - Include liability protection.
  - Encourage partners to increase the number of regulated homes in additional communities.

COMMUNITY CARE LICENSED FACILITIES
FEBRUARY 1994



Total = 1895

DFYS - 2/2/93

Community Care Licensing - SB 268 and HB 412

Section by Section Analysis and Commentary - February 7, 1994

Sections 1, 2 and 3 (Compatibility with Child Care Statutes) make conforming numbering amendments to the Child Care grant and Day Care Assistance statutes. There is no change in substance.

Section 4 (Appeal Hearings) also sets out conforming amendments. It requires that appeal hearings following all serious enforcement by the department be conducted under the provisions of the Administrative Procedures Act. The Division of Family and Youth Services (DFYS) will grant appeal hearings under their informal grievance procedure for less onerous actions, such as a denial of a request for a variance.

Section 5 (Title and Purpose) changes the title of Chapter 35 of Title 47 from "Institutions" to "Community Care Licensing" and adds the purpose. The department intends to use the purpose statement in publications to clarify the role of licensing for providers of service and to inform parents of the importance of their role in selecting and monitoring care for their children. Finally, section 5 establishes that the provisions of this statute apply both for programs required to be licensed and for those that voluntarily choose to be licensed.

Section 6 (Powers of the Department) is amended.

- Section 6 updates terminology for facilities and agencies falling under the provisions of the chapter and authorizes the department to adopt fees by regulation.
- Section 6 provides authority for the department to enter into agreements with individuals, in addition to organizations, to perform licensing evaluations. DFYS has agreements with about 12 agencies to perform licensing evaluations, primarily foster care. Only three agreements involve state funds, and those three are exempt from the procurement code. Since the procurement code rarely applies, reference to it is removed.
- The material related to delegating powers to a municipality has been revised in collaboration with the Municipality of Anchorage (MOA). The MOA is the only municipality that has adopted an ordinance to license child care centers. The revision reflects the practice of the MOA to adopt additional standards that meet or exceed state standards.

Section 7 (Applicability and Exemptions) states that a child care license is required unless the facility is exempt. Facilities and agencies excluded from the licensure process are listed. These are basically the same as those under current statute and regulations.

H:\IALEG\32\SECxSEC.CCL

Four expansions of applicability are proposed as sound public policy. The changes are:

- The exemption for the "occasional" placement of a child for adoption without a license has been deleted. Most, if not all, attorneys now arranging non-relative adoptions, contract with a licensed child placement agency to obtain evaluations and oversight for adoption placements.

- The exemption for governmentally operated programs is removed except where specified. Only one local government, the MOA, has the expertise to license and it does not operate programs.

- The age of a child is changed from "under 16 years of age " to "under 18 years of age" for purposes of requiring licensure in foster homes and residential child care facilities. No known programs would be affected by this change.

- The clause in current statute that allows a foster home or residential facility to operate for 90 days without a license is removed. The primary purpose to reduce risk before persons receive care is lost, if programs begin without licensure. Consider that a person is not allowed to operate an automobile before obtaining a license.

Voluntary licensure is retained. Items that must be submitted in an application for licensure are consolidated in Section 7.

Section 8 (Issuance/Denial) describes license issuance, denial and right to appeal, and the content of a license by consolidating material from existing statute and regulations. On site inspections prior to any license issuance has strong community support.

The term, **Variances**, rather than, waivers, is used to accurately reflect practice. The procedure for granting variances from standards set out in statute and regulations is set out. Reasonable variances are widely used.

The **(Content of the License)** is consolidated from five sets of regulations resulting in reducing the reference by 4/5.

Section 9 (Non-transferability) retains the provision that licenses are not transferrable to a different owner or location.

Section 10 (Orientation and Training) requires that applicants or licensees complete orientation and training that the department prescribes in regulation. Currently only child foster home training is mentioned in statute, however orientation and training is required in regulations for all types of care.

(Records) must be kept by the licensee to demonstrate compliance with standards. Since licensing records are open and are frequently

reviewed by parents seeking child care and others, specifying which records are not available for public inspection is important.

Section 11 (Monitoring) outlines the process for monitoring and biennial license renewal. An annual self monitoring report is added. The department believes a self monitoring report will empower the licensee to seek to meet standards and reduce the time necessary in the department's review. In addition the section encourages parents who have placed children in child care to monitor by requiring that they receive a summary of standards and a telephone number for reporting concerns. A partnership with informed parents will help ensure care is safe for young children.

(Renewal) The process for renewal of a license is specified and procedures that were previously only in the department's licensing manual are included. For example, if there is a vacancy in a one person office and a license expires, it is automatically extended for six months or until a department representative may visit to perform the investigation. If the department finds noncompliance, a plan of correction and verification of compliance is required.

(Notice of Changes) Required notices are updated and standardized.

Section 12 (Complaints, investigation, enforcement and grounds for license revocation or nonrenewal) are specified. The majority of this material is a consolidation and refinement of existing regulations. Changes:

* A requirement to mail a copy of the report of an investigation to the complainant, if requested.

* Prohibition of licensee retaliatory action against a complainant. This is especially important to protect employees who are fearful of reporting unsafe practices.

* Suspension of operations in cases of imminent danger is authorized until the department investigation is complete. Suspension is more appropriate than immediate revocation authorized under current statute.

* The array of enforcement actions authorized are listed along with the grounds for revocation or nonrenewal. Most appear now only in the department's licensing manual.

Section 13 (Licensing Adult Facilities) outlines procedures for licensing adult residential care facilities, including adult foster homes, in brief. Pioneer Homes, as now, are exempt from licensure. Many provisions in sections 7 - 12 are incorporated by reference. This article would go into effect only if the companion Assisted Living bill did not pass. It will ensure that currently licensed adult care facilities remain regulated by DFYS in the event that the Assisted Living bill does not pass.

Section 14 (Administrative Procedure) complements section 4 in specifying the Administrative Procedures Act applies to the department's most serious enforcement actions under this chapter.

(Immunity from Liability) is provided for individuals and agencies acting under agreement with the department to perform licensing evaluations. Liability concern is often cited as a deterrent to private agencies interested in performing licensing evaluations.

(Penalty) provisions for violations under the chapter as a class B misdemeanor have not been changed.

Section 15 (Definitions) are updated. For example, "nursery" is a term now in statute. It becomes a "child care facility. The outdated term, "institution," becomes "residential child care facility".

Section 16 repeals a number of existing sections in chapter 35.

Sections 17 and 18 (Implementation and Transition Timetable) process and timetable that the department will use for an orderly transition from the current system of licensure to the new one. Nearly 1,900 facilities and agencies now fall under the provisions of this licensing statute. The time line is a year and a half to allow for the transition. During this period the department will review regulations, consult care providers and others, draft revised standards of operation for all types of care and agencies falling under the statute, conduct public review of drafts, promulgate regulations, develop implementation materials and conduct licensing training for both providers and licensors.

HB 412

WALTER J. HICKEL
GOVERNOR

P.O. Box 110001
Juneau, Alaska 99811-0001
(907) 465-3500

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

January 28, 1994

The Honorable Ramona Barnes
Speaker of the House
Alaska State Legislature
State Capitol
Juneau, AK 99801-1182

Dear Speaker Barnes:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to the licensing, by the Department of Health and Social Services (DHSS), of facilities for the care of children, child placement agencies, maternity homes, and residential facilities and foster homes for adults. The bill reorganizes and clarifies existing licensing statutes and provides much-needed detail in the statutes. The bill's reorganization of the statutes separates licensing of child-related facilities from licensing of adult facilities.

Sections 5 and 7 - 12 of the bill set out new statutory provisions that provide for the licensing and regulation of child foster homes, child care facilities, residential child care facilities, child placement agencies, and maternity homes. Section 7 of the bill clarifies which of these facilities are required to be licensed and which are exempt from licensure. Licensing procedures and requirements, appeal procedures, and operational requirements that apply to all such facilities are set out in secs. 7 - 11. Those sections provide for provisional licenses and biennial licenses, and specify that DHSS must inspect and investigate a facility before either a provisional license or initial biennial license is issued. Renewal procedures for biennial licenses are also provided. Complaint, investigation, and other enforcement provisions are set out in sec. 12 of the bill.

Section 13 of the bill sets out a separate article in AS 47.35 to address licensure and regulation of adult residential care facilities. Many of the provisions in secs. 7 - 12 of the bill are incorporated by reference in the adult residential care facility article. I intend to introduce a bill this session relating to "assisted living homes" for adults; that bill will place licensing and regulation of adult residential facilities in a new chapter in

GOVERNOR'S TRANSMITTAL LETTER

AS 47. If that bill passes the legislature and becomes law, sec. 13 of the attached bill will not take effect. See sec. 21 of the bill.

Sections 14 and 15 of the bill set out general provisions for administrative adjudication procedures, liability immunity, criminal penalty, and definitions for AS 47.35.

Sections 1 - 4 and 6 of the bill make conforming amendments to existing statutes to reflect changes made by secs. 5 and 7 - 15 of the bill. Section 16 of the bill repeals most of the existing statutes in AS 47.35 -- their provisions have been reworded and reorganized in secs. 5 and 7 - 15 of the bill. Section 17 of the bill contains transition provisions that specify how the bill affects existing as well as new facilities.

Section 18 of the bill authorizes DHSS to begin the regulation adoption process so that necessary regulations can take effect on the effective date of the statutory changes made by the bill. Sections 19 - 21 provide an immediate effective date for sec. 18 and a January 1, 1996 effective date for the statutory changes made by the remainder of the bill. Section 21 makes the January 1, 1996 effective date for sec. 13 contingent on another adult residential facility bill not becoming law, as discussed earlier in this letter.

I urge your support of this important legislation.

Sincerely,

Walter J. Hickel
Governor

HB
414

HOUSE COMMITTEE REPORT

(9)

Date Referred: January 28, 1994 FURTHER REFERRALS: Judiciary
Finance

Date of Committee Action: 3/23/94

The HEALTH, EDUCATION AND SOCIAL SERVICES Committee considered: HB 414
HOUSE BILL NO. 414 COMPREHENSIVE HEALTH CARE
"An Act creating the Alaska Health Commission; relating to the delivery, quality, access, and financing of health care; relating to review and approval of rates and charges of health insurers; relating to certain civil actions against health care providers and health insurers; repealing Alaska Rule of Civil Procedure 72.1; and providing for an effective date."

RECOMMENDATIONS:
be replaced with CS HB 414 (HESS) [ ] the same title [X] a new title

[ ] have attached amendments(s)
[ ] do pass
[ ] do not pass
[X] no recommendations
[ ] individual recommendations
[ ] additional referral to the ______________ Committee

ADOPTS: ______________ letter of Intent

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

[X] fiscal impact Governor [ ] fiscal note(s) ______________

[X] zero fiscal note Commerce [ ] zero fiscal note(s) ______________

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
[signature]	✓	[signature]		X	
		[signature]		X	
		[signature]		✓	
		[signature]		✓	
		[signature]			X
		[signature]			X
		[signature]			X

[signature]
CHAIRMAN'S SIGNATURE

all been rather loose affiliations built on contacts. Corporate medicine won't replace that. But as time moves on you'll see more and more systems operate as single entities. They will provide health networks" (Phil West, 2/28). The bill will come before House cmtes. 3/9 (AHL sources).

