

ALASKA LEGISLATURE COMMITTEE FILES 1997-1998 8072

9337 HOUSE LABOR & COMMERCE

**HB**

**383**

# HOUSE COMMITTEE REPORT

(7)

Date Referred to Committee: February 6, 1998

FURTHER REFERRALS:

Judiciary

Date of Committee Action: 2/25/98

The LABOR AND COMMERCE Committee considered:

HB 383

HOUSE BILL NO. 383

EXPECTED DEATHS

"An Act relating to expected deaths that occur at home or in a health care facility."

recommends it be replaced  the same title  
 with the following committee substitute \_\_\_\_\_  a new title

additional referral to \_\_\_\_\_ Committee  
 attached amendment(s)

ADOPTS: \_\_\_\_\_ Letter of Intent

ATTACHES NEW FISCAL NOTE(S):	(Dept)	APPROVES PREVIOUS:	(Dept/Date)
<input type="checkbox"/> fiscal note(s) _____		<input type="checkbox"/> fiscal note(s) _____	
<input checked="" type="checkbox"/> <u>zero</u> fiscal note(s) <u>DHSS</u>		<input type="checkbox"/> <u>zero</u> fiscal note(s) _____	

SIGNING WITH RECOMMENDATIONS	DP	DNP	NR	AM
<i>John L. Brundage</i>			←	
<i>John Kultima</i>	✓			
<i>Joe Pukara</i>	✓			
<i>Bill Anderson</i>	✓			
<i>Neil R. Kelly</i>	✓			
<i>Greg Sanders</i>	✓			

CHAIR'S SIGNATURE *Neil R. Kelly* 2/25/98

# FISCAL NOTE

STATE OF ALASKA  
1998 LEGISLATIVE SESSION

NO. HB 383  
BILL VERSION: \_\_\_\_\_  
PUBLISH DATE: 2/6/98

Revision Date: \_\_\_\_\_ Department Affected: Dept of Health & Social  
Title: An Act relating to expected deaths BRU: Services  
that occur at home or in a health care facility  
Sponsor: Rep G. Davis Component: Medical Examiner  
Requestor: HL&C

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

CAPITAL	0	0	0	0	0	0
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REVENUE FUND SOURCE	0	0	0	0	0	0
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FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

Estimate of current year impact: NONE

ANALYSIS: (Attach a separate page if necessary)

Prepared by: House Labor and Commerce Committee Phone: 465-4954  
Division: \_\_\_\_\_ Date: 2/25/98

Approved by: Representative Norman Rokeberg, Chair  
Agency: House Labor and Commerce Committee Date: 2/25/98

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



02/25/98  
15:15:05

LEGISLATIVE TELECONFERENCE NETWORK SYSTEM  
PARTICIPANT LIST (ALL PARTICIPANTS)  
TCN:80350 SCHEDULED FOR:02/25/98 15:15 TO 17:15  
PUBLIC HEARING HOUSE LABOR & COMMERCE

LTN1150  
BY:ANC  
FOR:ANC

LOCATION: ANCHORAGE

HB 383 DR. MICHAEL PROPST

TESTIFY

02/25/98  
16:04:13

LEGISLATIVE TELECONFERENCE NETWORK SYSTEM  
PARTICIPANT LIST (ALL PARTICIPANTS)  
TCN:80350 SCHEDULED FOR:02/25/98 15:15 TO 17:15  
PUBLIC HEARING HOUSE LABOR & COMMERCE

LTN1150  
BY:KEN  
FOR:KEN

LOCATION: KENAI LIO

HB 383	MS.	CYNTHIA	ELLIOT	1ST CHOICE HLTH	TESTIFY
HB 383	MR.	TOM	WILKINSON	CPGH	TESTIFY
HB 383	MS.	DEBRA	SHUEY	SELF	TESTIFY
HB 383	MS.	LIZ	SCHUBERT	HOSPICE	TESTIFY
HB 383	CHIEF	SHIRLEY	WARNER	SOLDOTNA POLICE	TESTIFY
HB 383	MR.	DAVID	CORAY	SELF	TESTIFY
HB 383	MS.	LORI	BROWN	1ST CHOICE HLTH	TESTIFY
HB 383	MS.	CONNIE	SMITH	PENIN HOME HLTH	OBSERVE
HB 383	MR.	DAVID	LUCAS	PENIN. CLARION	OBSERVE

02/25/98 16:18:08

LEGISLATIVE TELECONFERENCE NETWORK SYSTEM  
MESSAGE FROM: LIOCMBB IN KENAI LIO

LTN1120  
JNU

RE TCN: 80350 SCHEDULED FOR:02/25/98 15:15 TO 17:15  
SPONSOR: HOUSE LABOR & COMMERCE PURPOSE: PUBLIC HEARING

MESSAGE TEXT: THANKS TO CHAIR FOR ALLOWING TESTIMONY

# ALASKA STATE LEGISLATURE

## House of Representatives

### COMMITTEE MEMBERS

REPRESENTATIVE NORMAN ROKEBERG, CHAIRMAN  
REPRESENTATIVE JOHN COYDERY, VICE CHAIRMAN  
REPRESENTATIVE BILL MCGOSH  
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COMMITTEE AIDE, SHIRLEY ARMSTRONG  
COMMITTEE SECRETARY, CATHY WOOD  
COMMITTEE HEARING ROOM 117 STATE CAPITOL



INTERIM:  
716 WEST 14TH AVENUE, SUITE 640  
ANCHORAGE, AK 99501  
PHONE: (907) 258-8191  
FAX: (907) 258-2916

SESSION:  
STATE CAPITOL, ROOM 24  
JUNEAU, AK 99801-1182  
PHONE: (907) 465-4954  
FAX: (907) 465-2040

## Labor and Commerce Committee

L&C Has Not Received A Fiscal Note

From The Effected Departments



217 Second Street, Suite 200 ■ Juneau, Alaska 99801 ■ Tel (907)586-1325, Fax (907)463-5480

February 25, 1998

The Honorable Norman Rokeberg, Chairman  
House Labor and Commerce Committee  
Room 24, State Capitol  
Alaska State House of Representatives  
Juneau, Alaska 99801-1182

Re: HB 400

Dear Representative Rokeberg:

The intent of our Alaska Constitution is of great importance in considering merging the Department of Community and Regional Affairs with other departments. A **“local government agency”** is specifically mandated by the Alaska Constitution. That only one agency is mandated indicates that **the framers of our constitution believed that strong municipalities and a strong “local government agency” would always be critical to the success of Alaska.**

The constitution mandates that the local government agency **“advise and assist local governments”** (Article X, Section 14). The Department of Community and Regional Affairs fulfills that requirement by providing direct hands-on assistance to local governments in utilities management and operation, training of elected officials and administrative staff, scheduling and conducting council/assembly meetings, long and short-term planning, grant application and administration, elections, personnel management, organizing and restructuring of borough and city governments, and all other aspects of city and village administration. These services do fall directly under economic development and, therefore, would not be best provided under the auspices of the Department of Commerce and Rural Development.

While creating operational efficiencies (such as consolidating some administrative functions or streamlining services) is an appropriate goal, making the Department of Community and Regional Affairs a subsidiary of a larger state agency with broader goals and focus does not appear to meet the intent of the constitution.

Representative Norman Rokeberg  
February 25, 1998  
Page two

For the above described reasons, the Alaska Municipal League opposes the disbanding of the Department of Community and Regional Affairs.

Sincerely,

A handwritten signature in cursive script, appearing to read "Kevin Ritchie", with a long horizontal flourish extending to the right.

Kevin Ritchie  
Executive Director

cc: Representative Vic Kohring

*D:legcomm:298 HB 400 dishand DCRA*



# Alaska State Legislature

Please enter into the record my testimony to the ALAC  
committee name

committee on HB 383, dated 2-25-98  
bill # / subject

*Written testimony for hearing*

02-25-98 05:00 RCPD

Signed: Kenai Lio  
Testifier

\_\_\_\_\_  
Representing (Optional)

\_\_\_\_\_  
Address

\_\_\_\_\_  
Phone number

In support of HB #383, Sec. 12, .007

My mother, Dorris Ann Brewer wanted to die at home. She had filled out the proper paperwork and collected her doctors' signatures to fill out the expected home-death form.

I finally made that phonecall to First Choice Home Health Care which I had rehearsed over and over in my head. I reached my Mother's nurses, Cynthia Elliot. Cynthia arrived at our home shortly after being paged. She took her vital signs, recorded time, date and cause of death. Cynthia then remained with us and called local authorities to let them know a death had occurred.

I know my face went white and became slightly frustrated when the local EMTs and the Police Department arrived to pronounce my mother's death once again. Under current law, this is standard procedure, despite the paperwork my mother had filed. It is not my intent to bash our local EMT and Police Department. The officers and medical personnel were very sympathetic and only following procedure, but I would like to see the law changed in regard to expected home death.

I feel fortunate that my mother was able to die at home surrounded by family and friends, as she had requested. This was possible due to her, as well as her family's, support from First Choice Home Health Care.

Sincerely Yours,  
Karen A. Brewer-Fair  
907-262-1724

# Alaska State Legislature

Interim:

145 Main Street Loop #223  
Kenai, Alaska 99611  
(907) 283-7095  
(907) 283-3075 (fax)  
(907) 262-7574 (h)

Session:

State Capitol  
Juneau, Alaska 99801  
(907) 465-2693  
(fax) (907) 465-3835


Representative Gary L. Davis

*received  
2/12/98*

## MEMORANDUM

DATE: February 12, 1998

TO: Representative Norm Rokeberg, Co-Chair  
House Labor and Commerce Committee

FROM: Representative Gary Davis 

RE: Request for Hearing on HB 383 "An Act relating expected deaths that occur at home or in a health care facility"

This is to request that a hearing be scheduled on House Bill 383 "An Act relating expected deaths that occur at home or in a health care facility." Attached are the following items for inclusion in the committee files.

- Sponsor Statement;
- Sectional Analysis; and
- current Alaska statutes that will be modified by HB 383;

It is my understanding that your office will be requesting the necessary fiscal notes. My staff will forward additional background information and explanations for the committee packets within the next few days.

Thank you for considering this request. Please contact Deb Davidson of my staff if you have any questions.

GLD/dld

Attachments

# Alaska State Legislature

**Interim:**

145 Main Street Loop #223  
Kenai, Alaska 99611  
(907) 283-7095  
(907) 283-3075 (fax)  
(907) 262-7574 (h)

**Session:**

State Capitol  
Juneau, Alaska 99801  
(907) 465-2693  
(fax) (907) 465-3835

## Representative Gary L. Davis

### SPONSOR STATEMENT

#### House Bill 383

"An Act relating to expected deaths that occur at home or in a health care facility"

Expected home death describes a circumstance whereby a person who has a limited life expectancy and wants to die at home completes an "Expected Home Death Case Report" signed by the attending physician and files a copy of this form with the State Medical Examiner. Alaska statutes list the criteria necessary for a circumstance to be considered an expected home death and specify conditions under which a registered nurse may make a determination and pronouncement of death in these circumstances.

House Bill 383 amends statutes pertaining to expected home deaths by removing perceived contradictions in law regarding whose responsibility it is to sign the death certificate in these cases. It also adds a new section that states it is not necessary to notify a peace officer in the event of a properly documented expected home death.

Current law requires that both law enforcement officials and the state medical examiner be notified in all instances of death regardless of cause. The law is somewhat unclear as how and when peace officers are to be involved in an expected home death situation; however it is explicit in its requirement that the person's body may not be moved without the permission of the state medical examiner. This lack of clarity has caused some confusion and discrepancies in the way expected home deaths are handled throughout the state.

Experiencing the death of a family member is a difficult and emotionally charged event, and requiring additional personnel to the situation can cause unnecessary stress. House Bill 383 removes the requirement that peace officers be notified in the event of an expected home death provided that the procedure for filing an expected home death case report has been followed, and the person authorized to pronounce death believes the death occurred as anticipated.

Death from a terminal illness or natural causes is a normal life event and should be treated as such. House Bill 383 amends current statutes to allow this to happen without undue intrusion, while still providing that the interests of the state and the deceased are protected.