*7 VIRGINIA: PHYSICIANS DEVISE A CLINTON PLAN ALTERNATIVE

A group of VA doctors proposed an alternative to Pres. Clinton's health reform plan 3/5, "that they say would be less bureaucratic and more patient-friendly." The proposal, dubbed the "American Health Care Plan," would allow people "to put aside monthly amounts into a tax-free medical savings account and ... buy a high-deductible, catastrophic-coverage health insurance policy." The plan was developed by the Jeffersonian Health Policy Fdn., an organization founded by the physicians. The monthly contribution to the savings account for a family of four would be approximately $400 and the proposed deductible would be $3,000. JHPF's Joe Elton said the plan is "just like an IRA" -- any money in an individual's account that is not used for medical expenses in a given year will "roll over to the following year." Elton noted that "patients would be paying for their care with their own money and they could choose their own doctors and treatments." RICHMOND TIMES-DISPATCH notes that "poor people would pay what they could afford from their medical savings accounts and ... would receive the care they need from physicians of their own choosing. The physicians treating them would be paid in tax credits." The group will present the proposal to members of Congress in Washington, DC. this month (3/6).

FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

No. 1
Bill Version: HB 414
(H) Publish Date: 1/28/94

Revision Date:
Title: "An Act creating the Alaska Health Commission..."

Sponsor: Senate Rules Committee
Requestor: Governor

Department Affec. of the Governor
BRU: Commissions and Special Offices
Component: Alaska Health Commission

COMPONENT SERIAL NO.

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL SERVICES	580.2	616.3	626.0	636.5	646.7	657.9
TRAVEL	17.0	17.0	17.0	17.0	17.0	17.0
CONTRACTUAL	226.3	226.3	226.3	226.3	226.3	226.3
SUPPLIES	8.0	8.0	8.0	8.0	8.0	8.0
EQUIPMENT	54.3	.5	.5	.5	.5	.5
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	885.8	868.1	877.8	888.3	898.5	909.7
CAPITAL EXPENDITURES						
CHANGE IN REVENUES ( )						
FUND SOURCE						
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts	885.8	868.1	877.8	888.3	898.5	909.7
1003 GF/MHTIA						
OTHER						
TOTAL	885.8	868.1	877.8	888.3	898.5	909.7
POSITIONS						
FULL-TIME	9	9	9	9	9	9
PART-TIME						
TEMPORARY						

Estimate of any current year (FY94) cost: 0

ANALYSIS: (Attach a separate page if necessary.)
See attached analysis

Prepared by: Michael A. Nizich, Director
Division: Division of Administrative Services
Phone: 465-3876
Date: 1/27/94

Approved by Commissioner: Patrick P. Ryan, Chief of Staff
Agency: Office of the Governor
Date: 1/27/94

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Rev 11/93

OFFICE OF THE GOVERNOR - COMMISSIONS AND **COMMITTEE COPY** SPECIAL OFFICES

PERSONAL SERVICES 580.2

Fiscal note assumes Commissioners appointments on 7/1/94 and provides for 11 months of staff within first year. Subsequent years include merit increases for staff.

3	Commissioners	Rg. 26C	290.7
1	Special Assistant	Rg. 23A	70.9
3	Research Analysts	Rg. 18A	155.9
1	Secretary I	Rg. 10A/B	32.9
1	Clerk Typist III	Rg. 08A/B	29.8

TRAVEL 17.0

Travel costs and per diem associated with Commission activities -- research, investigation, public hearings

CONTRACTUAL 226.3

Professional Services:	
technical/legal assistance contracts	150.0
Communication:	
Telephone (toll costs, base/local fixed costs, fax postage) 900/mo x 12	10.8
Advertising, Printing:	
Public hearing advertising, report printing	5.0
Transportation:	
Freight and express charges 75/mo x 12	.9
Minor Repair, Maintenance:	.8
Equipment rental:	
Photocopier 600/mo x 12	7.2
Rental for space:	
1433 sq. ft. x $3.00/ft x 12 mos.	51.6
	226.3

SUPPLIES		8.0
Data processing and office supplies		
EQUIPMENT		54.3
Communication:		
Phone system	4.0	
Fax Machine	2.8	
Mailing equipment	3.0	
Data Processing Equipment:		
PCs, system printer, software for 9 work stations	26.0	
Furniture/Office equipment:		
9 offices/work stations file cabinets, bookcases and miscellaneous office equipment	18.5	
	54.3	

No. 2
Bill Version: HB 414
(H) Publish Date: 1/28/94

FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

Revision Date:
Title: Creating the Alaska Health Commission

Sponsor:
Requestor:

Department Affected: Commerce and Economic Development
BRU: Insurance
Component: Operations

COMPONENT SERIAL NO. 354

Expenditures/Revenues:

OPERATING EXPENDITURES	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL SERVICES	91.5	91.5	91.5	91.5	91.5	91.5
TRAVEL	1.6	1.6	1.6	1.6	1.6	1.6
CONTRACTUAL	20.0	20.0	20.0	20.0	20.0	20.0
SUPPLIES	2.0	2.0	2.0	2.0	2.0	2.0
EQUIPMENT	24.2	--	--	--	--	--
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	139.3	115.1	115.1	115.1	115.1	115.1

CAPITAL EXPENDITURES						

CHANGE IN REVENUES ( )						

FUND SOURCE

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts	139.3	115.1	115.1	115.1	115.1	115.1
1006 GF/MHTIA						
Other						
TOTAL	139.3	115.1	115.1	115.1	115.1	115.1

Estimate of current year (FY 94) cost: $ 0

POSITIONS

FULL-TIME	2.0	2.0	2.0	2.0	2.0	2.0
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.)

Assumptions:
1. Staff will be located in Anchorage.
2. Office space will be $1.50 per sq. ft. and 175 sq. ft. per position.
3. There will be two trips costing $800 each.
4. The furniture and equipment is a one-time cost.

Prepared by: Joan Brown, Administrative Officer
Division: Insurance
Phone: 465-2597
Date: 1/26/94

Approved by Commissioner: Paul Fuhs
Agency: Commerce and Economic Development
Date: 1-21-94

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COMMERCE & ECONOMIC DEVELOPMENT - INSURANCE - FISCAL NOTE

FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO. ________

ANALYSIS: (continued)

ALASKA HEALTH COMMISSION (CONTINUED)

Personal Services

Insurance Analyst III (Rates)	18A @ 12 months	$58,168.15	
Clerk Typist III	8A/B @ 12 months	33,333.67	
			$91,501.82

Travel

2 in-state trips @ $800.00	1,600.00

Contractual

a. Office space rental for staff - $6,400.00

12 months x $1.50 per sq. ft. x 175 sq. ft. @ position - $3.2 per position

b. Miscellaneous contractual costs $13,600.00 - $6.8 per position

Total Contractual	20,000.00

Supplies

$1.0 per position	2,000.00

Equipment

$12.1 per position for office furniture and computer equipment	24,200.00
TOTAL	**$139,301.82**

Position Title		Insurance Analyst III
No. of Positions	Range / Step	Barg. Unit
1	18/A	GGU
Time Status: PFT	Staff Months: 12	
Location: Anchorage	Election District: 99	

TYPE OF EXPENDITURE		AMOUNT
Salary	42.0	
Benefits	16.2	
Premium Pay		
Other		
Total Personal Services	58.2	58.2
Travel		1.6
Contractual		10.0
Commodities		1.0
Equipment		12.1
Other		
Total Cost		82.9
FUNDING SOURCE FOR TOTAL COST		
Federal Receipts	1002	
G.F. Match	1003	
General Fund	1004	
I-A Receipts	1007	
CIP Receipts	1061	
Other	1005 GF/PR	82.9

Justification

An insurance analyst for health insurance rate review and an insurance analyst for health insurance form review will be needed in order to make recommendations to the Alaska Health Commission.

Travel

2 trips @ $800	1,600

Contractual

Office space expense	3,200
Miscellaneous	6,800
	10,000

Supplies 1,000

Equipment

Workstation, computer, and misc. office equipment	12,100

014.bro

Request For New Position

AGENCY: Commerce and Economic Development

BRU: Insurance

COMPONENT: Operations #354

FY 95

Revised Date:

Position Title: Clerk-Typist III			No. of Positions: 1	Range / Step: 8A/B	Barg Unit: GGU
Time Status: PFT	Staff Months: 12		Location: Anchorage		Election District: 99

TYPE OF EXPENDITURE		AMOUNT
Salary	22.3	
Benefits	11.0	
Premium Pay		
Other		
Total Personal Services	33.3	33.3
Travel		
Contractual		10.0
Commodities		1.0
Equipment		12.1
Other		
Total Cost		56.4
FUNDING SOURCE FOR TOTAL COST		
Federal Receipts	1002	
G.F. Match	1003	
General Fund	1004	
I-A Receipts	1007	
CIP Receipts	1061	
Other	1005 GF/PR	56.4

Justification

Additional clerical staff will be needed to support the insurance analysts responsible for the review of health insurance rates and forms.

Contractual

Office space expense	3,200
Miscellaneous	6,800
	10,000

Supplies 1,000

Equipment

Workstation, computers, and misc. office equipment 12,100

014.bro

Request For New Position

AGENCY: Commerce and Economic Development

BRU: Insurance

COMPONENT: Operations #354

FY 95

Revised Date:

8-GH2024\J
Ford
3/22/94

CS FOR HOUSE BILL NO. 414(HES)

IN THE LEGISLATURE OF THE STATE OF ALASKA

EIGHTEENTH LEGISLATURE - SECOND SESSION

BY THE HOUSE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

Offered:
Referred:

Sponsor(s): HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

A BILL

FOR AN ACT ENTITLED

1 "An Act creating the Alaska Health Commission; relating to the delivery, quality,
2 access, and financing of health care; relating to health insurers, health
3 maintenance organizations, and medical service corporations; relating to certain
4 civil actions against health care providers and health insurers; amending Alaska
5 Rules of Civil Procedure 26 and 27 and Alaska Rules of Evidence 802, 803, and
6 804; repealing Alaska Rule of Civil Procedure 72.1; and providing for an effective
7 date."

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

9 * Section 1. FINDINGS AND INTENT. (a) The legislature finds that the access to
10 quality and affordable health care and maintenance of the public's health are vital to the public
11 interest. The legislature further finds that health care costs have grown at a rate far in excess
12 of the overall inflation rate in the economy due to several factors, including variations in
13 treatment practices of providers, cost shifting by health care providers, administrative costs

1 of insurance claims practices, unavailability of affordable insurance, costs of increasing claims
2 and liability for medical malpractice, and lack of coordination of population based public
3 health services. The legislature therefore finds a present need for long-term reform of the
4 health care system in the state.
5 (b) It is the intent of the legislature to promote access to affordable, quality health
6 care for Alaskans by the implementation of health care reform measures, the stabilization of
7 health care service costs, the collection and analysis of information and data concerning health
8 care services, and the making of recommendations based on that data to the governor and the
9 legislature.
10 * Sec. 2. AS 08.64.326 is amended to read:
11 Sec. 08.64.326. GROUNDS FOR IMPOSITION OF DISCIPLINARY
12 SANCTIONS. (a) The board may impose a sanction if the board finds after a hearing
13 that a licensee
14 (1) secured a license through deceit, fraud, or intentional
15 misrepresentation;
16 (2) engaged in deceit, fraud, or intentional misrepresentation while
17 providing professional services or engaging in professional activities;
18 (3) advertised professional services in a false or misleading manner;
19 (4) has been convicted, including conviction based on a guilty plea or
20 plea of nolo contendere, of
21 (A) a felony or other crime if the felony or other crime is
22 substantially related to the qualifications, functions, or duties of the licensee;
23 or
24 (B) a crime involving the unlawful procurement, sale,
25 prescription, or dispensing of drugs;
26 (5) has procured, sold, prescribed, or dispensed drugs in violation of
27 a law, regardless of whether there has been a criminal action;
28 (6) intentionally or negligently permitted the performance of patient
29 care by persons under the licensee's supervision that does not conform to minimum
30 professional standards even if the patient was not injured;
31 (7) failed to comply with this chapter, a regulation adopted under this

1 chapter, or an order of the board;
2 (8) has demonstrated
3 (A) professional incompetence, gross negligence, or repeated
4 negligent conduct; the board may not base a finding of professional
5 incompetence solely on the basis that a licensee's practice is unconventional or
6 experimental in the absence of demonstrable physical harm to a patient;
7 (B) addiction to, severe dependency on, or habitual overuse of
8 alcohol or other drugs that impairs the licensee's ability to practice safely;
9 (C) unfitness because of physical or mental disability;
10 (9) engaged in unprofessional conduct or in lewd or immoral conduct
11 in connection with the delivery of professional services to patients;
12 (10) has violated AS 18.16.010;
13 (11) has violated any code of ethics adopted by regulation by the board;
14 or
15 (12) [HAS DENIED CARE OR TREATMENT TO A PATIENT OR
16 PERSON SEEKING ASSISTANCE FROM THE PHYSICIAN IF THE ONLY
17 REASON FOR THE DENIAL IS THE FAILURE OR REFUSAL OF THE PATIENT
18 TO AGREE TO ARBITRATE AS PROVIDED IN AS 09.55.535(a); OR
19 (13)] has had a license or certificate to practice medicine in another
20 state or territory of the United States, or a province or territory of Canada suspended
21 or revoked unless the suspension or revocation was caused by the failure of the
22 licensee to pay fees to that state, territory, or province.
23 (b) In a case involving (a)(12) [(a)(13)] of this section, the final findings of
24 fact, conclusions of law, and order of the authority that suspended or revoked a license
25 or certificate constitutes a prima facie case that the license or certificate was suspended
26 or revoked and the grounds under which the suspension or revocation was granted.
27 * Sec. 3. AS 08.68.270 is amended to read:
28 Sec. 08.68.270. GROUNDS FOR DENIAL, SUSPENSION, OR
29 REVOCATION. The board may deny, suspend, or revoke the license of a person who
30 (1) has obtained or attempted to obtain a license to practice nursing by
31 fraud or deceit;

1 (2) has been convicted of a felony or other crime if the felony or other
2 crime is substantially related to the qualifications, functions or duties of the licensee;
3 (3) habitually abuses alcoholic beverages, or illegally uses controlled
4 substances;
5 (4) has impersonated a registered or practical nurse;
6 (5) has intentionally or negligently engaged in conduct that has resulted
7 in a significant risk to the health or safety of a client or in injury to a client;
8 (6) practices or attempts to practice nursing while afflicted with
9 physical or mental illness, deterioration, or disability that interferes with the
10 individual's performance of nursing functions;
11 (7) is guilty of unprofessional conduct as defined by regulations
12 adopted by the board;
13 (8) has wilfully or repeatedly violated a provision of this chapter or
14 regulations adopted under it;
15 (9) is professionally incompetent [;
16 (10) DENIES CARE OR TREATMENT TO A PATIENT OR PERSON
17 SEEKING ASSISTANCE IF THE SOLE REASON FOR THE DENIAL IS THE
18 FAILURE OR REFUSAL OF THE PATIENT OR PERSON SEEKING ASSISTANCE
19 TO AGREE TO ARBITRATE AS PROVIDED IN AS 09.55.535(a)].
20 * Sec. 4. AS 09.55.535 is repealed and reenacted to read:
21 Sec. 09.55.535. MANDATORY ARBITRATION. (a) A person who files an
22 action for damages against a health care provider resulting from medical malpractice
23 shall also submit the claim to the court for arbitration.
24 (b) When a claim is submitted as required by (a) of this section, the court shall
25 appoint an arbitrator to review the claim. The arbitrator appointed to review the claim
26 shall interview the parties and examine all records or materials relating to the claim
27 and may compel the attendance of witnesses, interview the parties, or consult with
28 medical specialists.
29 (c) An arbitrator appointed under this section shall conduct a prehearing
30 settlement conference within 30 days after the appointment. The arbitrator shall
31 establish a period for discovery and a date for a hearing. The hearing date may not

1 be more than 120 days after the settlement conference.

2 (d) An arbitrator shall render a decision within 30 days after hearing a claim
3 under (c) of this section. The decision must contain findings of fact and conclusions
4 of law. The decision of the arbitrator may be rejected by a party.

5 (e) If the decision of the arbitrator is rejected by a party, the action may
6 proceed in the appropriate court. The arbitrator's decision is admissible evidence in
7 that action and may be used by a party to support or oppose a claim of damages.

8 (f) The provisions of AS 09.43.010 - 09.43.180 (Uniform Arbitration Act)
9 apply to an arbitration under this section to the extent the provisions do not conflict
10 with the provisions of this section.

11 * Sec. 5. AS 09.55.536 is amended to read:

12 Sec. 09.55.536. EXPERT ADVISOR [ADVISORY PANEL]. (a) In an action
13 for damages due to personal injury or death based upon the provision of professional
14 services by a health care provider [WHEN THE PARTIES HAVE NOT AGREED TO
15 ARBITRATION OF THE CLAIM UNDER AS 09.55.535,] the court shall appoint
16 within 20 days after filing of answer to a summons and complaint an [A THREE-
17 PERSON] expert medical advisor [EXPERT ADVISORY PANEL] unless the court
18 decides that an expert advisory opinion is not necessary for a decision in the case.
19 When the action is filed the court shall, by order, determine the professions or
20 specialties to be represented by [ON] the medical expert [ADVISORY PANEL],
21 giving the parties the opportunity to object or make suggestions.

22 (b) The expert advisor [ADVISORY PANEL] may compel the attendance of
23 witnesses, interview the parties, physically examine the injured person if alive, consult
24 with the specialists or learned works the advisor considers [THEY CONSIDER]
25 appropriate, and compel the production of and examine all relevant hospital, medical,
26 or other records or materials relating to the health care in issue. The advisor
27 [PANEL] may meet in camera, but shall maintain a record of any testimony or oral
28 statements of witnesses, and shall keep copies of all written statements received [IT
29 RECEIVES].

30 (c) Not more than 30 days after selection of the advisor, the advisor [PANEL,
31 IT] shall make a written report to the parties and to the court, answering the following

1 questions and other questions submitted to the advisor [PANEL] by the court:

2 (1) What was the disorder for which the plaintiff came to medical care?

3 (2) What would have been the probable outcome without medical care?

4 (3) Was the treatment selected appropriate for the case?

5 (4) Did an injury arise from the medical care?

6 (5) What is the nature and extent of the medical injury?

7 (6) What specifically caused the medical injury?

8 (7) Was the medical injury caused by unskillful care?

9 (8) If a medical injury had not occurred, how would the plaintiff's

10 condition differ from the plaintiff's present condition?

11 (d) In any case in which the answer to one or more of the questions submitted

12 to the advisor [PANEL] depends upon the resolution of factual questions that

13 [WHICH] are not the proper subject of expert opinion, the report shall so state and

14 may answer questions based upon hypothetical facts that are fully set out in the

15 opinion. The report must [SHALL] include copies of all written statements, opinions,

16 or records relied upon by the advisor [PANEL] and either a transcription or other

17 record of any oral statements or opinions; must [SHALL] specify any medical or

18 scientific authority relied upon by the advisor [PANEL]; and must [SHALL] include

19 the results of any physical or mental examination performed on the plaintiff. The

20 advisor [EACH MEMBER] shall sign the report and the signature constitutes the

21 advisor's [MEMBER'S] adoption of all statements and opinions contained in it. An

22 advisor [; HOWEVER, A MEMBER MAY, INSTEAD OF SIGNING THE REPORT,

23 SUBMIT A CONCURRING OR DISSENTING REPORT WHICH COMPLIES WITH

24 THE REQUIREMENTS OF THIS SUBSECTION. A MEMBER] may not attest to

25 any portion of the report as to which the advisor [MEMBER] is not qualified to give

26 expert testimony.

27 (e) The report of the advisor [PANEL WITH ANY DISSENTING OR

28 CONCURRING OPINION] is admissible in evidence to the same extent as though its

29 contents were orally testified to by the person [OR PERSONS] preparing it. The court

30 shall delete any portion that would not be admissible because of lack of foundation for

31 opinion testimony, or otherwise. Either party may submit testimony to support or

1 refute the report. The jury shall be instructed in general terms that the report shall be
2 considered and evaluated in the same manner as any other expert testimony. The
3 expert advisor [ANY MEMBER OF THE PANEL] may be called by any party and
4 may be cross-examined as to the contents of the report [OR OF THAT MEMBER'S
5 DISSENTING OR CONCURRING OPINION].

6 (f) Discovery [NO DISCOVERY] may not be undertaken in a case until the
7 report of the expert advisor [ADVISORY PANEL] is received. However, the court
8 may relax this prohibition upon a showing of good cause by a [ANY] party. If the
9 advisor [PANEL] has not completed the [ITS] report within the 30-day period
10 prescribed in (c) of this section, the court may, upon application, grant [IT] an
11 additional 30 days.

12 (g) The expert advisor is [MEMBERS OF A PANEL ARE] entitled to travel
13 expenses and per diem in accordance with state law pertaining to members of boards
14 and commissions for all time spent in preparing the [ITS] report. If an advisor [A
15 PANEL MEMBER] is called upon as a witness at trial or upon deposition, the advisor
16 [MEMBER] is entitled to payment of an expert witness fee, which may not exceed
17 $150 per day. All expenses incurred by the advisor [PANEL] shall be paid by the
18 court. However, in any case in which the court determines that a party has made a
19 patently frivolous claim or a patently frivolous denial of liability, it shall order that all
20 costs of the expert advisor [ADVISORY PANEL] be borne by the party making that
21 claim or denial.

22 (h) Parties to the case and their counsel may not initiate communication out
23 of court with an expert advisor [MEMBERS OF THE PANEL] on the subject matter
24 of the advisor's [ITS] inquiry and report or cause or solicit others to do so, except
25 through ordinary discovery proceedings.