HB383/SS/2/12/98

Representing House District 8

Soldotna, Sterling, Funny River, Cooper Landing, Hope, Moose Pass, Seward

# Alaska State Legislature

**Interim:**

145 Main Street Loop #223  
Kenai, Alaska 99611  
(907) 283-7095  
(907) 283-3075 (fax)  
(907) 262-7574 (h)

**Session:**

State Capitol  
Juneau, Alaska 99801  
(907) 465-2693  
(fax) (907) 465-3835

**Representative Gary L. Davis**

## **SECTIONAL ANALYSIS**

### **House Bill 383**

**"An Act relating to expected deaths that occur at home or in a health care facility"**

- Section 1** Amends AS 08.68.395 "Determination of death by registered nurse," subsection (a) to specify that the required documentation for anticipated death include the physician's agreement to sign the death certificate if the death occurs as anticipated.
- Section 2** Amends AS 08.68.395(b) to specify that the registered nurse who pronounced death in an anticipated death circumstance shall provide to the person signing the death certificate the required information.
- Section 3** Adds a new section to AS 12.65, "Death Investigations and Medical Examiners," stating that a peace officer does not have to be notified in cases of expected home deaths where a person authorized to pronounce death is in attendance or has knowledge of the death.

SB383/SA/2/11/98

Representing House District 8  
Soldotna, Sterling, Funny River, Cooper Landing, Hope, Moose Pass, Seward

## Article 5. Miscellaneous Provisions.

### Section

#### 395. Determination of death by registered nurse

**Sec. 08.68.395. Determination of death by registered nurse.** (a) A registered nurse licensed under this chapter may make a determination and pronouncement of death of a person under the following circumstances:

(1) an attending physician has documented in the person's medical or clinical record that the person's death is anticipated due to illness, infirmity, or disease; this prognosis is valid for purposes of this section for no more than 120 days from the date of the documentation;

§ 08.68.400

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(2) at the time of documentation under (1) of this subsection, the physician authorized in writing a specific registered nurse or nurses to make a determination and pronouncement of the person's death; however, if the person is in a health care facility and the health care facility has complied with (d) of this section, the physician may authorize all nurses employed by the facility to make a determination and pronouncement of the person's death.

(b) A registered nurse who has determined and pronounced death under this section shall document the clinical criteria for the determination and pronouncement in the person's medical or clinical record and notify the physician who determined that the prognosis for the patient was for an anticipated death. The registered nurse shall sign the death certificate, which must include the

- (1) name of the deceased;
- (2) presence of a contagious disease, if known; and
- (3) date and time of death.

(c) Except as otherwise provided under AS 18.50.230, a physician licensed under AS 08.64 shall certify a death determined under (b) of this section within 24 hours after the pronouncement by the registered nurse.

(d) In a health care facility in which a physician chooses to proceed under (a) of this section, written policies and procedures shall be adopted that provide for the determination and pronouncement of death by a registered nurse under this section. A registered nurse employed by a health care facility may not make a determination or pronouncement of death under this section unless the facility has written policies and procedures implementing and ensuring compliance with this section.

(e) Notwithstanding AS 08.68.400(a)(1), this section applies to a qualified nurse described in AS 08.68.400(a)(1) who is employed by a federal health care facility.

(f) The Department of Health and Social Services may adopt regulations to implement this section.

(g) In this section,

(1) "determination of death" means observation and assessment that a person is dead, as defined in AS 09.58.120;

(2) "health care facility" means a private, municipal, state, or federal hospital, psychiatric hospital, tuberculosis hospital, skilled nursing facility, kidney disease treatment center (excluding freestanding hemodialysis units), intermediate care facility, or Alaska Pioneers' Home administered by the Department of Administration under AS 47.55. (§ 1 ch 6 SLA 1991)

## Chapter 65. Death Investigations and Medical Examiners.

### Section

- 05. Duty to notify state medical examiner
- 15. State medical examiner
- 20. Medical death investigations
- 25. Post mortem examinations

### Section

- 100. Unclaimed bodies
- 105. Release of property to temporary custodian
- 110. Inventory and disposition of property

**Cross references.** — For inquests, see AS 09.55.062 — 09.55.068.

**Collateral references.** — 18 Am. Jur. 2d, Coroners or Medical Examiners, § 1 et seq.

18 C.J.S., Coroners, § 1 et seq.; 80 C.J.S., Sheriffs and Constables, § 38.

Liability for wrongful autopsy, 18 ALR4th 858.

**Sec. 12.65.005. Duty to notify state medical examiner.** (a) Unless the person has reasonable grounds to believe that notice has already been given, a person who attends a death or has knowledge of a death, in addition to notifying a peace officer, shall immediately notify the state medical examiner when the death appears to have

- (1) been caused by unknown or criminal means, during the commission of a crime, or by suicide, accident, or poisoning;
- (2) occurred under suspicious or unusual circumstances or occurred suddenly when the decedent was in apparent good health;
- (3) been unattended by a practicing physician or occurred less than 24 hours after the deceased was admitted to a medical facility;
- (4) been associated with a diagnostic or therapeutic procedure;
- (5) resulted from a disease that constitutes a threat to public health;
- (6) been caused by a disease, injury, or toxic agent resulting from employment;
- (7) occurred in a jail or corrections facility owned or operated by the state or a political subdivision of the state or in a facility for the placement of persons in the custody or under the supervision of the state;
- (8) occurred in a foster home;
- (9) occurred in a mental institution or mental health treatment facility; or
- (10) occurred while the deceased was in the custody of, or was being taken into the custody of, the state or a political subdivision of the state or a public officer or agent of the state or a political subdivision of the state.

(b) A person who attends a death or has knowledge of a death occurring in circumstances other than those enumerated in (a) of this section may notify the state medical examiners of the death if, in the person's opinion, a death investigation under AS 12.65.020 — 12.65.025 may be appropriate.

§ 12.65.010

CODE OF CRIMINAL PROCEDURE

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(c) The body of a person whose death has been or should be reported to the state medical examiner under this section may not be moved or otherwise disturbed without the permission of the state medical examiner. (§ 2 ch 103 SLA 1996)

**Effective dates.** — Section 2, ch. 103, SLA 1996, which enacted this section, took effect on September 23, 1996.

# STATE OF ALASKA

TONY KNOWLES, GOVERNOR

DEPARTMENT OF HEALTH & SOCIAL SERVICES  
Division of Public Health  
OFFICE OF THE MEDICAL EXAMINER

5700 East Tudor Road  
Anchorage, Alaska 99507-1264  
Phone: 269-5090/Fax: 269-5069

## MEMORANDUM

**TO:** Persons Registering Expected Home Deaths

**FROM:** Michael T. Propst, M.D.  
Chief Medical Examiner

**SUBJECT:** Procedure Change for Registration of Expected Home Deaths

Effective immediately the agency registering an expected home death will send (fax) the notification to two places:

1. Office of the State Medical Examiner - fax 269-5069
2. Anchorage Fire Dispatch - fax 344-6180

The Fire Department requires copies of the form authorizing the pronouncement of death by an R.N., when that is elected by the treating physician. It is not necessary to supply that form to the Medical Examiner.

The Medical Examiner's Office is not able to forward information or to fax back confirmation of registration.

## EXPECTED HOME DEATH PROCEDURE FOR ANCHORAGE

The Anchorage Fire Department EMS Division (paramedics), the State Medical Examiner's Office and other concerned persons have developed this procedure for handling Expected Home Deaths.

### To Initiate a Listing

If you are making the arrangements for an Expected Home Death, we ask you to follow this standard procedure:

1. The treating physician completes and signs an Expected Home Death registration form and return it by fax to the State Medical Examiner's Office at 269-5069 and to Anchorage Fire Dispatch at 344-6180. (You may contact the Medical Examiner's Office at 269-5090 to obtain a blank copy of this form).
  - a. The form will contain the following information on the patient
    - Name
    - Date of birth
    - Social security number
    - Residential address of patient (and directions if necessary)
    - Phone number at residence
    - Next-of-kin/contact and phone number
    - Nature of the illness
    - Treating physician's signature, license number and phone number
    - Name of home nursing service, if any
    - Whether the patient has a pacemaker
  - b. The treating physician must confirm the nature of the illness and that he/she is willing to sign the death certificate if this patient dies at home.
2. After the Medical Examiner's Office has reviewed the Expected Home Death form, it will be kept on file.

### To Report a Death at the Home of a Listed Person

1. If this is an Expected Home Death in which the patient's treating physician has responded to the home to pronounce the death, there is no requirement for paramedics or police officers to be involved. Upon arriving in the home and pronouncing death, the physician shall contact the Medical Examiner by calling the Anchorage Police Department Dispatch at 786-8900. The Medical Examiner will give permission to remove the body.
2. If this is an Expected Home Death in which a specific Registered Nurse has current written authority to pronounce death, the Home Nursing Service Agency will provide a written procedure for the family to follow upon the death of the patient.
3. In all other cases, when an Expected Home Death occurs, the procedure set forth on the next page should be followed by persons in the home:

- a. Call Anchorage Fire Department Paramedic Dispatch at 522-1122. This is a 24 hour number.
- b. The caller must identify who they are and state "this is an Expected Home Death".
- c. The caller must give the nature of the call; that is, the patient is dead.
- d. The caller must give Dispatch the patient's full name.
- e. The caller must give Dispatch the residence phone number, street address and directions, if needed

If the above procedure is followed, a paramedic and police officer will be dispatched without lights and sirens to the residence.

The paramedic will determine that the patient has died. The paramedic will then provide his/her name to the person in charge at the residence or to the police officer.

The police officer will conduct an initial investigation. Usually, this will consist of a visual inspection of the deceased and the surrounding area, a determination of the name of those persons present in the home at the time of death, discussion with the person in charge at the home as to times and events leading up to the death, and a consultation with the paramedic.

The police officer will call the Medical Examiner's Office for permission to remove the body. The funeral home of the family's choice may then be called to request their personnel remove the body.

If this is an Expected Home Death in which a Registered Nurse has current authority to pronounce death, the nurse will contact the Anchorage Fire Department Paramedic Dispatch at 522-1122. Dispatch will notify the appropriate police agency. The police officer will follow the same investigation procedure as above.

It is important that families be aware of the following information:

1. If the 911 emergency number is called, there will be a full coded response with lights and sirens by the paramedics and the police.
2. If the patient still has vital signs when the paramedics arrive at the residence and the family requests transport without resuscitation, the medics will comply with the family's request. If the family makes specific treatment requests, the medics will contact an appropriate physician for direction.
3. In all cases, the police officer has the right to institute a full investigation. This should not be construed to mean anyone is suspected of wrongdoing.
4. The Expected Home Death list is not a "no code" or "do not resuscitate" list. It only relates to the type and level of paramedic and police response after an expected home death has occurred.

**REGISTERED NURSE DIRECTIVE**  
**PRONOUNCING DEATH FOR EXPECTED HOME DEATHS**

1. Standard procedure for setting up an Expected Home Death through the Medical Examiner's Office will be followed.
2. If a Registered Nurse will be authorized to pronounce death, the Home Nursing Service (this includes Hospice) must provide Anchorage Fire Dispatch with written authorization from the treating physician.
  - a. Per A.S. 08.68.395, this written authorization must designate a specific registered nurse or nurses.
  - b. The authorization is only valid for 120 days.
3. The Home Nursing Service will provide the family with directions to be followed upon the death of the patient. These directions must be very specific as to what hours and days the R.N. will be available to pronounce death, and what the family is to do if death occurs during the time frames they are not available.
4. The proper authorized Registered Nurse will determine the patient has died. The nurse will then call the proper law enforcement agency for law enforcement response. The number to call at Anchorage Police Department is 786-8900. The number to call the Alaska State Troopers is 428-7200. If the nurse is unsure of jurisdiction, the call should be placed to the Anchorage Police Department. They will direct the call to the proper agency.

The law enforcement response in these cases will be the same. The law enforcement officer will confirm with the Medical Examiner's Office that the registered nurse has current authority to pronounce death.

It is the responsibility of the Home Nursing Service to:

1. Provide the Medical Examiner's Office with written authority from the doctor for the registered nurses to pronounce death. The Medical Examiner's Office will accept a facsimile of that authorization.
2. Track the 120 day limit and insure a current authorization is always on file with the Medical Examiner's Office.
3. Advise the Medical Examiner's Office if they terminate services to a patient, and therefore, would not be authorized to pronounce death.

**EXPECTED HOME DEATH REGISTRATION**  
**FOR THE ANCHORAGE AREA**

To add a patient to the Medical Examiner's Expected Home Death List for 12 months the attending physician must sign the completed form and fax it to 269-5069 and to Anchorage Fire Dispatch at 344-6180

PATIENT NAME \_\_\_\_\_ TELE# \_\_\_\_\_

DATE OF BIRTH \_\_\_\_\_ SS# \_\_\_\_\_

PATIENT PHYSICAL LOCATION (no P.O. Box) \_\_\_\_\_

FAMILY/CONTACT (name/relationship) \_\_\_\_\_ TELE# \_\_\_\_\_

FACILITY NAME \_\_\_\_\_ TELE# \_\_\_\_\_

Will RN be authorized to pronounce death? \_\_\_\_\_

If yes, then a list of those RN's authorized to pronounce must be sent to A.F.D.