26 * **Sec. 6.** AS 09.55 is amended by adding a new section to read:

27 ARTICLE 5A. CERTAIN CLAIMS AGAINST HEALTH INSURERS.

28 Sec. 09.55.565. PROCEDURE FOR CERTAIN CLAIMS AGAINST A
29 HEALTH INSURER. (a) Unless preempted by federal law that provides otherwise,
30 a person who files an action against a health insurer resulting from a failure to timely
31 pay a claim or to authorize a health care service under a plan or policy shall also

1 submit the claim to the court for arbitration.

2 (b) When a claim is submitted as required by (a) of this section, the court shall
3 appoint an arbitrator to review the claim. The arbitrator appointed to review the claim
4 shall interview the parties and examine all records or materials relating to the claim
5 and may compel the attendance of witnesses, interview the parties, or consult with
6 medical specialists.

7 (c) An arbitrator appointed under this section shall conduct a prehearing
8 settlement conference within 30 days after the appointment. The arbitrator shall
9 establish a period for discovery and a date for a hearing. The hearing date may not
10 be more than 120 days after the settlement conference.

11 (d) An arbitrator shall render a decision within 30 days after hearing a claim
12 under (c) of this section. The decision must contain findings of fact and conclusions
13 of law. The decision of the arbitrator may be rejected by a party.

14 (e) If the decision of the arbitrator is rejected by a party, the action may
15 proceed in the appropriate court. The arbitrator's decision is admissible evidence in
16 that action and may be used by a party to support or oppose a claim of damages.

17 (f) The provisions of AS 09.43.010 - 09.43.180 (Uniform Arbitration Act)
18 apply to an arbitration under this section to the extent the provisions do not conflict
19 with the provisions of this section.

20 (g) In this section,

21 (1) "health care service" has the meaning given in AS 21.86.900;

22 (2) "health insurer" has the meaning given in AS 44.19.639.

23 * Sec. 7. AS 21.51 is amended by adding new sections to read:

24 Sec. 21.51.350. PREMIUM RATES AND RATING FACTORS. A disability
25 insurer

26 (1) shall file with the director rates or rating factors for disability
27 insurance before the intended effective date of the rate or rating factor;

28 (2) may not use a rate or rating factor that has not been filed with the
29 director; and

30 (3) may file a new rate or rating factor at any time.

31 Sec. 21.51.360. RISK SHARING AND PURCHASING POOLS. After

1 consulting with and considering any reports or recommendations of the Alaska Health
2 Commission, the director shall adopt regulations to allow for the creation of pools,
3 including pools for the primary benefit of children, for the purpose of sharing risks or
4 purchasing insurance under this chapter.
5 * **Sec. 8.** AS 21.86.070(g) is amended to read:
6 (g) The director may require that additional relevant material considered
7 necessary by the director be submitted in order to determine the acceptability of a
8 filing made under [EITHER] (b) [OR (e)] of this section.
9 * **Sec. 9.** AS 21.86 is amended by adding a new section to read:
10 Sec. 21.86.075. PREMIUM RATES AND CHARGES. A health maintenance
11 organization
12 (1) shall file with the director rates, rating factors, premiums, fees for
13 services, and enrollee fees, including a change to a rate, rating factor, premium, or fee,
14 used in providing health care services to enrollees of the health maintenance
15 organization;
16 (2) may not use a rate, rating factor, premium, or fee that has not been
17 filed with the director; and
18 (3) may file a new rate, rating factor, premium, or fee at any time.
19 * **Sec. 10.** AS 21.86 is amended by adding a new section to read:
20 Sec. 21.86.320. RISK SHARING AND PURCHASING POOLS. After
21 consulting with and considering any reports or recommendations of the Alaska Health
22 Commission, the director shall adopt regulations to allow for the creation of pools,
23 including pools for the primary benefit of children, for the purpose of sharing risks or
24 purchasing insurance under this chapter.
25 * **Sec. 11.** AS 21.87.190 is repealed and reenacted to read:
26 Sec. 21.87.190. RATES AND CHARGES. A service corporation
27 (1) shall file with the director subscription rates, rating factors, fees,
28 and payment charges, including a change to a rate, rating factor, fee, or payment
29 charge, to be charged to or on account of the service corporation's subscribers;
30 (2) may not use a rate, rating factor, fee, or payment charge that has
31 not been filed with the director; and

1 (3) may file a new rate, rating factor, fee, or payment charge at any
2 time.
3 * **Sec. 12.** AS 21.87 is amended by adding a new section to read:
4 Sec. 21.87.285. RISK SHARING AND PURCHASING POOLS. After
5 consulting with and considering any reports or recommendations of the Alaska Health
6 Commission, the director shall adopt regulations to allow for the creation of pools,
7 including pools for the primary benefit of children, for the purpose of sharing risks or
8 purchasing insurance under this chapter.
9 * **Sec. 13.** AS 36.30.015 is amended by adding a new subsection to read:
10 (h) The Alaska Health Commission shall adopt regulations to manage the
11 procurement of supplies, services, and professional services necessary for its operations
12 under AS 44.19.619 - 44.19.639. The regulations must be based on principles of
13 competitive procurement, consistent with this chapter, to satisfy the requirements of
14 the Alaska Health Commission as determined by that commission.
15 * **Sec. 14.** AS 36.30.990(1) is amended to read:
16 (1) "agency"
17 (A) means a department, institution, board, commission,
18 division, authority, public corporation, the Alaska Pioneers' Home, or other
19 administrative unit of the executive branch of state government;
20 (B) does not include
21 (i) the University of Alaska;
22 (ii) the Alaska Railroad Corporation;
23 (iii) the Alaska Housing Finance Corporation;
24 (iv) a regional Native housing authority created under
25 AS 18.55.996 or a regional electrical authority created under
26 AS 18.57.020;
27 (v) the Department of Transportation and Public
28 Facilities, in regard to the repair, maintenance, and reconstruction of
29 vessels, docking facilities, and passenger and vehicle transfer facilities
30 of the Alaska marine highway system;
31 (vi) the Alaska Aerospace Development Corporation;

1 (vii) the Alaska State Pension Investment Board;
2 **(viii) the Alaska Health Commission;**
3 * **Sec. 15.** AS 39.25.110(11) is amended to read:
4 (11) the officers and employees of the following boards, commissions,
5 and authorities:
6 (A) Alaska Gas Pipeline Financing Authority;
7 (B) Alaska Permanent Fund Corporation;
8 (C) Alaska Industrial Development and Export Authority;
9 (D) Alaska Commercial Fisheries Entry Commission;
10 (E) Alaska Commission on Postsecondary Education;
11 (F) Alaska Aerospace Development Corporation;
12 **(G) Alaska Health Commission;**
13 * **Sec. 16.** AS 44.19 is amended by adding new sections to read:
14 ARTICLE 12. ALASKA HEALTH COMMISSION.
15 Sec. 44.19.619. CREATION OF COMMISSION. The Alaska Health
16 Commission is created in the Office of the Governor.
17 Sec. 44.19.621. PURPOSE OF COMMISSION. The purpose of the
18 commission is to improve health care in this state by
19 (1) establishing and implementing a system for collecting and analyzing
20 information and data relating to the individual and public health care needs of and
21 services provided to residents of the state;
22 (2) promoting the use of electronic data transfer and the implementation
23 of uniform procedures for billing, payment, and claim systems;
24 (3) promoting consumer confidence in the health care system through
25 rate filings by health insurers and disclosure of charges by health care providers;
26 (4) promoting consumer confidence in the health care system by
27 requiring insurers and managed care plans to fully disclose the health care benefits
28 provided under the policy or plan and explain any exclusions or restrictions on
29 benefits; disclosure should include an explanation of limitations on
30 (A) referral to a specialty physician or other provider;
31 (B) the insured's choice of provider;

1 (C) diagnostic tests, including mammography;

2 (D) prescription drugs;

3 (E) dental services;

4 (F) laboratory tests;

5 (G) mental health services; and

6 (H) reproductive tests;

7 (5) promoting the creation of pools, including pools for the primary
8 benefit of children, for the purpose of sharing risks or purchasing insurance for health
9 care services; and

10 (6) analyzing health care reform proposals, including a proposal that
11 is based on a market based single payer system; recommending health care reform
12 proposals to the governor and the legislature; and reporting to and making
13 recommendations to the governor and legislature on the following:

14 (A) defining a range of potential benefit packages for universal
15 health care coverage for residents of the state; a benefit package must include
16 coverage for health care services without containing an exclusion based on a
17 preexisting condition;

18 (B) determining the needs and requirements imposed on the
19 state by federal enactments that affect health care reform; the commission shall
20 make the determination required under this subparagraph within 60 days after
21 each measure is enacted into law;

22 (C) determining the prospective costs for recommended
23 comprehensive health care reform proposals, as requested by the governor or
24 as determined by a majority vote of the commission;

25 (D) determining financing plans for recommended proposals;

26 (E) describing administrative structures necessary to implement
27 recommended proposals;

28 (F) identifying a process to implement statewide expenditure
29 measures for health care goods and services;

30 (G) investigating health care standards of practice and
31 determining their effect on medical tort liability and other aspects of health care

1 delivery; and

2 (H) investigating alternatives to existing hospital licensing
3 requirements to allow for less use of acute care facilities.

4 Sec. 44.19.622. COMPOSITION; QUALIFICATIONS; TERMS; REMOVAL;
5 DESIGNATION OF CHAIR. (a) The commission consists of three members
6 appointed by the governor and confirmed by the legislature for six-year terms. Not
7 more than one member of the commission may be

8 (1) a health care provider; or

9 (2) employed by a health insurance company.

10 (b) A commission member may serve only one six-year term plus the
11 remainder of any unexpired term to which the member was appointed.

12 (c) The governor may remove a member of the commission only for cause.

13 (d) The governor shall designate a member of the commission to serve, at the
14 pleasure of the governor, as chair of the commission for a term of two years. The
15 governor may reappoint the same member for additional terms as chair.

16 (e) A commission member shall comply with the applicable requirements of
17 AS 39.50, and must be a state resident throughout the person's term as a member of
18 the commission.

19 Sec. 44.19.623. STAFF. The commission may employ staff as necessary to
20 carry out the purposes of this chapter. The staff of the commission is in the exempt
21 service.

22 Sec. 44.19.624. COMPENSATION. Members of the commission are in the
23 exempt service and are entitled to a monthly salary equal to Step C, Range 26, of the
24 salary schedule set out in AS 39.27.011(a) for Anchorage, Alaska. Subject to the
25 availability of appropriations, the chair may be paid at a higher step in the same range,
26 if approved by the governor.

27 Sec. 44.19.625. MEETINGS. (a) The commission shall meet publicly not less
28 than quarterly to accomplish its duties under AS 44.19.619 - 44.19.639. The
29 commission shall comply with AS 44.62.310 - 44.62.312.

30 (b) Two members of the commission constitute a quorum for the transaction
31 of business and the exercise of the powers and duties of the commission.