RN Expiration if authorized to pronounce \_\_\_\_\_ (120 from the physician's date of signature)

ILLNESS \_\_\_\_\_ PACEMAKER? \_\_\_\_\_

PHYSICIAN \_\_\_\_\_ TELE# \_\_\_\_\_

As the attending physician for this patient, I confirm the illness listed above, that death is anticipated, and I agree to sign the death certificate if death occurs out of my presence, and as a consequence of the above illness.

PHYSICIAN SIGNATURE \_\_\_\_\_ DATE \_\_\_\_\_

License # \_\_\_\_\_

.....  
Please fax the following information after pronouncement has been made.

DATE OF DEATH \_\_\_\_\_ TIME OF DEATH \_\_\_\_\_

PARAMEDIC/PRONOUNCING NURSE \_\_\_\_\_

OFFICER \_\_\_\_\_ AGENCY CASE # \_\_\_\_\_

FUNERAL HOME \_\_\_\_\_ M.E. NOTIFIED \_\_\_\_\_

**HOSPICE AND HOME CARE OF JUNEAU  
PROCEDURE FOR EXPECTED DEATH REPORTING**

**DRAFTED BY: Jan Young, RN**

**DATE REVIEWED/REVISED: 11/04/96**

1. **UPON ADMITTING A CLIENT TO HOSPICE, THE NURSE WILL COMPLETE A EXPECTED HOME DEATH CASE REPORT FORM AND FAX TO THE OFFICE OF THE STATE MEDICAL EXAMINER (OSME) AT: 1-907-269-5069.**
  
2. **AT THE TIME OF DEATH, THE NURSE CALLS THE DEATH REPORTING NUMBER TO REPORT TIME OF DEATH AND OBTAIN PERMISSION TO RELEASE THE BODY TO THE MORTICIAN. REMEMBER, THE BODY CANNOT BE REMOVED FROM THE HOME UNTIL PERMISSION HAS BEEN GRANTED BY THE OSME. IF YOU HAVE ANY SUSPICION THAT THE DEATH DID NOT OCCUR IN THE EXPECTED MANNER, REPORT THAT ALSO. THE APPROPRIATE POLICE AGENCY WILL NEED TO BE CALLED UPON TO INVESTIGATE.**

**OSME DEATH REPORTING NUMBER:**

**1-888-332-3273 (1-888-DECEASE) (TOLL FREE NUMBER)**

**(back up no. if 888 doesn't work: 1-907/227-2882)**

**THERE IS ALSO AN ANCHORAGE OFFICE NUMBER AVAILABLE DURING NORMAL WORKING HOURS: 1-907-269-5090 (THIS IS A L.D. CALL)**

3. **IF THE NURSE CANNOT REACH THE OSME AT TIME OF DEATH, SHE MAY CONTACT THE JUNEAU POLICE DEPT. (586-2780). AN OFFICER WILL COME INSPECT THE SCENE AND EITHER REPORT TO THE OSME OR GIVE PERMISSION TO RELEASE THE BODY TO THE MORTICIAN.**

*This was our local-  
coroner's Policy for  
Juneau in general*

*9/16/2 Substituted office of the  
State medical Examiner - anywhere  
"coroner" is referred to.  
JPP*

JUNEAU  
HOME DEATH POLICY

Introduction

The purpose and intent of this policy and procedure for expected home deaths is to achieve the dignity and rights of the deceased, the privacy and confidentiality of the family, and the safety and welfare of the public. You are advised to follow this policy when assisting with an expected home death.

Before Death *SME*

1. Contact the Office of the ~~Coroner~~ *SME* to make the necessary arrangements to facilitate this process. Be ready to provide the necessary patient information, including: name, address, date of birth, social security number, next of kin, diagnosis, "certifying physician", supervising "licensed professional", and whether the JFD/EMS has a "Do Not Resuscitate Order".

2. If you are not the "certifying physician" who intends to sign the certificate of death, then it may be necessary for the Office of the ~~coroner~~ *SME* to confirm the diagnosis and the expected cause of death with the certifying physician. The ~~Office of the Coroner~~ *SME* after authorizing removal of the body from the scene will reconfirm the certifying physician's opinion before the body is released to the mortuary.

After Death With Licensed Professional

3. If the case is being supervised by a physician, registered nurse, or other "licensed professional" person licensed in Alaska to make a determination and pronouncement of death, then the individuals on the scene are instructed upon death to call this supervising individual. However, if the "licensed professional" can not be reached immediately, then the people on the scene are instructed to call 911. The EMS will respond in accordance with their "Do Not Resuscitate Protocol" and will wait on the scene until the arrival of the "licensed professional" if contact reasonably can be made.

*SME* 4. The "licensed professional" will arrive on the scene, will assess the situation, will contact the Office of the ~~Coroner~~, will advise whether the death occurred in the expected manner and will provide the following information: the patient's name, date of birth, date and time of death, and the "certifying physician" who intends to sign the certificate of death.

5. If in the unusual case the death occurred under circumstances which justifies further inquiry, then the appropriate police agency will be called upon to investigate. If in the normal case the death appears to have occurred as expected, then the coroner will give the authorization for the "licensed professional" to arrange for removal of the body without further on-scene investigation. The body will be released to the mortuary only after the coroner reconfirms the availability of the "certifying physician."

After Death Without Licensed Professional

6. If the case is not being supervised by such a person licensed in Alaska to make a determination and pronouncement of death or this "licensed professional" can not be reached immediately by the people on the scene, then the individuals on the scene are instructed upon death to call 911.

7. Dispatch of paramedic/police will occur. If and only if the patient has executed a "Do Not Resuscitate Order" (DNR) with the JFD/EMS, then the paramedic unit will be dispatched on a non-emergency basis without lights and siren. If there is no DNR or it can not be confirmed, then an ambulance will be dispatched on an emergency response basis.

8. With a DNR on the scene the EMS personnel will follow the DNR protocol. If death is obvious without signs of foul play, then ambulance personnel will wait on the scene until the arrival of the police and advise the police officer of their findings. The EMS personnel may not remove the body until the police officer arrives and authorization is obtained from the Office of the ~~Coroner~~<sup>Coroner</sup>. If death has not occurred, then EMS personnel may elect to leave, administer care, or transport in accord with the DNR protocol.

9. Without a DNR on the scene the EMS personnel will administer appropriate emergency life support in accordance with departmental standard operating procedure.

10. If emergency transport is not done, then the police officer after arrival on the scene will notify the Office of the ~~Coroner~~<sup>Coroner</sup> of the unattended death before the body is removed. If emergency transport is done, ~~then~~<sup>then</sup> the hospital personnel will notify the Office of the ~~Coroner~~<sup>Coroner</sup> before the body is taken to the morgue. The hospital personnel will advise the ~~coroner~~<sup>coroner</sup> of the date, time and by whom the death was determined and pronounced. The body will be released to the mortuary only after the ~~coroner~~<sup>coroner</sup> reconfirms the "certifying physician's" opinion.

Proviso

The "certifying physician" will accept full responsibility for the determination of the medical cause of death and the conduct, judgment and supervision of the "licensed professional." If the "certifying physician", "licensed professional", paramedics, police officers, or coroner feel uncomfortable with any aspect of the situation, then they are authorized to and shall request a further investigation. Any such further investigation is not an indication of any wrongdoing, but rather that a request is being made to handle the case as a normal unattended death.

*DRAFTED BY THE CORONER FOR ALL MEDICAL PERSONNEL*

*Juneau's own CBS DNR form*  
**CODE STATUS ORDER SHEET**

All patients are considered to be Full Code Status unless the following are indicated. Please check the treatment options you wish for this patient. Check one of these two:

- 1.  Do Not Attempt Resuscitation (DNR)
- 2.  Individualized Resuscitation Attempt (CHECK TREATMENTS TO BE WITHHELD)
  - Cardiopulmonary resuscitation (CPR)
  - ACLS Medications (with a cardiac monitored patient)
  - Defibrillation
  - Endotracheal intubation
  - Mechanical ventilation
  - Others \_\_\_\_\_

**INSTRUCTIONS:**

- 1. Telephone orders for code status are not acceptable.
- 2. Whenever a change in code status is made, the outdated Code Status Order Sheet will be marked "VOID" and dated across the front at the time of code status change. New order sheets must be filled out whenever a change in code status is required.

**FOR USE BY BARTLETT REGIONAL HOSPITAL ONLY:**

- 1. Physician must write or dictate a Progress Note to fully document the process by which the resuscitation decision was reached.
- 2. A new Code Status Order Sheet must be completed with each admission.
- 3. The active Code Status Order Sheet will be kept in the Advance Directives section of the patient record.
- 4. The patient will temporarily revert to Full Code status during surgery.
- 5. Refer to Policy entitled "Code Status" for more detail.

This is to inform you that the patient named below is known to me and should be cared for according to the above directions. This order is in accordance with the patient's and/or family's wishes, and/or the Living Will Act of the State of Alaska. I shall sign the patient's death certificate.

Date / Time: \_\_\_\_\_ Physician Signature: \_\_\_\_\_  
 Patient Name: \_\_\_\_\_ Patient Signature: \_\_\_\_\_  
 If patient unable to sign: Patient Representative Signature: \_\_\_\_\_  
 Address: \_\_\_\_\_  
 Date of Birth: \_\_\_\_\_ Diagnosis: \_\_\_\_\_

**CITY AND BOROUGH OF JUNEAU  
BARTLETT REGIONAL HOSPITAL**

Addressograph

*SME Office Form*

**EXPECTED HOME DEATH CASE REPORT**

To add a patient to the State Medical Examiner's Home Death List the attending physician should sign the completed form and fax it to (907) 269-5069. All information must be typed.

Information Provided By: \_\_\_\_\_ Facility: \_\_\_\_\_

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

Patient Name \_\_\_\_\_ Patient Phone: \_\_\_\_\_

Date of Birth: \_\_\_\_\_ SS# \_\_\_\_\_

Patient Physical Location (no P.O. Box) \_\_\_\_\_

Family/Contact (Name/Relationship) \_\_\_\_\_

Address \_\_\_\_\_ Phone \_\_\_\_\_

Funeral Home Choice \_\_\_\_\_

Physician \_\_\_\_\_ Phone: \_\_\_\_\_

Nature of Illness \_\_\_\_\_

As the attending physician for this patient, I confirm the illness listed above, that death is anticipated, and I agree to sign the death certificate if death occurs at home.

Physician Signature \_\_\_\_\_ Date: \_\_\_\_\_

Once the above information has been complete and verified, provide a copy of this form to police, troopers, health aide, or other emergency responders. Be sure the family knows who to call when the death occurs (police, health aide, etc.)

Date of Death: \_\_\_\_\_ Time of Death: \_\_\_\_\_

Death Pronounced By \_\_\_\_\_

Officer \_\_\_\_\_ Agency Case Number \_\_\_\_\_

Copy of SME  
current comfort  
one form



No ~~XXXX~~

**PATIENT INFORMATION**

PATIENT NAME: \_\_\_\_\_ DOB: \_\_\_\_\_  
ADDRESS: \_\_\_\_\_ GENDER:  M  F

**CERTIFICATION OF COMFORT ONE® STATUS**

This form constitutes reliable documentation that the above identified patient is certified as a COMFORT ONE patient in Alaska under AS 18 12 and 7 AAC 16 10 and, as such, directs EMS personnel, health care providers, and health care facilities to not resuscitate the patient in accordance with these statutes and regulations

Patient Signature: \_\_\_\_\_ Date: \_\_\_\_\_

My signature below constitutes and confirms a formal order to emergency medical services personnel and other health care providers to follow the Alaska COMFORT ONE protocol, as outlined in 7 AAC 16.10.010 - 7 AAC 16 10.090 I affirm that this order is written in accordance with accepted medical, legal, and ethical guidelines

\_\_\_\_\_  
Printed Name of Physician Phone: \_\_\_\_\_

Physician Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**Questions for State Medical Examiner's Office  
(Responses DO NOT Affect Patient Care)**

Illness: \_\_\_\_\_

Will the physician named above agree to sign the death certificate if it occurs out of his/her presence and as a consequence of the listed illness?  Yes  No

Does this patient have a pacemaker?  Yes  No

**INFORMATION TO PATIENT**

This form, when completed, certifies you as a COMFORT ONE® patient under Alaska law. If this form or wallet card is presented to, or found by, emergency medical personnel or other health care providers, or you are wearing a COMFORT ONE bracelet, they will provide the care described on the reverse side. Emergency medical care will be directed to prevent avoidable suffering and to provide supportive comfort measures. It is understood that as a COMFORT ONE patient you will be allowed to die in the natural course of your illness.

**REVOCATION**

The COMFORT ONE status of the patient may be revoked, by the patient identified or the patient's attending physician, at any time.

If emergency medical services personnel, or other health care providers, do not see this form, the wallet card or the COMFORT ONE bracelet, they will attempt to resuscitate the patient in accordance with their standard procedures.

TCNY KNOWLES, GOVERNOR

P.O. Box 110816  
Juneau, Alaska 99811-0816Emergency Medical Services  
Telephone: (907) 465-3027  
Telefax: (907) 465-4101Health Promotion  
Telephone: (907) 465-3140  
Telefax: (907) 465-2770Primary Care  
Telephone: (907) 465-3091  
Telefax: (907) 465-8861

**Department of Health & Social Services  
Division of Public Health  
Section of Community Health and Emergency Medical Services**

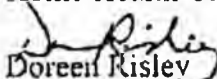
MEMORANDUM

RECEIVED

AUG 29 1997

DATE: August 28, 1997

TO: EMS Regions  
EMS Services  
Hospice Organizations  
Home Health Care Organizations

FROM:   
Doreen Risley  
Community Health & EMS

SUBJECT: Comfort One Forms

Several agencies have asked about faxing the Comfort One forms for physician signature when a home death is imminent. While this is not a practice we encourage, we do understand that in some circumstances it is the best alternative for the patient and family. With that said, here is how we would like it handled:

- The patient will sign the form;
- The form will then be faxed to the physician for his/her signature;
- The form is then faxed back to the nurse who annotates the time and date and verifies this with his/her signature;
- The original is routed for signatures by the fastest means;
- If death occurs prior to the arrival of the original form, the responders will contact the physician for verification of enrollment.

Again, this is a practice we would like reserved for those circumstances where the nurse feels the death is likely to occur prior to the arrival of the original form. We encourage physicians to discuss the Comfort One program with terminally ill patients, therefore minimizing the necessity of this procedure. We endorse nurses discussing the DNR option with patients at home and facilitating the process of getting the forms completed. Above all patients need to understand that if at some point he/she changes his/her mind, the DNR may be revoked by destroying all forms and sending back the bracelet, if one was purchased.

As more patients are enrolled in the program I'm sure other questions will arise. Please contact me at 465-8633 so we can address the issue. Thank you for your cooperation.

*for pts  
Dada  
Bracelets*

## Policies on the Distribution of Comfort One Forms and Bracelets

### Overview

The Department of Health and Social Services is responsible, by statute, for the development of a statewide do not resuscitate program. The department has adopted the Montana Comfort One program and is responsible for the development and printing of Alaska Comfort One forms.

The following agencies are responsible for distributing the Comfort One forms to physicians:

Contact	Southern Region EMS Council 6130 Tuttle Place Anchorage, AK 99507-2043	Interior Region EMS Council, Inc. 3522 Industrial Fairbanks, AK 99701	Southeast Region EMS Council, Inc. 207 Moller Drive Room 113 Sitka, AK 99835
Telephone	(907)562-6449	(907)456-3978	(907)747-8005
FAX	(907)562-9893	(907)456-3970	(907)747-1406
e-mail	sremsc@alaska.net	iremsc@alaska.net	serems@ptialaska.net

### Form Distribution

The three Regional EMS Offices listed above are the sole sources of Comfort One forms in Alaska. They are authorized to distribute forms to physicians, mid-level practitioners, nurses, and other appropriate staff members, such as discharge planners, who work for an agency responsible for the care of terminally ill patients and which have direct physician oversight.<sup>1</sup> Such agencies include hospitals, nursing homes, medical clinics, Hospice agencies, or home health care agencies.

Individuals receiving the forms are responsible for ensuring they are completed appropriately.

The Regional EMS Office distributing the form should, to the extent possible, ensure that those receiving the forms have been instructed in their proper completion.

### Bracelet Distribution

Optional bracelets are available to those enrolled in the Comfort One Program. The Comfort One form is accompanied by a postcard (Comfort One Bracelet Record) for ordering the bracelet. The patient may order the bracelet directly from the Regional EMS Office by mail or the patient, or the patient's agent, may bring the post card to the Regional EMS Office and purchase the bracelet there. In every case, the individual must provide the Comfort One Bracelet Record or

<sup>1</sup> This is the operational definition of "authorized health care providers" referred to in the brochure for patients and families regarding the Alaska Comfort One program.

other unequivocal verification of enrollment, such as a Comfort One form, to purchase a bracelet. The Regional EMS Offices may deny bracelets to those who cannot provide such evidence.

For more information, contact the nearest Regional EMS Office, the Section of Community Health and EMS at (907)465-3027, or visit the program's web site at:

[http://www.hss.state.ak.us/dph/ems/ems\\_dnr.htm](http://www.hss.state.ak.us/dph/ems/ems_dnr.htm)

## Alaska Comfort One (Do Not Resuscitate) Program Recommendations for Physicians

On October 10, 1996, regulations (7 AAC 16.10.010 - 7 AAC 16.10.090) went into effect establishing a statewide do not resuscitate (DNR) protocol for physicians, EMS responders, and other health care providers. They also adopt, by reference, the Montana Comfort One<sup>®</sup> standards for DNR identification, including forms, cards, and bracelets.

Many local communities in Alaska have programs which augment the new statewide DNR system. Emergency Medical Services agencies, for example, may have a system for registering DNR patients with the emergency medical dispatch center. Such a system can result in a much more appropriate medical response to an expected home death. Consequently, physicians are encouraged to become familiar with local DNR programs.

Attached are blank forms for enrolling patients in the Alaska DNR program, also known as the Alaska Comfort One program.

To enroll a qualified patient in the program, you should:

- have the patient read and complete the form, answering any questions that may arise;
- sign and date the form and wallet card;
- give a copy of the form and wallet card to the patient;
- complete and return the DNR program data collection postcard; and
- purchase a DNR identification bracelet for the patient (optional).

The section of the form containing information for use by the State Medical examiner does not have to be completed for the do not resuscitate order to be effective. However, responding to the questions allows the Medical Examiner and law enforcement personnel to conduct investigations more quickly and with minimal intrusion.

You should make sure the patient signing the form:

- receives an explanation of the expected consequences of withholding or withdrawing cardiopulmonary resuscitation;
- is informed that if the wallet card, form, or bracelet is not apparent and immediately available, resuscitation efforts will be started and will continue until the patient is determined to have a valid DNR status; and
- receives an explanation of how, and by whom, the DNR order may be revoked.

If the qualified patient being enrolled in the program by the physician is unable to sign the form, the signature of others, such as family members, can be of value in demonstrating support of the DNR order. Consequently, physicians are encouraged to obtain such signatures when circumstances warrant. However, the signature of a family member or guardian does not provide legal permission for the do not resuscitate order. That authority is conferred by the signature of the physician.

**Distribution of Form Copies:**

- The white (original) copy of the form remains with the patient who should be encouraged to keep it in an easily accessible location.
- The second copy of the form is retained by the physician and included in the patient's medical file.
- The third and bottom copies of the form may be used by another agency to confirm enrollment in the Comfort One program. Local fire departments, emergency medical services agencies and hospice organizations are examples of such optional uses.
- A copy of the completed and signed form should be sent via fax to the office of the State Medical Examiner.

For additional information regarding the DNR program in Alaska, contact:

Section of Community Health & EMS  
Department of Health and Social Services  
Box 110616  
Juneau, AK 99811-0616  
(907)465-3141/FAX: 465-4101  
email: [marta@health.state.ak.us](mailto:marta@health.state.ak.us)

Address of the State Medical Examiner:

Michael Propst, M.D.  
State Medical Examiner  
5700 F. Tudor Road  
Anchorage, AK 99507-1264  
(907)269-5090/FAX: 269-5069

*This is our own agency Policy - for Hospice*

*\* We do not currently provide non-Hospice patients*

**HOSPICE AND HOME CARE OF JUNEAU  
POLICY AND PROCEDURE**

*3 pp*

Subject: **EXPECTED CLIENT DEATH (HOSPICE PATIENTS)**

Drafted by: Catherine Cuenin, RN

Date Drafted: 12/20/91

Revised: Jan Young, RN

Date Revised: ~~02/16/95~~ 12/96

Approved: Professional Advisory Committee

Date Approved: 04/11/95

Supersedes Date: 12/07/93

*Revised 1/25/96 JY  
9/25/96 JY*

**PURPOSE:**

*REPORTING*

1. Establish guidelines for responding to an expected death of a patient in the home in a manner which complies with:
  - A. Applicable rules and regulations.
  - B. The wishes of the patient and/or his/her representative.
2. Promote appropriate response and actions to maintain the patient's and family's dignity and comfort at the time of death.
3. Inform all Team members of the death in a timely manner.

**POLICY:**

1. The agency establishes a plan for patients who have chosen no intervention (do not resuscitate) through the execution of an advance directive. The process includes:
  - A. Notifying the physician.
  - B. Obtaining orders.
  - C. Educating the patient or family.
  - D. Establishing a plan for staff.
2. In the situation in which a patient who has executed an advance directive and chosen no intervention ceases respirations or pulse in the home, it:
  - A. Professional staff is present, the staff member will
    1. measure the patient's blood pressure, heart rate, respirations and make the determination of death.
    2. notify the coroner and report the death of the client, providing the client's name, time of death, date of birth, diagnosis, physician's name and responsible family/caregiver's name, address & telephone number.

*add*

*REPORTING Expected DEATH*

*\* All pts on Hospice service responsible to OSME by order of physician*

*TRU  
CORONER'S OFFICE MEDICAL EXAMINER*

3. notify mortuary or mortician on call, once <sup>OSMC</sup> coroner has released the body, and stay to assist with removal of the body if it is to be within one hour. If the body is to remain in the home, prepares the family for mortician visit, informing them that the gurney must fit through doorways and beside the bed and that the client will be wrapped and removed in a shroud or body bag. The mortician may need some assistance with this procedure. The nurse should ask if he will be bringing an assistant.
  4. if the family has not met with the mortician before the death occurs, the nurse gives him the name, address and phone number of the next of kin and what they want done with the body (burial locally, cremation, shipped to another state etc.) when she calls to report the death. This saves the family some time and paperwork when he arrives. An appointment can be set up with the mortician for the next day so the family can complete further paperwork and plans. There will be a blank death certificate in the back of the on-call notebook. RN writes deceased patient's name on the top edge of the certificate above the perforation line), signs own name and records (in black ink) the date and time of death in appropriate boxes for Pronouncing Official.
  5. notify the attending physician of client's death if death occurs during day time or evening hours. Physician is notified the following day if death occurs at night unless otherwise directed.
  6. clean client, removes unnecessary tubes or equipment and straightens body. If body is to remain in the home, opens the window if possible.
  7. dispose of controlled medications with consent of family/caregiver (flushing down the toilet is the recommended method). Instructs the family/caregiver in legal responsibilities if they choose to keep these controlled medications. Document clearly.
  8. give support to the client's family.
  9. document client's death, the notification of the coroner and attending physician, the disposition of client's body and valuables, and other pertinent information in the client's clinical record within 24 hours.
  10. notify the Clinical Supervisor and the Volunteer Coordinator of client's death. If death occurs when the agency is closed, leave a message with the answering service for the office manager, contact anyone who might attempt a visit before being informed of the death by the HHCJ office, and fill out the Bereavement Follow-Up form, returning it to the office manager.
  11. contact the Executive Director or Medical Director of Hospice & Home Care if concerns or problems arise that the Registered Nurse and Clinical Supervisor are not able to handle.
  12. report the name of client and the time of death to coroner's office the next working day if the coroner himself did not take the call at time of the client's death.
- B. No staff member is present, HHCJ on-call RN responds to call from answering service by going to client's home, RN follows procedure defined above.
- C. The patient's family member decides to rescind the advance directive at the time of crisis, staff present will activate the emergency medical system and initiate Basic Life Support (BLS) procedures according to established procedure.
- D. A home health aide or other nonprofessional is present, that person will call the

answering service to contact HHCJ un-call RN. If possible, the non-professional staff member remains in the home until the RN arrives.