1 Sec. 44.19.626. POWERS AND DUTIES. (a) The commission may
2 (1) enter into contracts and execute instruments necessary for carrying
3 out its business;
4 (2) establish advisory committees to the commission to conduct
5 research or investigation and report back to the commission on findings; an advisory
6 committee must consist of at least one member of the commission and may include
7 other individuals with appropriate expertise appointed by the commission;
8 (3) adopt regulations necessary to interpret or implement
9 AS 44.19.619 - 44.19.639, including regulations establishing reasonable, necessary fees
10 for services provided by the commission.
11 (b) The commission shall
12 (1) conduct public meetings in accordance with AS 44.19.625,
13 including holding public hearings as necessary;
14 (2) collect and analyze data and information from public, private, or
15 other sources relating to the cost, delivery, or financing of health care services
16 provided to state residents;
17 (3) monitor the costs of and the access to health care services to state
18 residents;
19 (4) make reports and recommendations to the governor and legislature
20 in accordance with AS 44.19.619 - 44.19.639;
21 (5) establish a public health advisory committee that
22 (A) consists of at least one member of the commission and
23 other individuals with significant public health expertise appointed by the
24 commission; the commission shall consider public and private health care
25 professionals, labor organizations, businesses, the education system, the Alaska
26 Public Health Association, the Alaska Mental Health Board, and the Alaska
27 Native Health Board for service on the public health advisory committee, as
28 well as recognizing the need for geographic, ethnic, and cultural diversity;
29 (B) advises the commission on public health matters and the
30 integration of public health services under AS 44.19.621;
31 (C) develops a public health improvement plan as described

under (c) of this section;

(6) obtain waivers from federal agencies or under applicable federal law to the extent necessary to maximize the collection and analysis of health care data.

(c) The plan developed by the committee under (b)(5) of this section may

(1) recognize the need for

(A) community involvement in health care planning and delivery;

(B) attention to local needs that may vary from place to place;

(C) accountability for the use of public funds;

(D) equity and stability in the distribution of public funds;

(E) shared responsibility of all levels of government for administering and financing public health care delivery; and

(F) coordination of basic public health services; and

(2) include

(A) an analysis of the health status of the residents of the state;

(B) an assessment of the most appropriate role for various levels of government to play in addressing the health care needs of the residents of the state;

(C) a delineation of the standards that should be used in performing assessment, policy development, and quality assurance in the delivery of public health services;

(D) documentation of the extent to which the current public health system implements or achieves the standards identified under (C) of this paragraph;

(E) identification of interjurisdictional issues involved in health care access and delivery;

(F) recommendations, including recommendations for specific legislative action when necessary, pertaining to the following:

(i) strategies, time lines, financial needs, and specific sources of stable revenue for bringing the state public health care system up to standards identified by the committee;

1 (ii) appropriate sharing of the responsibility of local,
2 regional, state, and federal government entities to deliver public health
3 care services efficiently and effectively, including recommendations for
4 organization within state government;
5 (iii) integration of the public health care system with
6 state and national health care reform efforts;
7 (iv) the committee's estimate of the optimal share that
8 public health should represent in the total health care delivery system
9 of the state, expressed in terms of a percentage of health care dollars
10 spent or in terms of public dollars per state resident;
11 (v) a program designed to give incentives to primary
12 care providers to practice in the state, especially in rural and under
13 served areas of the state.
14 Sec. 44.19.627. DUTY TO REPORT. At the request of the governor, the
15 commission shall compile and issue to the governor, the legislature, and the public a
16 report concerning its activities.
17 Sec. 44.19.628. UNIFORM DATA AND PROCEDURES FOR HEALTH
18 CLAIMS. (a) The director of the division of insurance, after considering the advice
19 of the commission, shall adopt by regulation uniform claims forms, uniform standards,
20 and uniform procedures for the processing of data relating to billing for and payment
21 of health care services provided to state residents. All health insurers shall comply
22 with the uniform claims forms, standards, and procedures established under this
23 section.
24 (b) To the extent that there is a conflict or inconsistency between a provision
25 of AS 21 that applies to a health insurer and a provision of a regulation adopted under
26 (a) of this section, the regulation governs. The director of the division of insurance
27 shall ensure that regulations adopted by the director under AS 21 that apply to a health
28 insurer are not in conflict or inconsistent with regulations adopted under (a) of this
29 section.
30 Sec. 44.19.631. DISCLOSURE OF INFORMATION; PENALTY. (a) A
31 person providing or insuring health care services in the state shall provide, upon

request or order of the commission, reports, data, health information, insurance schedules, statistics, and other information, as determined necessary by the commission, by regulation, to carry out the purposes of AS 44.19.619 - 44.19.639. This subsection applies to the state and to a municipality; as well as to public and private health care facilities and providers, and health care insurers and self-insurers.

(b) Information and data obtained or produced by the commission is subject to AS 09.25.110 and 09.25.120 and regulations adopted under AS 09.25.110 and 09.25.120. Information or data that identifies a recipient of health care services is considered to be a medical and related public health record that is subject to the exception to public inspection under AS 09.25.120 and shall be kept confidential.

(c) A member, an employee, or an agent of the commission, or a member of an advisory committee to the commission, who wrongfully discloses or who uses or permits the use of confidential information or data in violation of (b) of this section is guilty of a class B misdemeanor.

Sec. 44.19.632. IMMUNITY FROM LIABILITY. Members of the commission, its employees, its agents, its advisory committee members, and persons providing information and data to the commission as required under AS 44.19.619 - 44.19.639 are not liable for civil damages for an act or omission in the execution of their authorized activities or duties under AS 44.19.619 - 44.19.639. This section does not preclude liability for civil damages as a result of reckless or intentional misconduct.

Sec. 44.19.633. OATHS; SUBPOENAS. (a) The commission may administer oaths and may issue subpoenas to persons to require testimony or to require the production of records, information, or data under AS 44.19.631.

(b) If a person disobeys or resists a lawful subpoena issued by the commission, the commission may certify the facts to the superior court, and upon certification the court shall issue an order directing the person to appear before the court and show cause why the person should not be punished for contempt.

Sec. 44.19.634. APPROPRIATIONS. The legislature may appropriate a portion of the proceeds of the tax on insu[illegible]ce premiums collected under AS 21.09.210 to the Alaska Health Commission for the commission's operating costs.

1 Sec. 44.19.635. DISCLOSURE OF PROVIDER CHARGES; FINE FOR
2 NONDISCLOSURE. (a) At least annually, a provider shall compile a list of charges
3 for the 20 health care services most commonly provided by that provider. Charges for
4 hospital services may be prepared on the basis of diagnosis-related groups. Upon
5 request of a person who is considering obtaining services from a provider, the provider
6 shall provide the list of charges to the person for use in comparing charges among
7 providers.
8 (b) Upon the request of a patient and before the commencement of a medical
9 procedure, the provider shall disclose to that patient the estimated charge for the
10 procedure. The estimated charge shall be made in good faith and must be based on
11 the provider's history of charges for that procedure. Nothing in this subsection
12 requires a provider to make a charge estimate if the provider does not agree to perform
13 the procedure.
14 (c) A provider shall place the following statement either on a form to be
15 signed by the patient or in a conspicuous location on an easily readable sign: "You
16 are entitled to a charge estimate for a medical procedure before the procedure is
17 performed by your health provider."
18 (d) If the commission, after investigation of a complaint by a patient,
19 determines that a provider has not complied with this section, the commission may
20 impose a fine of up to $1,000 against the provider. The commission may impose only
21 one fine under this section against a provider in a calendar year. A provider's
22 violation of this section does not preclude the provider from collecting payment for
23 services provided.
24 (e) A provider aggrieved by a decision of the commission under this section
25 may appeal the decision to the superior court.
26 Sec. 44.19.639. DEFINITIONS. In AS 44.19.619 - 44.19.639, unless the
27 context requires otherwise,
28 (1) "commission" means the Alaska Health Commission;
29 (2) "division of insurance" means the division of insurance in the
30 Department of Commerce and Economic Development;
31 (3) "health care services" has the meaning given in AS 21.85.900;

1 (4) "health information" means all information and data relating to
2 access to or delivery or financing of health care services;
3 (5) "health insurance" has the meaning given "disability insurance" in
4 AS 21.12.050;
5 (6) "health insurer" means an entity transacting the business of health
6 insurance, a health maintenance organization under AS 21.86, a hospital service
7 corporation under AS 21.87, a medical service corporation under AS 21.87, or a
8 combined medical service and hospital service corporation under AS 21.87;
9 (7) "market based single payer system" means a system in which a
10 single entity provides health insurance to all residents of the state and the insurance
11 is based on market forces, and may include provider defined fees, defined patient
12 copayments, sliding scale copayments for the indigent, provider fees that are posted
13 or made otherwise available at the point of services, published or disseminated fees in
14 comparative lists that allow fee comparison by consumers, voluntary expenditure
15 targets, provider peer review and control of volume, utilization, and quality of health
16 services, and a regularly published description of the various types of providers
17 licensed to provide services in the benefit package;
18 (8) "pool" means a mechanism to facilitate or provide for sharing risks
19 or the purchase of health insurance in the event coverage is unavailable or
20 unobtainable;
21 (9) "provider" has the meaning given in AS 21.86.900.
22 * Sec. 17. AS 44.62.310(d) is amended to read:
23 (d) This section does not apply to
24 (1) judicial or quasi-judicial bodies when holding a meeting solely to
25 make a decision in an adjudicatory proceeding;
26 (2) juries;
27 (3) parole or pardon boards;
28 (4) meetings of a hospital medical staff; or
29 (5) meetings of the governing body or any committee of a hospital
30 when holding a meeting solely to act upon matters of professional qualifications,
31 privileges or discipline; or

1 (6) meetings of the Alaska Health Commission, except for meetings
2 concerning the adoption of regulations.
3 * Sec. 18. AS 44.66.010(a) is amended by adding a new paragraph to read:
4 (20) Alaska Health Commission (AS 44.19.619) -- June 30, 1999.
5 * Sec. 19. AS 09.55.560(2), 09.55.560(3); AS 21.86.070(e), and 21.86.070(f) are repealed.
6 * Sec. 20. Alaska Rule of Civil Procedure 72.1 is repealed.
7 * Sec. 21. APPLICABILITY. Sections 4, 5, and 6 of this Act apply to a cause of action
8 accruing on or after the effective date of this Act.
9 * Sec. 22. INITIAL APPOINTMENT OF COMMISSION MEMBERS. Notwithstanding
10 AS 44.19.622(a), enacted by sec. 16 of this Act, the terms of persons initially appointed to the
11 Alaska Health Commission under AS 44.19.622 shall be staggered as provided in
12 AS 39.05.055.
13 * Sec. 23. REAPPOINTMENT OF INITIAL APPOINTEES. Notwithstanding
14 AS 44.19.622(b), enacted by sec. 16 of this Act, a person initially appointed to the Alaska
15 Health Commission under (a) of this section may be reappointed to serve no more than one
16 six-year term as a member of the Alaska Health Commission.
17 * Sec. 24. PHASED TRANSITION PERIOD. (a) Notwithstanding the provisions of
18 AS 44.19.621 - 44.19.639, the Alaska Health Commission shall implement the provisions of
19 AS 44.19.621 - 44.19.639 on a orderly and gradual basis as follows:
20 (1) by July 1, 1995, the director of the division of insurance shall adopt
21 regulations necessary to implement AS 44.19.628(a);
22 (2) by January 1, 1996, the commission shall complete the research necessary
23 to report recommendations to the governor and the legislature on the issues described under
24 AS 44.19.621(a)(6)(A), (C), (D), (E), and (G);
25 (3) by July 1, 1996, the commission shall complete the research necessary to
26 report recommendations to the governor and the legislature on the issues described under
27 AS 44.19.621(a)(6)(F);
28 (4) by January 1, 1997, the commission shall complete the research necessary
29 to report recommendations to the governor and the legislature on the issues described under
30 AS 44.19.621(a)(6)(H).
31 (b) Upon request of the commission, and for good cause shown, the governor may

1 grant an extension of a deadline set in (a) of this section. The governor shall inform the
2 legislature of a decision on a request to extend a deadline.
3 * **Sec. 25.** AS 09.55.536(f), amended by sec. 5 of this Act, amends Alaska Rules of Civil
4 Procedure 26 and 27 by providing that discovery may not be undertaken until the expert
5 advisor's report is received.
6 * **Sec. 26.** AS 09.55.536(e), amended by sec. 5 of this Act, amends Alaska Rules of
7 Evidence 802, 803, and 804 by providing that the expert advisor's report is admissible in
8 evidence to the same extent as though its contents were orally testified to by the advisor.
9 * **Sec. 27.** Section 20 of this Act takes effect July 1, 1994, only if that section receives the
10 two-thirds majority vote of each house required by art. IV, sec. 15, Constitution of the State
11 of Alaska.
12 * **Sec. 28.** This Act takes effect July 1, 1994.

H/HESS ROLL CALL FORM

BILL HB 414 DATE 3/23/94

TAPE 94-60 NUMBER 334

SUBJECT OF VOTE TO ADOPT AMENDMENT 16

MEMBER	YEA	NAY	ABS
Rep. Cynthia Toohey		✓	
Rep. Con Bunde		✓	
Rep. Gary Davis		✓	
Rep. Al Vezey		✓	
Rep. Pete Kott			
Rep. Harley Olberg		✓	
Rep. Bettye Davis		✓	
Rep. Irene Nicholia			
Rep. Tom Brice		✓	
TOTAL	0	7	

++

BILL HB 414 DATE 3/23/94

TAPE 94-60 NUMBER 536

SUBJECT OF VOTE TO ADOPT AMENDMENT 25

MEMBER	YEA	NAY	ABS
Rep. Con Bunde		✓	
Rep. Gary Davis		✓	
Rep. Al Vezey		✓	
Rep. Pete Kott			
Rep. Harley Olberg		✓	
Rep. Bettye Davis	✓		
Rep. Irene Nicholia			
Rep. Tom Brice	✓		
Rep. Cynthia Toohey		✓	
TOTAL	2	5	

BILL HB 414 DATE 3/23/94

TAPE 94-60 NUMBER 591

SUBJECT OF VOTE TO ADOPT AMENDMENT 26

MEMBER	YEA	NAY	ABS
Rep. Gary Davis		✓	
Rep. Al Vezey		✓	
Rep. Pete Kott			
Rep. Harley Olberg		✓	
Rep. Bettye Davis	✓		
Rep. Irene Nicholia			
Rep. Tom Brice	✓		
Rep. Cynthia Toohey		✓	
Rep. Con Bunde		✓	
TOTAL	2	5	

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BILL HB 414 DATE 3/23/94

TAPE 94-60 NUMBER 714

SUBJECT OF VOTE TO ADOPT AMENDMENT 27

MEMBER	YEA	NAY	ABS
Rep. Al Vezey	✓		
Rep. Pete Kott			
Rep. Harley Olberg	✓		
Rep. Bettye Davis	✓		
Rep. Irene Nicholia			
Rep. Tom Brice	✓		
Rep. Cynthia Toohey	✓		
Rep. Con Bunde	✓		
Rep. Gary Davis	✓		
TOTAL	7	0	

BILL HB 414 DATE 3/23/94

TAPE 94-10 NUMBER 747

SUBJECT OF VOTE TO PASS HB 414 OUT OF COMMITTEE WITH INDIVIDUAL RECOMMENDATIONS AND ACCOMPANYING FISCAL NOTE

MEMBER	YEA	NAY	ABS
Rep. Pete Kott			
Rep. Harley Olberg	✓		
Rep. Bettye Davis		✓	
Rep. Irene Nicholia			
Rep. Tom Brice		✓	
Rep. Cynthia Toohey	✓		
Rep. Con Bunde	✓		
Rep. Gary Davis	✓		
Rep. Al Vezey	✓		
TOTAL	5	2	

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BILL ________ DATE ________

TAPE 94-______ NUMBER ________

SUBJECT OF VOTE ____

MEMBER	YEA	NAY	ABS
Rep. Harley Olberg			
Rep. Bettye Davis			
Rep. Irene Nicholia			
Rep. Tom Brice			
Rep. Cynthia Toohey			
Rep. Con Bunde			
Rep. Gary Davis			
Rep. Al Vezey			
Rep. Pete Kott			
TOTAL			

#24

AMENDMENT

OFFERED IN THE HOUSE BY REPRESENTATIVE BRICE

TO: CSHB 414(HES)

Page ~~4~~ 14, line ~~25~~ 10, following "commission":

Insert a new paragraph to read:

"(4) fly to the moon."

Renumber the following paragraph accordingly.

#25

8-GH2024\J.1
Ford
3/22/94

AMENDMENT

OFFERED IN THE HOUSE BY REPRESENTATIVE B.DAVIS
TOM BRICE
TO: CSHB 414(HES)

Page 10, line 12:

Delete "AS 44.19.619 - 44.19.639"

Insert "AS 44.19.619 - 44.19.701"

Page 13, line 28:

Delete "AS 44.19.619 - 44.19.639"

Insert "AS 44.19.619 - 44.19.701"

Page 14, line 10:

Delete "."

Insert ";

(4) exercise the powers granted to insurers under the laws of the state when allowed under AS 44.19.636(c); if the commission acts as an insurer, the commission shall comply with the requirements applicable to insurers under AS 21."

Page 14, line 20:

Delete "AS 44.19.619 - 44.19.639"

Insert "AS 44.19.619 - 44.19.701"

Page 15, line 3:

Delete "."

Insert ";

(7) establish and provide uniform health insurance coverage for all residents of the state and monitor and control health care expenditures in the state;

(8) establish the cost control system required under AS 44.19.642,

44.19.648, 44.19.652, 44.19.656, 44.19.660, 44.19.664, and the voluntary cost control system required under AS 44.19.651 and 44.19.662;

(9) implement the state health insurance plan as a market based single payor system."

Page 17, line 3:

Delete "AS 44.19.619 - 44.19.639"

Insert "AS 44.19.619 - 44.19.701"

Page 17, lines 17 - 18:

Delete "AS 44.19.619 - 44.19.639"

Insert "AS 44.19.619 - 44.19.701"

Page 17, line 19:

Delete "AS 44.19.619 - 44.19.639"

Insert "AS 44.19.619 - 44.19.701"

Page 18, after line 25:

Insert new sections to read:

"Sec. 44.19.636. PROCUREMENT OR PROVISION OF INSURANCE. (a) The commission shall

(1) solicit proposals from insurance companies that are licensed to transact health insurance in the state under the procurement procedures adopted by the commission under AS 36.30.015(e); and

(2) if the commission does not act as an insurer as provided under (c) of this section, select one or more companies with which it will contract to provide insurance, after considering the cost of the insurance, the availability from the company of program features directed at reducing the cost of providing health care services, and other relevant factors as determined by the commission.

(b) The commission may contract for insurance coverage for enrollees for a term that it considers to be the most advantageous to the commission and its enrollees, for a period not exceeding three years.

(c) If, after the proposal process under (a) of this section has been completed, the commission determines that the desired coverage or benefits are not available from insurers licensed in this state or the commission can provide the desired coverage and benefits at a lower cost per eligible person, the commission may act as an insurer.

Sec. 44.19.638. ENROLLEES. (a) A person is eligible to be an enrollee in the state health insurance plan provided under AS 44.19.641 in a given year if the person is a resident of the state and has complied with the procedures established by the commission under (d) of this section. For purposes of enrollment, the commission shall by regulation define residency in a manner that is consistent with AS 01.10.055 and with this chapter.

(b) A person who is eligible to be an enrollee shall be enrolled by the commission in the state health insurance plan.

(c) The commission shall cancel an enrollee's coverage if, during the fiscal year, the enrollee becomes ineligible to be an enrollee.

(d) The commission shall establish by regulation appropriate procedures for processing applications for enrollment, for determining the eligibility of enrollees, for enrolling enrollees, for determining and collecting the applicable fees, for canceling an enrollee's coverage, and for processing appeals by enrollees of adverse decisions by the commission regarding eligibility, enrollment, determination or collection of applicable fees, or cancellation of coverage.

Sec. 44.19.641. HEALTH INSURANCE PLAN. (a) The commission shall adopt regulations specifying the health care services required to be covered by the state health insurance plan, taking into consideration the services requested by the public, the needs and characteristics unique to state residents, the goal of prevention of illness and promotion of wellness, the cost of providing the benefits package, the cost of providing or procuring the insurance coverage, and the funds available in the state health insurance fund.

(b) The commission shall conduct a comprehensive public involvement process designed to solicit information and opinions regarding the services required to be covered under (a) of this section.

Sec. 44.19.642. DEDUCTIBLES AND COPAYMENTS. Subject to AS 44.19.641, the commission shall establish the deductible and copayment amounts

applicable under the state health insurance plan.

Sec. 44.19.644. PREMIUMS. A premium may be charged to an enrollee for coverage as established by the commission by regulation. In establishing a premium, the commission shall establish a standard fee and a sliding scale fee and shall consider the cost of coverage, funding available, and other factors the commission determines are relevant.

Sec. 44.19.646. HEALTH CARE DATA SYSTEM. (a) The commission shall develop and periodically update a health care data system. To the extent practicable, the data system base year shall be calendar year 1993 and the system must include

(1) health care expenditures, including capital expenditures associated with receiving health care;

(2) demographic data;

(3) clinical information, including patient diagnosis, type of provider, type of service, location and length of care, referral patterns, quality of care, and result of care;

(4) billing and payment data; and

(5) public health data, including vital statistics and health status.

(b) The commission may, by regulation, require health care providers, including providers not being reimbursed by the commission, to submit claims data and additional information necessary to develop or update the data system required under (a) of this section.

Sec. 44.19.648. STATEWIDE HEALTH CARE EXPENDITURE TARGET. (a) The commission shall prescribe by regulation a statewide health care expenditure target, based on the data obtained under AS 44.19.646. To the extent practicable, the base year for the statewide health care expenditure target shall be calendar year 1993.