3. In the situation in which a patient who has not executed an advance directive ceases respirations or pulse in the home, if:
  - A. A professional staff member is present, he/she will initiate BLS procedure and activate the emergency medical system. Inform the MD who may give orders to stop resuscitation efforts and/or come to the home and pronounce the death himself, or cancel the EMS.
  - B. No staff member is present, same as *Unexpected Death Policy* except, notify MD who may give orders to stop resuscitation efforts or cancel the EMS after talking with the family.
  - C. A home health aide or other nonprofessional is present, he/she will initiate BLS procedures, activate EMS, and/or call the agency.
  - D. The patient dies, notify the coroner and contact the mortuary as in 2.A.3. of this policy.
4. If the emergency medical system is activated
  - A. The EMS personnel or physician may decide to transport the patient.
  - B. The EMS personnel may terminate measures in the home under physician orders.
5. A HHCJ Registered Nurse may make a determination and pronouncement of death of a patient (as defined in AK statute 08.00.395)
  - A. When the attending physician has documented in the client's record that the person's death is anticipated due to illness, infirmity or disease (documentation is valid for up to 120 days); and
  - B. When the attending physician authorizes in writing that any HHCJ Registered Nurse may pronounce the person's death.
6. The agency educates staff in the procedures for expected or unexpected death and emergency interventions during orientation and through ongoing education.

#### DEFINITIONS:

1. Expected Client Death includes only those clients whose names have been previously submitted to the ~~coroner~~ <sup>SMC</sup> (Hospice patients only).
2. Do not resuscitate (DNR) means those situations when the patient has executed an advance directive and chosen no intervention.
3. BLS means Basic Life Support procedures as defined by the American Heart Association.

Cynthia Elliott, MS, RN  
PO Box 2254  
Kenai, Alaska  
99611  
283-6554

August 21, 1997

Dear Mr. Davis,

Pursuant to our conversation Saturday August 9th at the Women's Run, we are enclosing a proposal regarding expected home deaths and how they are handled in this area.

We are working with a Task Force composed of members of the local law enforcement agencies, fire departments, hospice, home health agencies and other interested health care providers in the community to create a process that is everyone can follow when a death occurs at home. Our last meeting included Dr. Michael Propst, the medical examiner for the State of Alaska who came down from Anchorage with Rhonda Burch, an investigator in his office. They feel that it is best to include law enforcement in home deaths because they feel more comfortable being reassured that nothing unusual occurred. Of course law enforcement feels the same way. All of the officers at these meetings feel that the law should be interpreted to mean they have to be called to the home when a person dies there. They consider the home of the recently deceased to be a crime scene and that nothing should be touched until an officer arrives. At this time, we have agreed to handle home deaths this way. But we are greatly opposed to this process.

As I said Saturday when we spoke, I know of one family member who is willing to express her concern about involvement of police and fire department personnel in home deaths. I can and will approach the family member in Nikiski if you think that would be helpful toward changing this process.

Please advise us on how to proceed. Thank you for your interest in this matter.

Sincerely,



Cynthia Elliott, MS, RN  
Liz Schubert, Executive Director  
Hospice of the Central Peninsula

enclosures: copies of letters from doctors  
copies of news articles re: State Troopers  
copies of relevant Alaska Statutes  
copies of minutes from Task Force Meetings  
Proposal

Cynthia Elliott, MS, RN  
PO Box 2254  
Kenai, AK 99611

January 8, 1997

Dear Drs. Bramante, Crane and Kelley,

I am writing to ask your assistance in handling "expected home deaths." I am a nurse currently working at First Choice Home Health Care, am in the process of joining the Board of Directors of Hospice of the Central Peninsula, and have 5 and ½ years experience at a Hospice in North Carolina. Since my arrival here, I have heard disturbing reports from nurses about the involvement of local police, fire department and/or state troopers in home deaths.

My position is that death at home can be a natural, smooth occurrence, and removing unnecessary steps and personnel from the situation would reduce the trauma to the family and nursing staff involved. Alaska State law only requires that a peace officer be notified of a home death. A registered nurse can pronounce the death and notify the attending physician and funeral director.

I would like to have a discussion with law enforcement agencies about their policies/procedures for responding to notification of a death. Your support would be greatly appreciated. Please let me know your opinions on this matter, and whether or not you would support me in an effort to reduce the confusion at expected home deaths in this area.

Sincerely,

Cynthia Elliott, MS, RN

**PENINSULA INTERNAL MEDICINE, P.C.**

JOHN P. BRAMANTE, M.D.  
CHARLES M. CRANE, M.D.  
WILLIAM J. KELLEY, M.D.

January 10, 1997

Cynthia Elliott, MS, RN  
PO Box 2254  
Kenai, AK 99611

Dear Cynthia,

We would be happy to support your efforts in simplifying expected home deaths. Please let us know specifically what we can do to help you.

Sincerely,

  
Drs. Crane, Kelley, and Bramante

**MARGUERITE A. McINTOSH, M.D., C.M.**

35670 Kenai Spur Hwy., Suite 104B  
Soldotna, Alaska 99669  
Telephone: (907) 260-3933

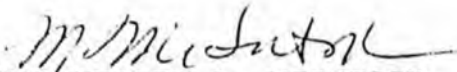
February 10, 1997

Cynthia Elliot, M.S.R.N.  
PO BOX 2254  
Kenai, Alaska 99611

Dear Ms. Elliot:

It is my understanding that unless a person has registered a No Code with the court house that each death at home is a coroner's case. I am interested in seeing some method in which expected home deaths could be handled without the involvement of policemen, picture taking, etc. It would be nice if you could have an understanding with policemen that if a death occurred at home and was expected, the police wouldn't have to be involved.

Sincerely yours,

  
MARGUERITE A. MCINTOSH, M.D.

MAM/wkp

## Executive Summary of Proposed Legislation

### Expected Home Death

Expected Home Death describes a circumstance whereby a person who has a limited life expectancy and wants to die at home, has completed an Expected Home Death Case Report (see attached) signed by the attending physician and sent a copy to the State Medical Examiner. This document indicates that the person has a condition that limits his or her life and s/he is expected to die at home. When the death occurs as expected at home, with health care personnel in attendance, there is no need for direct involvement of law enforcement.

In order to reduce the cost to the community, expedite procedure for grieving family members, and avoid duplication of services, changes need to be made to Alaska State law to allow expected home deaths to be handled by visiting health professionals in the home with a minimum of police involvement. With the proposed changes, police shall be informed when a death occurs as expected. However, police and EMT attendance at the home shall be avoided when CPR is not being administered and when there is a registered nurse present to pronounce the death. The registered nurse shall obtain the attending physician's agreement to sign the death certificate, based on the nurse assessment at the time of death. The nurse shall notify the Medical Examiner's Office of the occurrence of the death and obtain permission to release the body to the funeral home.

Expected Home Death Case Reports shall continue to be implemented prior to the death, with a copy going to the police and ambulance dispatch center. However, having the police and ambulance service physically respond at the home shall be discontinued. When a nurse is on the scene and has notified the attending physician of the death, there is no need for further personnel to involve themselves in the private affairs of the grieving family. Having police and EMT personnel arrive in the home of a person who has just died in an expected manner represents an unnecessary government intrusion in family life.

Dying peacefully at home is a right that all Alaskans should have without being subjected to expensive, unnecessary investigation by law officers. When Hospice or Home Health professionals are involved in caring for the dying patient under the direction of the attending physician, medical records are kept that indicate the natural decline of the patient. In these instances, death is an expected event after a gradual, generally predictable decline. It is insulting to the health care professional and the family to inject suspicion into the process by involving law enforcement and treating a natural occurrence as a criminal event.

Reduce government spending by allowing the health care team to care for the dying person and the family without intrusion of police and ambulance service. It should not be a crime to die at home in Alaska.

Prepared by Cynthia Elliott, MS, RN  
Kenai, Alaska  
283-6554



## Expected Home Death Meeting Minutes

May 13<sup>29</sup>, 1997

Present: Diane Rasmussen, RN/CPGH, Gary Kincaid, Sargent/Soldotna City Police, Kenai City Police, Lucie Stanton, SW/CPGH, Lori Brown, Administrator/1st Choice Home Health Care, LeeAnn McGan, RN/Iditaroid Home Care, Pam Kelly, Heritage Place Joe Ray Skhra, Attorney, Connie Smith, Reg. Supervisor/Peninsula Home Health Care Sue Kelly, RN/1st Choice Home Health Care, Craig Ralston, Nikiski EMS, Chuck Conners, Gene Baxter, Tom Bowman, 1st Sargent, Alaska State Troopers, Liz Schubert, Hospice

**Purpose of Meeting:** Discuss how best to simplify procedures surrounding expected in home deaths, decreasing the amount of trauma and stress involved to the bereaved family members, reduce the amount of personnel at the home at the time of death.

**Discussion of Alaska State Statues:** Determination of death by registered nurse, 120 days-renewals, change of home health agencies - need to redo form with family.

Common form, (Expected Home Death Form), to be used by care provider agencies to decrease number of different forms sent to police, EMS and troopers. Needs further discussion.

Connie Smith shared some history of no code procedures, system stopped last September 22nd, and reverted over state wide to the medical examiners process. Meeting today helpful because of new system, is a way of looking at some of the problems that have occurred or some of the issues that are a little bit confusing, as an educational process it's helpful that everyone is aware of what piece of the procedure we each are trying to do now, since the change. Question, if there is a format review of this process through the medical examiners office.

Sue Kelly introduced the procedure sheet that was given to agencies in Sept. Question, when does the agency notify a peace officer that a death has occurred?, within 24 hours. Medical examiners office must be notified immediately.

Concern that home health agencies may be taking statute out of context, was raised. Notification of death, strictly means: 1st part/person who attends or has knowledge of a death, must notify a peace officer, state medical examiner - when the death has occurred. Statute then describes when: by unknown or criminal means or under suspicious or unusual circumstances, sets a criteria. Peace officer should be contacted when one of these criteria are met.

Statute says person who attends a death, must immediately notify the peace officers and state medical examiner, AS 12 65 005. Question as to where home deaths fit, unattended

by a physician or in a medical facility for less than 24 hrs? Police department notify ME office for permission to move the body. Peace officers are responsible for making the determination to remove the body, whether or not it is a suspicious death. If body is moved without notifying peace officers, technically means that evidence was tampered with.

Peace officers concern that even with a signed no code, do not resuscitate order and that the doctor has agreed in advance to sign the death certificate - that it doesn't give anyone the right to go in a kill them, no-codes that are suicides. May be a potential for wrong doing.

Concern of home care providers is for families that have been through the gamut of the medical world, peace officers taking pictures, asking questions becomes very difficult.

Need to have a officer who is sensitive, good people skills, understanding of what's going on with the family, do have to view the body to ascertain that the person has died naturally. Peace officers feel more comfortable if they have a relationship with the nurse, home health care agency - this helps, they know nurse is competent, peace officers still have to go to home, but it may limit questioning to have a point of contact at the scene. Need to be at least one professional person there.

Note that in Fairbanks and Juneau, peace officers are notified but are not dispatched to the scene. Peace officers question how this meets medical examiners policy. ME's office makes the final call, as to whether or not the death is suspicious. Peace officers feel more comfortable going to scene rather than taking someone's word, especially after a long protracted death, money and property issues, possibilities of contested will. It was noted that in Anchorage, peace officers are called to every death.

Agencies note that since the Sept. change, each death has been handled differently, some times pictures taken, others not. If nurse is present, and signed off on death, why would EMS personnel need to be called?

Peace Officers feel the need for professional trust, point of contact with medical professional at time of death - can limit the amount of handling of the body. Peace officers trained to look for certain injury patterns.

Need for trust understanding/education, -peace officers, home health agencies, hospice and families as to how the procedure for expected home deaths will be responded to. Currently, this procedure varies. Need to take photos, is left to the investigating officer on the scene, may not take a photo, if nurse was present at the time of death. Troopers are going to stop taking pictures, as a policy, but will still examine body - if they note anything that triggers suspicion - they will take pictures as part of the investigation. Flexibility: depends on trust, sensitivity. Two professional concurring, best scenario for peace officer and RN. Trust.

Need to have future meeting agreed upon. Scheduled for June 19th, 10:00 a.m., CPGH.

## Expected Home Death Task Force

### Meeting Minutes

June 19, 1997

Present: Tom Bowman, 1st Sargent/AST, LeeAnn McGahn, RN/Iditaroid Home Care, Connie Smith, Reg. Supervisor/Peninsula Home Health, Linda Boyle, Director/Forget-Me-Not Adult Day Care, Craig Ralston/Nikiski EMS, Sue Kelly, RN/1st Choice Home Health, Lucie Stanton, SW/CPGH, Steve O'Connell/Central Peninsula EMS, Dr. W. Cooper/Med. Director-CES, Gary Kincaid, Sargent/Soldotna Police Dept, Gene Baxter, Kenai Police Dept., Liz Schubert, Director/Hospice

Announcement: Inservice on End-of-Life Decisions, June 30, 8:00 -10:00 a.m. CPGH. Confusion in community as to Living Wills. Living Wills are directives to physicians and not recognized as a expected home death.

Comfort One System: Information was handed out at the end of last month's meeting for participants to review. One need identified in the development of Comfort One was the need for community consistency, i.e. forms. Comfort One is now being used in some area's of Alaska and Outside. Homer is currently using and has been since regulations went in effect Sept. 1996. Southern Regional Emergency Services, are the facilitators of Comfort One for the State of Alaska, DHSS.

It was noted that while EMS services and peace officers had received the regulations, the home care agencies represented had not received this information from the Medical Examiners Office, nor was it believed that the local physicians received any information. There was some confusion as to how patients can obtain the Comfort One bracelets - request needs to come from physician/doctor's telling families to get signed up for Comfort One from home health agencies. Matt Anderson, contact person at M.E.'s office for help putting together educational packet for physicians. ? whether or not to present packets for physicians at inservice June 30th - Lucie will check. ? on DNR orders/No Codes out now - do we need to sign these patients up for Comfort One? Question- Are any current patients enrolled in Comfort One? No one present knew of anyone.

It was noted that a problem arose when no code papers didn't travel with the patient. Some participants felt that the bracelet in Comfort One would help in this situation.

According to Dr. Cooper and Steve O'Connell, yes, there is currently a need for EMS to respond to expected home deaths. It would simplify paperwork and is requested that the expected home death form be faxed to the appropriate police/AST dispatch. Peace officers then fax form to the appropriate EMS. Craig Ralston noted that when EMS are at the scene, it helps the family with closure. He noted that the EMS often have a relationship with the patient and family, from providing EMS services to them throughout their illness.

It was noted that included in agencies procedures should be a 120 day "tickler", for the DNR order. The 120 days only applies to the Nurse/HHA and does not effect the No Code status for the patient. Agencies need not resubmit an expected home death request if the patient changes agency - only the DNR order needs to be resubmitted according to agency's procedure. The M.E.'s office doesn't confirm if they received the Expected Home Death Request Form. The M.E.'s office looks at the expected home death list, yearly. Agencies may have to resubmit yearly, if necessary.

Peace Officers question if there is always time for the RN to be on scene when death occurs. Gary Kincaid noted that Peace Officers respond in "no Code" framework. In past, a educational sheet went out to families, letting them know what will happen at the time a death occur. Feels we should incorporate Comfort One now, and follow M.E.'s procedure. It was discussed that there is 2/3 different procedures now are being used.

Craig Ralston shared that it's "in the works to revise the current M.E. expected home death form, however, he feels we should be using the Coroners current form - used statewide. This form is signed by physician going to sign the death certificate, describes the nature of the illness, if the patient had a pacemaker. The M.E.'s office needs to OK the physician signing the death certificate. It was noted that some old forms are being used still, (the one that our local magistrate used to sign). it was discussed that it was not clear how the expected home death request, would relate to a person with a terminal illness, that was involved in an accidental death. Need for the Attorney General's Office to make a determination on the limitations of Comfort One - that the expected home death report is for illness only - education of patients and families to the procedure.

It was agreed among agencies to plan some education for physicians on the Comfort One program and for patients/families. Still a need to look at forms and procedures. Steve O'Connell, agreed to assist.

## **EXPECTED HOME DEATH CASE REPORT**

To add a patient to the State Medical Examiner's Home Death List the attending physician should sign the completed form and fax it to 907-269-5069. All information must be typed.

Information Provided by: \_\_\_\_\_ Facility: \_\_\_\_\_

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

Patient Name: \_\_\_\_\_ Patient Phone: \_\_\_\_\_

Date of Birth: \_\_\_\_\_ SS#: \_\_\_\_\_

Patient Physical Location (no PO Box): \_\_\_\_\_

Family/Contact (Name/Relationship): \_\_\_\_\_

Address: \_\_\_\_\_ Phone: \_\_\_\_\_

Funeral Home Choice: \_\_\_\_\_

Physician: \_\_\_\_\_ Phone: \_\_\_\_\_

Nature of Illness : \_\_\_\_\_

**As the attending physician for this patient, I confirm the illness listed above, that death is anticipated, and I agree to sign the death certificate if death occurs at home.**

Physician Signature: \_\_\_\_\_ Date : \_\_\_\_\_

**Once the above information has been completed and verified, provide a copy of this form to police, troopers, health aide, or other emergency responders. Be sure the family knows who to call when the death occurs (police, health, aide, etc.)**

Date of Death: \_\_\_\_\_ Time of Death : \_\_\_\_\_

Death Pronounced by : \_\_\_\_\_

Officer : \_\_\_\_\_ Agency Case : \_\_\_\_\_

**HB**

**387**

# FISCAL NOTE

02-18-98P03:55 RCVD

**STATE OF ALASKA**  
**1998 LEGISLATIVE SESSION**

**BILL NO. HB 387**

Revision Date: \_\_\_\_\_  
Title: An Act relating to dentists.

Department: Commerce and Economic Development  
BRU: Occupational Licensing  
Component: Operations

Sponsor: Rep. Therriault  
Requestor: House Labor & Commerce

COMPONENT SERIAL NO. 1844

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
----------------------	--	--	--	--	--	--

CHANGE IN REVENUES	0.0	0.0	0.0	0.0	0.0	0.0
--------------------	-----	-----	-----	-----	-----	-----

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 General Fund						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
<b>TOTAL</b>	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY 98) cost: \$ 0.0

**POSITIONS**

FULL-TIME						
PART-TIME						
TEMPORARY						

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

HB 387 amends dental statute AS 08.36.070(a). New funds are not required to implement this bill.

Prepared by: Jennifer Strickler, Administrative Manager  
Division: Occupational Licensing  
Approved by Commissioner: Deborah B. Sedwick  
Agency: Commerce and Economic Development

Phone: 465-2144  
Date: 2/18/98  
Date: 2-18-98

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# ALASKA STATE LEGISLATURE

## House of Representatives

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INTERIM:  
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FAX: (907) 258-2916

SESSION:  
STATE CAPITOL ROOM 24  
JUNEAU, AK 99801-1182  
PHONE: (907) 465-4954  
FAX: (907) 465-2040

## Labor and Commerce Committee

**L&C Has Not Received A Fiscal Note**

**From The Effected Departments**

*as of 2/18/98  
12:25pm*



0-LS1474B  
- Lauterbach  
2/18/98

**CS FOR HOUSE BILL NO. 387( )**

**IN THE LEGISLATURE OF THE STATE OF ALASKA**

**TWENTIETH LEGISLATURE - SECOND SESSION**

**BY**

**Offered:  
Referred:**

**Sponsor(s): REPRESENTATIVE THERRIAULT**

**A BILL**

**FOR AN ACT ENTITLED**

**1 "An Act relating to dentists."**

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

**3 \* Section 1. AS 08.36.070(a) is amended to read:**

**4 (a) The board shall**

**5 (1) provide for the examination of applicants and issue licenses to those**  
**6 applicants it finds qualified;**

**7 (2) register licensed dentists and licensed dental hygienists who are in**  
**8 good standing;**

**9 (3) report annually to the governor and the department on the board's**  
**10 proceedings during the year, findings concerning the standards and availability of**  
**11 dental services in the state including the number of licensees, examination, and**  
**12 licensing activities, other matters related to dental practice, and board receipts and**  
**13 expenditures;**

**14 (4) affiliate with the American Association of Dental Examiners [,] and**  
**15 pay annual dues to the association;**

1 (5) hold hearings [,] and order the disciplinary sanction of a person who  
2 violates this chapter, AS 08.32, or a regulation of the board;

3 (6) supply forms for applications, licenses, permits, certificates, and  
4 other papers and records;

5 (7) enforce the provisions of this chapter and AS 08.32 and adopt or  
6 amend the regulations necessary to make the provisions of this chapter and AS 08.32  
7 effective;

8 (8) adopt regulations ensuring that renewal of registration is contingent  
9 upon proof of continued professional competence by a licensed dentist or licensed  
10 dental hygienist;

11 (9) provide the department with the requirements for proof of continued  
12 professional competence and request the department to make these requirements  
13 available to each licensed dentist and licensed dental hygienist at least one year before  
14 the date on which the dentist or dental hygienist must renew registration;

15 (10) at least annually cause to be published in a newspaper of general  
16 circulation in each major city in the state a summary of disciplinary actions the board  
17 has taken during the preceding calendar year;

18 (11) issue permits or certificates to licensed dentists, licensed dental  
19 hygienists, and dental assistants who meet standards determined by the board for  
20 specific procedures that require specific education and training;

21 (12) regulate the reentry into practice of inactive dentists and dental  
22 hygienists;

23 (13) require, as a condition of a license or license renewal issued by  
24 the board, that an applicant or licensee has, at the time of licensing or renewal and  
25 maintains throughout the period of a license, current certification in cardiopulmonary  
26 resuscitation techniques, except that the board may waive this requirement under  
27 an agreement with the applicant or licensee if the applicant or licensee documents,  
28 to the satisfaction of the board, the existence of a physical impairment that results  
29 in an inability to be certified in cardiopulmonary resuscitation techniques and the  
30 agreement specifies that the applicant or licensee will ensure that another person  
31 who is certified in cardiopulmonary resuscitation techniques will be in the same

1 room as the applicant or licensee whenever the applicant or licensee is practicing  
2 dentistry on a living patient who is also present; the board may include in the  
3 agreement an expiration date or provide that the agreement remains in effect  
4 until reviewed by the board.

# Alaska State Legislature

REPRESENTATIVE  
**GENE THERRIAULT**

Mailing Address:  
119 N. Cushman, Suite 101  
Fairbanks, Alaska 99701  
(907) 488-0857  
FAX: (907) 488-4271

While in Session  
State Capitol  
Juneau, Alaska  
99801-1182  
(907) 465-4797  
Fax: (907) 465-3884

## House Of Representatives

House District 33

House Bill 387

“An act relating to dentists.”

SPONSOR: Rep. Gene Therriault

### SPONSOR STATEMENT:

House Bill 387 is intended to give the Board of Dental Examiners the ability to enter into a formal Memorandum of Agreement (MOA) with applicants or licensees who are unable to perform cardio-pulmonary resuscitation.

Currently, the board enters into MOAs when it determines that an applicant or licensee is physically unable to perform cardio-pulmonary. However, during a Legislative Audit conducted last year, it was discovered that the board possesses no statutory authority to enter into such an agreement.

This bill seeks to give that authority to the Board of Dental Examiners while preserving the spirit and intent of the statute: to protect the patients of dentistry.

# ALASKA STATE LEGISLATURE

## LEGISLATIVE BUDGET AND AUDIT COMMITTEE

### Division of Legislative Audit



P.O. Box 113300  
Juneau, AK 99811-3300  
(907) 465-3830  
FAX (907) 465-2347  
Internet e-mail address:  
legaudit@legis.state.ak.us

### CONFIDENTIAL MEMORANDUM

**TO:** The Honorable Gene Therriault  
Alaska State House

**FROM:** Randy S. Welker *Randy*  
Legislative Auditor

**DATE:** October 24, 1997

**RE:** Report #08-4556-97 Selected Occupational  
Licensing Investigations Issues

---

This memorandum is in response to your question regarding the circumstances involved with a specific dentist who had entered into a formal Memorandum of Agreement (MOA) with the Board of Dental Examiners. Specifically, you were concerned about the investigative actions of the Division of Occupational Licensing (OccLic) and the appropriateness of a requirement that the dentist continue to practice under the terms of the MOA.

As stated in our report, we were satisfied in general with the procedures followed by OccLic investigators in utilizing MOAs in policing regulated professions. All MOAs included in our audit scope were subject to the review and approval of the relevant licensing board prior to being finalized with the licensed individual. By verifying that OccLic consistently followed this procedure when putting MOAs in place, we were satisfied the licensing board involved was kept informed, had the opportunity to make amendments, and signed off on the terms included in each MOA. In our view, OccLic staff were acting within their authority and discretion with the appropriate oversight and input from the various licensing boards involved.