(b) The commission annually shall adjust the health care expenditure target established under this section to reflect changes in the Consumer Price Index and the following factors:

(1) changes in the size and demographic characteristics of the state's population including aging;

(2) changes in medical technology;

(3) changes that improve access to health care services;

(4) changes in the burden of disease resulting from epidemics, disasters, and reduction or elimination of disease;

(5) elimination of unnecessary care;

(6) changes in costs associated with professional liability insurance;

(7) changes in administrative costs;

(8) changes in patterns of utilization.

Sec. 44.19.651. VOLUNTARY HEALTH CARE PROVIDER COMPLIANCE. The health care expenditure target adopted by the commission under AS 44.19.648 shall constitute a recommended target for expenditures within each specified category or subcategory of health care services or products. Health care providers may voluntarily comply with the expenditure target and may take all appropriate steps not prohibited by law to attempt to ensure that annual expenditures for health care in the state do not exceed the expenditure target adopted by the commission.

Sec. 44.19.652. REVIEW AND REPORT ON HEALTH CARE EXPENDITURES. The commission shall annually review and report to the legislature and the governor on

(1) the total amount of health care expenditures in the state;

(2) the amount of increase or decrease in health care and capital medical expenditures in the state;

(3) changes in health care provider prices;

(4) changes in patterns of utilization or expenditures; and

(5) factors that are responsible for changes in patterns of utilization or expenditures.

Sec. 44.19.654. MANDATORY HEALTH CARE PROVIDER COMPLIANCE. (a) Based on the data compiled under AS 44.19.646, the commission shall monitor the success of voluntary compliance under AS 44.19.651. At any time beginning three years after the voluntary expenditure target has been in effect, if the commission concludes that voluntary compliance has failed substantially to achieve the adopted expenditure target, the commission shall impose by regulation a mandatory expenditure limit as provided under (b) of this section.

(b) The commission may, by regulation,

(1) impose a mandatory expenditure limit on one or more subcategories or on specific items within the expenditure limit;

(2) directly assume all or part of the cost control functions described in this section;

(3) establish mandatory price and utilization controls or guidelines;

(4) annually monitor health care expenditures, patterns of utilization, and factors contributing to changes in expenditures or utilization;

(5) establish cost sharing recommendations relevant to the mandatory expenditure limit.

(c) A health care provider shall comply with the mandatory cost control provisions that may be established by the commission under (a) and (b) of this section. An enrollee who receives a charge that does not comply with the mandatory cost control provisions that are imposed under this section is not required to pay the portion of the charge that exceeds the mandatory cost control provisions. A health care provider shall refund an amount received that exceeds the mandatory cost control provisions.

(d) The commission shall establish by regulation procedures for monitoring compliance with the mandatory cost control provisions and for providing notice to a person who is determined to have been overcharged.

Sec. 44.19.656. PEER REVIEW OF UTILIZATION AND QUALITY. The commission shall contract with health care providers in the state to develop utilization and quality controls. The contract must include the use of peer specialty groups that are given the goal of controlling utilization within a specialty. The commission shall ensure that the contract stresses the development of the use of incentives to control costs.

Sec. 44.19.658. CLAIMS CLEARINGHOUSE. (a) The commission shall establish a claims clearinghouse in the state. A provider of health care services shall submit all claims for payment for health care services under the state health insurance plan to the claims clearinghouse. The commission may, by regulation, require providers to submit specified additional information pertaining to providing health care services in the state to the claims clearinghouse.

(b) Subject to appropriation, the claims clearinghouse shall pay claims approved for payment by the commission.

(c) The claims clearinghouse may deny a claim only for a reason that has been specified as an acceptable reason under regulations adopted by the commission.

Sec. 44.19.661. REQUIRED AVAILABILITY OF PRICE LIST. (a) A health care provider shall prepare a list of the provider's prices that includes the dates during which the prices will be applicable. The price list shall be made available either by posting the price list in a conspicuous location in the health care provider's office or by similarly posting a notice that the price list is available for review upon request. The corporation shall determine by regulation the contents of the price list required under this section.

(b) At least annually, a health care provider shall submit to the corporation copies of the provider's current price list. The corporation shall specify by regulation the date for submitting the price lists.

Sec. 44.19.662. INFORMATION ON PRICES FOR HEALTH CARE SERVICES. The corporation shall at least annually publish a description of types of health care providers licensed to provide covered services and a comparative list of provider prices. The corporation shall make the publications available to the public upon request.

Sec. 44.19.664. COMPARATIVE LISTS OF PRICES. (a) At least annually, the corporation shall compile comparative lists of prices for commonly provided health care services based on abstracted data provided by the claims clearinghouse under AS 44.19.658, on the price lists submitted to the corporation under AS 44.19.661, and on other relevant information as determined by the corporation.

(b) The lists required under this section shall be prepared to allow identification and comparison of prices made by individual providers for the listed services. Hospital services may be compared on the basis of diagnosis related groups."

Page 18, line 26:

Delete "Sec. 44.19.639. DEFINITIONS. In AS 44.19.619 - 44.19.639"

Insert "Sec. 44.19.701. DEFINITIONS. In AS 44.19.619 - 44.19.701"

Page 19, line 21:

Delete "has the meaning given in AS 21.86.900"

Insert "means an acupuncturist licensed under AS 08.06; an audiologist licensed under AS 08.11; a chiropractor licensed under AS 08.20; a dental hygienist licensed under AS 08.32; a dentist licensed under AS 08.36; a marital or family therapist licensed under AS 08.63; a direct-entry midwife certified under AS 08.65; a nurse licensed under AS 08.68; a dispensing optician licensed under AS 08.71; a naturopath licensed under AS 08.45; an optometrist licensed under AS 08.72; a pharmacist licensed under AS 08.80; a physical therapist or occupational therapist licensed under AS 08.84; or a physician's assistant certified under AS 08.64; a physician licensed under AS 08.64; a podiatrist; a psychologist and a psychological associate licensed under AS 08.86; a clinical social worker licensed under AS 08.95; an emergency medical technician certified under AS 18.08.082; a mobile intensive care paramedic trained as required under AS 18.08.082; a hospital as defined in AS 18.20.130, including a governmentally owned or operated hospital; and an employee of a health care provider acting within the course and scope of employment"

Page 20, line 17, through page 21, line 2:

Delete all material.

Insert a new bill section to read:

"* Sec. 24. PHASED TRANSITION PERIOD. Notwithstanding the provisions of AS 44.19.619 - 44.19.701, the Alaska Health Commission shall implement the provisions of AS 44.19.619 - 44.19.701 on an orderly and gradual basis as follows:

(1) by December 31, 1994, the commission shall establish the data system required under AS 44.19.646 and begin collecting data and determine the federal waivers necessary to implement AS 44.19.619 - 44.19.701;

(2) by December 31, 1995, the commission shall determine the health care services required under AS 44.19.641 and begin monitoring health care expenditures and utilization patterns;

(3) by January 1, 1996, the commission shall implement the peer review system for utilization and quality required under AS 44.19.656 and shall adopt regulations that establish eligibility criteria for enrollment in the state health insurance plan, including a definition of the term "resident" that is consistent with AS 01.10.055 and the purposes of

this Act;

(4) by December 31, 1996, the commission shall establish the voluntary cost control system required under AS 44.19.651;

(5) by January 1, 1997, the commission shall establish the deductible and copayment amounts required under AS 44.19.642 and present options to the governor and the legislature on how to finance a state health insurance plan under a market based single payer system; in considering options on financing a state health insurance plan the commission shall strive to structure the options in a manner that provides protection for benefits provided to retired employees through public or private retirement systems;

(6) by January 1, 1998, the commission shall establish the statewide health care expenditure target required under AS 44.19.648, and, subject to appropriation, begin to provide health insurance coverage for state residents as required under AS 44.19.619 - 44.19.701."

#26

8-GH2024\J.2
Ford
3/22/94

AMENDMENT

Rep Bettye Davis
Tom Brice

OFFERED IN THE HOUSE
TO: CSHB 414(HES)

Page 1, line 1, through page 21, line 12:

Delete all material and insert:

""An Act establishing the Alaska Health Insurance Corporation and requiring licensed health care providers to comply with certain statutes and regulations relating to the corporation; relating to disability insurance claims processing and to approval of rates for disability insurance, including health insurance; and providing for an effective date."

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

* **Section 1.** FINDINGS AND PURPOSE. (a) The legislature finds that

(1) health care services and health insurance in the state are becoming prohibitively costly, and a growing number of our citizens are unable to obtain health insurance or pay for needed care;

(2) the reasons that health care expenditures are increasing are complex and are accounted for by general inflation; by inflation specific to the health care industry or changes in the cost of labor, capital, and other industry factors; by population growth; by utilization or the number of times people use health care services; by increasingly complex and costly technology and other resources; by the aging of the population; and the practice of defensive medicine;

(3) the primary responsibility for controlling health care expenditures in the state should be borne by Alaska health care providers, particularly physicians, on whose orders and recommendations most health care expenditures are incurred; at present, federal and state antitrust laws effectively preclude health care providers from engaging in voluntary self-regulation regarding fees and volume of services; this Act mandates the participation by health care providers in the peer review process of cost control and volume control to assure that health care expenditures do not increase faster than the general inflation rate; if voluntary

self-regulation fails to control health care costs, mandatory cost controls should be imposed;

(4) in order to increase access to health care by containing the rate of increase of health care expenditures and by making basic health insurance available to the people in the state, it is essential that the factors contributing to the increasing costs of health care and the unavailability of health insurance be addressed comprehensively and consistently;

(5) there is a compelling need for a strong, clear focus on public health issues in the interest of protecting and promoting the public health of the residents of the state;

(6) there are inherent problems in our health system infrastructure, including the lack of physical access to services in many areas of the state;

(7) the state should immediately begin to create a system that will provide health insurance to all residents of the state, control health care expenditures, preserve the high quality of care that residents demand, preserve the individual's choice of health care provider, and, by doing so, avoid the imposition of a federally mandated health care reform system on the state;

(8) because the state constitution's single subject rule precludes the consideration of comprehensive tort reform in the same legislative enactment as health care reform, tort reform should be addressed in a separate legislative enactment;

(9) a market based single payer system is preferable to either an employer mandate or a "pay or play" approach because

(A) both of the employer mandate approaches are based on the current mix of public, employer, and individual financing that inevitably creates coverage gaps for some people, particularly when their employment status changes;

(B) health care financing approaches that require all businesses to provide health care benefits or that levy additional taxes on those businesses threaten the economic viability of many small businesses in the state;

(C) multiple payer systems would not necessarily address the problems of cost shifting that exist in our current system; and

(D) systems that are built upon the existing public and private financing arrangements can be expected to inherit the inefficiencies in those arrangements.

(b) The purpose of this Act is to

(1) increase access to health care by containing the rate of increase of health

care expenditures and by making health insurance available to the people in the state;

(2) create a market based single payer state health insurance system that provides health insurance to all residents of the state, that utilizes market forces to make consumers more aware of the actual costs of health services, and that provides consumers with information enabling them to make more informed purchasing decisions;

(3) provide a structure for addressing the health care needs of the state including

(A) developing a comprehensive long-term care plan that integrates support services and that promotes human dignity;

(B) use of preventive and wellness programs to reduce health care costs; and

(C) the different health care needs of urban and rural areas of the state.

(c) It is not the purpose of this Act to change the existing agreements between employers and employees, including retirees, in a manner that would diminish health care benefits.

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

Sec. 08.02.025. COMPLIANCE WITH REQUIREMENTS OF STATE HEALTH INSURANCE CORPORATION. A health care provider shall comply with the required price list availability provisions of AS 21.58.230 and the health care data system provisions of AS 21.58.260 that are applicable to health care providers including regulations adopted by the Alaska Health Insurance Corporation under those provisions. Notwithstanding another provision of law, the license of a health care provider is not valid unless the health care provider complies with this section. In this section, "health care provider" has the meaning given in AS 21.58.400.

*** Sec. 3.** AS 21.39.020 is amended to read:

Sec. 21.39.020. APPLICABILITY. (a) This chapter applies to **disability insurance, to** all forms of casualty insurance, including fidelity, surety, and guaranty bonds, to all forms of fire, marine, and inland marine insurance, and to a combination of any of them, or risks or operations in this state. Inland marine insurance includes insurance defined by statute, or by interpretation of statute, or if not defined or interpreted, by ruling of the director, or as established by general custom of the

business, as inland marine insurance.

(b) This chapter does not apply to

(1) reinsurance, other than joint reinsurance to the extent stated in AS 21.39.110;

(2) [DISABILITY INSURANCE;

(3)] insurance of vessels or craft, their cargoes, marine builders' risks, marine protection and indemnity, or other risks commonly insured under marine, as distinguished from inland marine insurance policies;

(3) [(4)] insurance against loss of or damage to aircraft or against liability, other than workers' compensation and employer's liability, arising out of the ownership, maintenance, or use of aircraft; or, to insurance of hulls of aircraft, including their accessories and equipment.

* Sec. 4. AS 21.39.030(a) is amended to read:

(a) Rates shall be made in accordance with the following provisions:

(1) rates **may** [SHALL] not be excessive, inadequate, or unfairly discriminatory;

(2) consideration shall be given to past and prospective loss experience inside and outside this state, to the conflagration and catastrophe hazards, to a reasonable margin for underwriting profit and contingencies, to dividends, savings, or unabsorbed premium deposits allowed or returned by insurers to their policyholders, members, or subscribers, to past and prospective expenses both countrywide and those specially applicable to this state, and to all other relevant factors inside and outside this state;

(3) the systems of expense provisions included in the rates for use by an insurer or group of insurers may differ from those of other insurers or group of insurers to reflect the requirements of the operating methods of the insurer or group of insurers with respect to any kind of insurance, or with respect to a subdivision or combination **of them** [THEREOF] for which subdivision or combination separate expense provisions are applicable;

(4) risks may be grouped by classifications for the establishment of rates and minimum premiums; classification rates may be modified to produce rates for individual risks in accordance with rating plans that establish standards for

measuring variations in hazards or expense provisions, or both; the standards may measure any differences among risks that can be demonstrated to have a probable effect upon losses or expenses;

(5) in the case of fire insurance rates, consideration may be given to the experience of the fire insurance business during a period of not more than the most recent five-year period for which experience is available;

(6) when there is an established program to inspect new and existing dwellings and the program has been certified by the director as likely to reduce the incidence of fires in inspected dwellings, then in any rate plan used in this state, dwellings that have been found by the inspection to meet the standards established by the program shall have credits applied to the rate in amounts approved by the director**;**

(7) in the case of disability insurance rates, rates shall be made on a statewide basis; rates may vary depending on age and family status.

* **Sec. 5.** AS 21.54 is amended by adding a new section to read:

Sec. 21.54.025. CLAIMS PROCESSING. (a) An insurer authorized to transact disability insurance in the state shall

(1) pay each claim within 15 business days after a claim is received or, within that same time period, give the person that submitted the claim notice that the claim is denied; and

(2) adopt a claims grievance procedure and submit the procedure to the division for approval; after the procedure has been approved, the insurer shall follow the procedure.

(b) If a claim form is fully completed and an insurer fails to pay a claim or give notice that the claim is denied within the time specified in (a) of this section, the insurer shall pay interest at the rate specified in AS 45.45.010, from the 16th business day after the claim was received until paid, on the amount finally determined to be due.

(c) If an insurer denies a claim, the notice that the claim is denied must include a statement of the reason for the denial. The statement must be sufficiently clear to allow the provider to understand the reason for the denial and to take corrective action, including resubmission of the claim, if appropriate.

* **Sec. 6.** AS 21 is amended by adding a new chapter to read:

CHAPTER 58. ALASKA HEALTH INSURANCE CORPORATION.

Sec. 21.58.010. CREATION AND PURPOSE. (a) The Alaska Health Insurance Corporation is established. The corporation is a public corporation and an instrumentality of the state in the Department of Commerce and Economic Development but has a legal existence independent of and separate from the state. The exercise by the corporation of the powers conferred by this chapter is considered an essential function of the state.

(b) The purposes of the corporation are to establish and provide uniform health insurance coverage for all residents of the state and to monitor and control all health care expenditures in the state.

Sec. 21.58.020. BOARD OF DIRECTORS. The corporation is managed by a board of seven directors.

Sec. 21.58.030. APPOINTMENT AND REMOVAL OF DIRECTORS. (a) The directors of the corporation are appointed by the governor, subject to confirmation by the legislature. A director may be removed only for good cause.

(b) In appointing directors to the board, the governor shall ensure that

(1) a majority of the board are experts in health care issues and fairly represent the interests of the general public in having access to quality and affordable health care;

(2) the interests of consumers and health care providers are fairly represented;

(3) the director is a resident of the state; and

(4) the board has a gender and geographic composition that approximates the population of the state.

Sec. 21.58.040. TERM OF SERVICE. The term of a director is four years. Terms of directors shall be staggered. A director may be appointed to successive terms. A director appointed to fill a vacancy serves for the unexpired term of the director. A term shall be measured from January 1 of the year in which the term of the vacant position begins, regardless of when the vacancy is filled.

Sec. 21.58.050. COMPENSATION AND EXPENSES. A director is entitled to receive compensation at the rate of $400 for each day spent in performing duties as a board member and to travel and per diem expenses authorized by law for boards

and commissions under AS 39.20.180.

Sec. 21.58.060. OFFICERS. At the first meeting of each year, the board of the corporation shall elect a chair and a vice-chair from among its members. The corporation shall prescribe their duties by regulation.

Sec. 21.58.070. MEETINGS AND QUORUM. The board of the corporation shall meet at least once every three months. Four members of the board constitute a quorum for the transaction of business and the exercise of the powers and duties of the corporation.

Sec. 21.58.080. ADMINISTRATIVE PROCEDURE. Actions of the corporation under this chapter are subject to AS 44.62 (Administrative Procedure Act).

Sec. 21.58.090. STAFF AND PROFESSIONAL SERVICES CONTRACTS. The corporation shall employ an executive director who serves at the pleasure of the corporation as its chief administrative officer. The executive director may, with the approval of the corporation, select and employ additional staff as necessary. The executive director is in the exempt service under AS 39.25.110. Employees of the corporation other than the executive director are in the classified service under AS 39.25.100. In addition to its staff of regular employees, the corporation may contract for the services of consultants and professional, technical, and financial advisors the corporation considers necessary for the purpose of developing information, conducting hearings, studies, investigations, or other proceedings, or otherwise exercising its powers.

Sec. 21.58.100. GENERAL POWERS. The corporation may

(1) exercise the powers granted to insurers under the laws of the state when allowed under AS 21.58.130(c); if the corporation acts as an insurer, the corporation shall comply with the requirements applicable to insurers under this title;

(2) sue or be sued;

(3) make contracts and execute all instruments necessary or convenient for carrying out its business;

(4) establish administrative or accounting procedures;

(5) acquire, own, hold, dispose of, and encumber personal property and lease real property in the exercise of its powers;

(6) establish appropriate levels of reserves to cover expenses of the

corporation;

(7) perform all other acts necessary and proper to carry out the duties of the corporation.

Sec. 21.58.110. DUTIES. The corporation shall

(1) adopt regulations to implement this chapter;

(2) create and implement the formal public involvement process required under AS 21.58.320, for the purpose of gathering broad input on the state health insurance plan, options for financing the cost of coverage, cost-sharing of the health insurance plan, and the cost of plan administration;

(3) establish the comprehensive health care data system required under AS 21.58.260;

(4) create and implement a uniform claims form;

(5) develop and update the public health improvement plan for the state required under AS 21.58.310;

(6) establish the claims clearinghouse required under AS 21.58.220;

(7) develop a benefits package of health care services that enrollees in the state health insurance plan are entitled to receive and determine the eligibility requirements for enrollment;

(8) annually determine the appropriate fee to be paid by an enrollee, after considering the enrollee's income, assets, financial obligations, or other criteria, as determined by the corporation;

(9) define acceptable reasons for denial of claims under the state health insurance plan;

(10) at least annually, review the health care benefits package and revise it as determined by the corporation, taking into consideration the health needs of the state, available funding, and other relevant factors as determined by the corporation;

(11) establish the cost control system required under AS 21.58.180, 21.58.230, 21.58.250, 21.58.270, 21.58.290, and 21.58.330, and the voluntary cost control system required under AS 21.58.240 and 21.58.280;

(12) periodically review options to finance the state health insurance plan and present options to the legislature;

CORRECTION

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(12) periodically review options to finance the state health insurance plan and prese[illegible] options to the legislature;

(13) with funds from the state health fund, provide or procure coverage required under the state health insurance plan; as provided under AS 21.58.130, the corporation may act as an insurer or procure coverage from one or more companies licensed to transact health insurance in the state for all persons who are eligible to be enrollees of the state health insurance plan;

(14) pursue necessary federal waivers from applicable federal law or other federal health care payers in order to incorporate both claims data and revenue streams into the corporation's data system and additional revenue into the state health insurance fund;

(15) implement the state health insurance plan as a market based single payer system;

(16) design a program to give incentives to primary care providers to practice in the state, especially in rural and under served areas of the state; incentives may include added premiums on prices for primary care providers, a student loan forgiveness program, an in-state family practice residency program, training and rotations for midlevel practitioners, and other appropriate incentives;

(17) impose a mandatory cost control system in part or overall if the corporation determines that the voluntary cost control system described under AS 21.58.280 has failed to substantially achieve the adopted expenditure target;

(18) establish committees of experts and others as needed to make recommendations to the corporation regarding how to contain the cost of health care, including incorporating a greater emphasis on healthful lifestyles, prevention of disease and injury, promoting effective medical treatments, identifying the optimal provider mix within the state, or other matters determined by the corporation;

(19) develop a plan that comprehensively addresses the needs of residents of the state for long-term care; and

(20) hold public meetings and annually report to enrollees, the governor, and the legislature.

Sec. 21.58.120. HEALTH INSURANCE FUND. The state health insurance fund is established as a separate account in the general fund. The fund shall be administered by the corporation and used to provide or to purchase insurance under AS 21.58.110 or 21.58.130. The fund consists of appropriations by the legislature,