The Honorable Gene Thornhill

- 2 -

October 24, 1997

In the specific circumstances that triggered the audit request, a licensed dentist entered into an MOA with the Board of Dental Examiners. Although this particular MOA was originally developed at a time that preceded the period covered by our audit, we did review the board minutes of the discussion involved with its extension. Attached to this memorandum is an excerpt from the board meeting minutes where the extension of this particular MOA was discussed.

Presumably the board reviewed the terms of the original MOA, and approved an indefinite extension of its terms. This approval was made even though the accompanying letter from OccLic suggests that the Board was being indulgent when setting out the terms of the MOA. Essentially, the board agreed to permit the dentist to continue licensed practice if he made sure he had an individual who was qualified to perform cardiopulmonary resuscitation (CPR) present at all times while he was practicing dentistry. The board ratified this MOA extension, even though the licensing statutes specifically require the licensed individual to have the CPR certification.<sup>1</sup>

Further, as reflected in the attached excerpt, the board approved a resolution to accept the conditions of the MOA as "... ongoing, rather than reviewing them every two years, unless there [is] a change of status." In our view, this resolution endorses the language in the OccLic letter notifying the licensee of the MOA extension. In that December 1996 letter (also attached to this memorandum - and originally supplied by your office), the OccLic investigator stated "[i]n the future you may renew your license without having to seek Board approval for the exception granted to you."

Our review of this particular case has raised concerns about whether the board can exercise such discretionary authority. From our reading of the statute it appears the board has, through the use of the MOA, permitted the dentist to continue practice under terms that are inconsistent with the requirements of statute. We have made inquiries of the Department of Law and will be notifying OccLic of our question regarding the board's authority and action in this area. We will keep your office apprised of any further developments in this area.

I hope this memorandum clarifies our analysis of the specific circumstances involved with this particular MOA. As commented previously, we found that in this case and in general, OccLic staff acted appropriately and within their purview with appropriate oversight and input from the licensing board involved. If you have any further questions regarding this issue please contact me at 465-3830.

Jim E!  
x 315 by audit

Kent Hunt x3600

Dick Gavril  
x 3572 - Occ  
Lic

<sup>1</sup>AS 08.36.070(a)(13) states that the Board of Dentistry, shall

require, as a condition of license or license renewal issued by the board, that an applicant or licensee has at the time of licensing or renewal and maintains throughout the period of a license current certification in cardiopulmonary resuscitation techniques.

# Alaska State Legislature

REPRESENTATIVE  
GENE THERRIAULT

Mailing Address:  
119 N. Cushman, Suite 101  
Fairbanks, Alaska 99701  
(907) 488-0857  
FAX: (907) 488-4271

While in Session  
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Juneau, Alaska  
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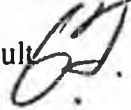
House District 33

## House Of Representatives

### Memorandum

02-11-98P01:34 RCVD

TO: Representative Norm Rokeberg, Chairman  
House Labor & Commerce Committee

FROM: Representative Gene Therriault 

DATE: February 11, 1998

SUBJECT: Scheduling of HB 378

---

I respectfully request that HB 387 be scheduled for a hearing in the Labor & Commerce committee.

The bill is intended to give the Board of Dental Examiners the ability to enter into memorandums of agreement with applicants or licensees who are unable to perform cardio-pulmonary resuscitation.

Please contact me if you have any additional questions

attachments

# STATE OF ALASKA

## DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

TONY KNOWLES, GOVERNOR

PLEASE REPLY TO:

1031 WEST 4TH AVENUE, SUITE 200  
ANCHORAGE, ALASKA 99501-1994  
PHONE: (907) 269-5100  
FAX: (907) 276-3697

KEY BANK BUILDING  
100 CUSHMAN ST., SUITE 400  
FAIRBANKS, ALASKA 99701-4679  
PHONE: (907) 451-2811  
FAX: (907) 451-2846

P.O. BOX 110300-DIMOND COURT HOUSE  
JUNEAU, ALASKA 99811-0300  
PHONE: (907) 465-3600  
FAX: (907) 465-6785

(907) 465-2539

February 12, 1998

The Honorable Gene Therriault  
House of Representatives  
State Capital, Room 511  
Juneau, Alaska 99801

Re: HB 387

Dear Mr. Therriault:

Your staff requested that this office write a letter addressing the legal effects of proposed House Bill 387. The bill proposes to amend the Dental Practice Act (AS 08.36) to permit the Board of Dental Examiners (Board) to enter into agreements with applicants and licensees to waive the cardiopulmonary resuscitation (CPR) requirements for licensure. Current Alaska law requires that the Board only issue or renew licenses to applicants or licensees that maintain CPR certification. AS 08.36.070(a)(13). In certain instances, this current requirement may be inconsistent with the American with Disabilities Act (ADA). 42 U.S.C. 12101-12213.

The ADA preempts conflicting state laws which provide lesser protection to individuals with disabilities. Specifically, federal regulations prohibit a public entity from administering a licensing program in a manner that subjects qualified individuals with disabilities to discrimination on the basis of a disability. 28 CFR 35.130(b)(6). The regulation further prohibits a public entity from establishing requirements for the programs or activities of licensees or certified entities that subject qualified individuals with disabilities to discrimination on the basis of a disability. *Id.*

While this office has never concluded as a matter of law that the ADA preempts the provisions of AS 08.36.070, a question persists whether the two laws conflict. House Bill 387 would remove the question regarding AS 08.36.070(a)(13) and whether the Board licenses dentists and dental hygienists consistent with the ADA.

Representative Gene Therriault  
Re: HB 387

February 12, 1998  
Page 2

If you have further questions, please do not hesitate to call.

Sincerely,

BRUCE M. BOTELHO  
ATTORNEY GENERAL



By:

G. Ken Truitt  
Assistant Attorney General

GKT/bm

# STATE OF ALASKA

## DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT

OFFICE OF THE COMMISSIONER

TONY KNOWLES, GOVERNOR

P.O. BOX 110800  
JUNEAU, ALASKA 99811-0800  
PHONE: (907) 465-2500  
FAX: (907) 465-5442  
TDD: (907) 465-5437

February 12, 1998

The Honorable Gene P. Therriault  
House of Representatives  
State Capitol, Room 511  
Juneau, AK 99801-1182

Dear Representative Therriault:

As requested, our comments on HB 387 "An Act Relating to Dentists," are noted below.

This bill allows the Board of Dental Examiners to waive the cardiopulmonary resuscitation certification (CPR) requirement for dental applicants and licensees, if the licensee agrees to ensure that a person who is certified in CPR will be in the same room as the licensee whenever dentistry is practiced on a living patient.


The board currently has two Memorandum of Agreements permitting dentists, who have physical disabilities which permit them from obtaining CPR certification, to practice dentistry under conditions similar to this bill. The department supports the new statutory authority this bill provides.

The Department recommends narrowing the ability of applicants to request a waiver of the CPR requirement, to those individuals who have satisfactorily documented a physical disability that precludes them from successfully completing CPR certification.

Unless the waiver is limited to physical disabilities, there is a strong likelihood that numerous renewal applicants who fail to update the CPR cards will use the provisions of this bill to request board consideration of a waiver of the CPR requirement until they are able to obtain an updated CPR card.

Finally, the Legislature may want to consider whether the waiver should be extended to dental hygienists.

Sincerely,

  
Deborah B. Sedwick  
Commissioner

DBS/BG/go2770  
021298a

cc: Jeff Bush, Deputy Commissioner, DCED  
Catherine A. Reardon, Director, Division of Occupational Licensing  
Pat Pourchot, Legislative Director, Office of the Governor

STATE OF ALASKA  
DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT  
BOARD OF DENTAL EXAMINERS

In the Matter of: )  
Stuart A. Reder, D.D.S. )  
Respondent )  
Case No. 1200-92-16

MEMORANDUM OF AGREEMENT

IT IS HEREBY AGREED by the Department of Commerce and Economic Development, Division of Occupational Licensing (Division) and Stuart A. Reder, D.D.S. as follows:

1. Licensure. Dr. Reder was licensed as a dentist in the State of Alaska, license number D-496. This license was first issued on August 15, 1978, and unless renewed is scheduled to expire on December 31, 1994.

2. Admission/Jurisdiction. Dr. Reder admits and agrees that the Board of Dental Examiners has jurisdiction over the subject matter of his license in Alaska and over this agreement, subject to relevant parts of the American Disabilities Act and other relevant federal law.

3. Admission/facts. Dr. Reder admits to the following facts:  
a. As of the date of this memorandum, Dr. Reder, as a result of a physical disability affecting his current physical abilities and dexterity, is

MEMORANDUM OF AGREEMENT  
Stuart A. Reder  
Page 1 of 7  
reder.moa

STATE OF ALASKA  
DIVISION OF OCCUPATIONAL LICENSING  
3601 C STREET, SUITE 722, ANCHORAGE, ALASKA 99503  
Phone: (907) 561-2878 FAX: (907) 562-5781

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unable to successfully complete the statutory requirement for training in cardiopulmonary resuscitation (C.P.R.) techniques in order to renew his license, AS 08.36.070(a)(13).  
b. Dr. Reder admits that as a result of the above facts, at present he cannot physically complete the cardiopulmonary resuscitation (C.P.R.) requirements to renew his dental license pursuant to AS 08.36.070(a)(13).

4. Formal Hearing Process. It is the intent of the parties of this Memorandum of Agreement to provide for the compromise and settlement of all issues which could be raised by either party in an accusation to revoke, suspend, or refusal to renew Dr. Reder's dental license through a formal hearing.

5. Waiver of Rights. Dr. Reder understands that he has the right to consult with an attorney of his own choosing and that he has a right to an administrative hearing on the facts in his case. He understands and agrees that by signing this Memorandum of Agreement, he is waiving his right to a hearing. Further, he understands and agrees that he is relieving the Division of any burden it has of proving the facts he admits herein. Dr. Reder further understands and agrees that by signing this Memorandum of Agreement he is voluntarily and knowingly giving up his right to present oral and documentary evidence, to present

MEMORANDUM OF AGREEMENT  
Stuart A. Reder  
Page 2 of 7  
reder.moa

STATE OF ALASKA  
DIVISION OF OCCUPATIONAL LICENSING  
3601 C STREET, SUITE 722, ANCHORAGE, ALASKA 99503  
Phone: (907) 561-2878 FAX: (907) 562-5781

STATE OF ALASKA  
 DIVISION OF OCCUPATIONAL LICENSING  
 3601 C STREET, SUITE 722, ANCHORAGE, ALASKA 99503  
 Phone: (907) 561-2878 FAX: (907) 562-5761

rebuttal evidence, to cross-examine witnesses against him, and to appeal the Board's decision to the proper courts as to the issues raised in this memorandum.

6. Effect of Nonacceptance of Agreement. Dr. Reder and the

Division agree that this Memorandum of Agreement is subject to the approval of the Board. They agree that, if the Board rejects this agreement, it will be void, and an accusation may be filed. If this agreement is rejected by the Board, and any party hereto, it will not constitute a waiver of Dr. Reder's rights set forth in Paragraph 5. Dr. Reder agrees that, if the Board rejects this agreement, the Board may decide the matter after a hearing, and the waiver of Paragraph 5 are revoked. Its consideration of this agreement shall not alone be grounds for claiming that the Board is biased against him, that it cannot fairly decide the case, or that it has received ex parte communication.

7. Scope of License Limitation. Dr. Reder's license is limited to

~~the practice of forensic dentistry, and he agrees he will not perform any invasive clinical procedures on living persons until such time as he has satisfied the cardiopulmonary resuscitation (C.P.R.) requirements.~~ Dr.

Reder's license is also limited so that he is required whenever he performs invasive clinical dental procedures on a patient to have a currently certified person in cardiopulmonary resuscitation (C.P.R.) in his

MEMORANDUM OF AGREEMENT

Stuart A. Reder

Page 3 of 7

reder.moa

and the patients immediate presence.

B. Memorandum of Agreement, Decision and Order, Dr. Reder

agrees that the Board may enter into this Memorandum of Agreement and to issue the following Decision and Order.

PROPOSED DECISION AND ORDER

IT IS HEREBY ORDERED that upon submission of all renewal requirements, except for the CPR training, the license to practice dentistry be renewed. Dr. Reder is limited to the practice of forensic dentistry.

A. Compliance with Laws. Dr. Reder will obey all laws of the United States, State of Alaska, and all laws pertaining to the practice of dentistry in this state with the above exception.

B. Violation of License Limitation. Should Dr. Reder violate the terms of this agreement by practicing invasive clinical dental procedures on living persons without the presence of a currently certified person in cardiopulmonary resuscitation (C.P.R.), the Board may summarily suspend his license pending a hearing. If Dr. Reder's license is summarily suspended under this paragraph, he shall be entitled to a hearing within seven (7) days. Subsequent to a hearing, the Board may invoke other disciplinary sanctions.

MEMORANDUM OF AGREEMENT

Stuart A. Reder

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STATE OF ALASKA  
DIVISION OF OCCUPATIONAL LICENSING  
3601 C STREET, SUITE 722, ANCHORAGE, ALASKA 99503  
Phone: (907) 561-2878 FAX: (907) 562-5761

STATE OF ALASKA  
DIVISION OF OCCUPATIONAL LICENSING  
3601 C STREET, SUITE 722, ANCHORAGE, ALASKA 99503  
Phone: (907) 561-2878 FAX: (907) 562-5781

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C. Removal of License Limitations. Should Dr. Reder take and pass the required cardiopulmonary resuscitation (C.P.R.) course at any time in the future, his license shall be fully restored without the above limitation and without contest or fee by the Board of Dental Examiners upon the Board's receipt of proof of the successful completion of the cardiopulmonary resuscitation (C.P.R.) course.

D. This Memorandum of Agreement expires on December 31, 1998, the next license renewal date. The Board may, in its discretion, renew this agreement for subsequent renewal periods.

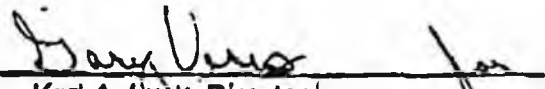
E. Address of the Board. Any communication concerning compliance with this Memorandum of Agreement shall be addressed to:

Probation Coordinator  
Division of Occupational Licensing  
3601 C Street, Suite 722  
Anchorage, AK 99503

IT IS HEREBY FURTHER ORDERED that this Order shall take effect immediately upon its adoption by the Board and is a public record of the Board and the State of Alaska. The State may provide a copy of it to any person or entity making a relevant inquiry.

DATED THIS 14<sup>TH</sup> DAY OF November, 1994 AT ANCHORAGE, ALASKA.

Department of Commerce and  
Economic Development  
Cindy Roberts, Commissioner

  
Karl A. Luok, Director  
Division of Occupational Licensing

I, Stuart A. Reder, D.D.S., have read this Memorandum of Agreement, understand it, and agree to be bound by its terms and conditions.

DATED THIS 11-8-94 DAY OF November, 1994 AT Anchorage, ALASKA.

  
Stuart A. Reder, D.D.S.

STATE OF ALASKA  
DIVISION OF OCCUPATIONAL LICENSING  
3601 C STREET, SUITE 722, ANCHORAGE, ALASKA 99503  
Phone: (907) 561-2878 FAX: (907) 562-5781

ORDER

The Board of Dental Examiners for the State of Alaska, having examined the Memorandum of Agreement and Proposed Decision and Order dated 11-14-94 by the parties hereby adopts the Memorandum of Agreement and Decision and Order in this matter.

DATED THIS 14 DAY OF NOVEMBER, 1994 AT ANCHORAGE ALASKA.

Board of Dental Examiners

By:

*[Signature]*  
Chairperson

STATE OF ALASKA

DIVISION OF OCCUPATIONAL LICENSING

3601 C STREET, SUITE 722, ANCHORAGE, ALASKA 98503

Phone: (907) 561-2678

FAX: (907) 562-5781

MEMORANDUM OF AGREEMENT  
Stuart A. Reder  
Page 7 of 7  
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STATE OF ALASKA  
DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT  
BOARD OF DENTAL EXAMINERS

In the Matter of: )  
Arthur S. Hansen, D.D.S. )  
Respondent )  
Case No. 1250-93-1

MEMORANDUM OF AGREEMENT

IT IS HEREBY AGREED by the Department of Commerce and Economic Development, Division of Occupational Licensing (Division) and Arthur S. Hansen, D.D.S. as follows:

1. Licensure. Dr. Hansen was licensed as a dentist in the State of Alaska, license number D-291. This license was first issued on December 9, 1988, and unless renewed is scheduled to expire on December 31, 1994.

2. Admission/Jurisdiction. Dr. Hansen admits and agrees that the Board of Dental Examiners has jurisdiction over the subject matter of his license in Alaska and over this agreement, subject to relevant parts of the American Disabilities Act and other relevant federal law.

3. Admission/facts. Dr. Hansen admits to the following facts:  
a. As of the date of this memorandum, Dr. Hansen, as a result of a physical disability affecting his current physical abilities and dexterity,

MEMORANDUM OF AGREEMENT  
Arthur S. Hansen, D.D.S.  
Page 1 of 7  
hansen.moa

STATE OF ALASKA  
DIVISION OF OCCUPATIONAL LICENSING  
3501 C STREET, SUITE 722, ANCHORAGE, ALASKA 99503  
Phone: (907) 561-2878 FAX: (907) 562-5783

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is unable to successfully complete the statutory requirement for training in cardiopulmonary resuscitation (C.P.R.) techniques in order to renew his license, AS 08.36.070(a)(13).

b. Dr. Hansen admits that as a result of the above facts, at present he cannot physically complete the cardiopulmonary resuscitation (C.P.R.) requirements to renew his dental license pursuant to AS 08.36.070(a)(13).

4. Formal Hearing Process. It is the intent of the parties of this Memorandum of Agreement to provide for the compromise and settlement of all issues which could be raised by either party in an accusation to revoke, suspend, or refusal to renew Dr. Hansen's dental license through a formal hearing.

5. Waiver of Rights. Dr. Hansen understands that he has the right to consult with an attorney of his own choosing and that he has a right to an administrative hearing on the facts in his case. He understands and agrees that by signing this Memorandum of Agreement, he is waiving his right to a hearing. Further, he understands and agrees that he is relieving the Division of any burden it has of proving the facts he admits herein. Dr. Hansen further understands and agrees that by signing this Memorandum of Agreement he is voluntarily and knowingly giving up his right to present oral and documentary evidence, to present

MEMORANDUM OF AGREEMENT  
Arthur S. Hansen, D.D.S.  
Page 2 of 7  
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DIVISION OF OCCUPATIONAL LICENSING  
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Phone: (907) 561-2878 FAX: (907) 562-5761

rebuttal evidence, to cross-examine witnesses against him, and to appeal the Board's decision to the proper courts as to the issues raised in this memorandum.

6. Effect of Nonacceptance of Agreement. Dr. Hansen and the Division agree that this Memorandum of Agreement is subject to the approval of the Board. They agree that, if the Board rejects this agreement, it will be void, and an accusation may be filed. If this agreement is rejected by the Board, and any party hereto, it will not constitute a waiver of Dr. Hansen's rights set forth in Paragraph 6. Dr. Hansen agrees that, if the Board rejects this agreement, the Board may decide the matter after a hearing, and the waiver of Paragraph 5 are revoked. Its consideration of this agreement shall not alone be grounds for claiming that the Board is biased against him, that it cannot fairly decide the case, or that it has received ex parte communication.

7. Scope of License Limitation. Dr. Hansen's license is limited so that he is required, whenever he performs clinical dental procedures on a patient, to have a currently certified person in cardiopulmonary resuscitation (C.P.R.) in his and the patient's immediate presence.

8. Memorandum of Agreement, Decision and Order. Dr. Hansen agrees that the Board may enter into this Memorandum of Agreement and to issue the following Decision and Order.

MEMORANDUM OF AGREEMENT  
Arthur S. Hansen, D.D.S.  
Page 3 of 7  
hansen.moa

STATE OF ALASKA  
DIVISION OF OCCUPATIONAL LICENSING  
3601 C STREET, SUITE 722, ANCHORAGE, ALASKA 99503  
Phone: (907) 561-2878 FAX: (907) 562-5781

PROPOSED DECISION AND ORDER

IT IS HEREBY ORDERED that upon submission of all renewal requirements, except for the CPR training, the license to practice dentistry be renewed. Dr. Hansen is limited only to the extent of requiring a person currently certified in C.P.R. to be in the immediate presence of Dr. Hansen and any patient upon whom Dr. Hansen performs clinical dental procedures.

A. Compliance with Laws. Dr. Hansen will obey all laws of the United States, State of Alaska, and all laws pertaining to the practice of dentistry in this state with the above exception.

B. Violation of License Limitation. Should Dr. Hansen violate the terms of this agreement by practicing clinical dental procedures in the absence of a person currently certified in C.P.R. in the immediate presence of Dr. Hansen and any patient upon whom Dr. Hansen performs clinical dental procedures, the Board may summarily suspend his license pending a hearing. If Dr. Hansen's license is summarily suspended under this paragraph, he shall be entitled to a hearing within seven (7) days. Subsequent to a hearing, the Board may invoke other disciplinary sanctions.

C. Removal of License Limitations. Should Dr. Hansen take and pass the required cardiopulmonary resuscitation (C.P.R.) course at

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MEMORANDUM OF AGREEMENT  
Arthur S. Hansen, D.D.S.  
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any time in the future, his license shall be fully restored without the above limitation and without contest or fee by the Board of Dental Examiners upon the Board's receipt of proof of the successful completion of the cardiopulmonary resuscitation (C.P.R.) course.

D. This Memorandum of Agreement expires on December 31, 1996, the next license renewal date. The Board may, in its discretion, renew this agreement for subsequent renewal periods.

E. Address of the Board. Any communication concerning compliance with this Memorandum of Agreement shall be addressed to:

Probation Coordinator  
Division of Occupational Licensing  
3601 C Street, Suite 722  
Anchorage, AK 99503

MEMORANDUM OF AGREEMENT  
Arthur S. Hansen, D.D.S.  
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IT IS HEREBY FURTHER ORDERED that this Order shall take effect immediately upon its adoption by the Board and is a public record of the Board and the State of Alaska. The State may provide a copy of it to any person or entity making a relevant inquiry.

DATED THIS 14<sup>TH</sup> DAY OF November, 1994 AT ANCHORAGE, ALASKA.

Department of Commerce and Economic Development  
Cindy Roberts, Commissioner

*Karl A. Luck*  
Karl A. Luck, Director  
Division of Occupational Licensing

I, Arthur S. Hansen, D.D.S., have read this Memorandum of Agreement, understand it, and agree to be bound by its terms and conditions.

DATED THIS 14<sup>TH</sup> DAY OF NOVEMBER, 1994 AT ANCHORAGE, ALASKA.

*Arthur S. Hansen D.D.S.*  
Arthur S. Hansen, D.D.S.

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MEMORANDUM OF AGREEMENT  
Arthur S. Hansen, D.D.S.  
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ORDER

The Board of Dental Examiners for the State of Alaska, having examined the Memorandum of Agreement and Proposed Decision and Order dated 11/14/94 by the parties hereby adopts the Memorandum of Agreement and Decision and Order in this matter.

DATED THIS 11/14 DAY OF NOVEMBER, 1994 AT ANCHORAGE, ALASKA.

Board of Dental Examiners

By: [Signature]  
Chairperson

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MEMORANDUM OF AGREEMENT  
Arthur S. Hansen, D.D.S.  
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BOARD OF DENTAL EXAMINERS  
MINUTES OF MEETING  
DECEMBER 13-14, 1996  
PAGE 7

DENTIST #496  
Reder, Stuart

Dr. Bartalsky stated that she was attending Alcoholics Anonymous meetings everyday. She wanted to know if the board would want her to continue urinalysis testing.

On a motion by Clark, seconded by Ross and carried unanimously, it was

RESOLVED that Dr. Bartalsky be tested quarterly on a random day chosen by a selected testing agency, and that it would be the testing lab's responsibility to call Dr. Bartalsky.

Dr. Karl Maki

The board reviewed the amended Memorandum of Agreement that was distributed by Slisz. Seater asked how Dr. Maki would be monitored once he returned to work. Dr. Maki stated that his colleague would review each case and watch his dental skills. Dr. Maki stated that he is planning to work 16 to 20 hours a week. Ross asked how Dr. Maki was feeling physically, and he answered, "I feel great."

Referring to section "H" on the amended MOA, Lang wanted to know how the board would know if Dr. Maki was staying off drugs and alcohol when the probationary period is over. Slisz explained that the board could not check on someone that is removed from probation without just cause. Dr. Maki stated that he did not have a problem with taking urinalysis, except for the expense of it.

On a motion by Crooks, seconded by Lang and carried unanimously, it was

RESOLVED to approve the amended MOA with modification of section "H" to require random testing for the last 24 months for no more than 15 tests for each year.

Hansen and Reder, CPR Exemption

The board reviewed the files for Dr. Arther Hansen and Dr. Stuart Reder. The original Memorandum of Agreements will expire on December 31, 1996. The request is for the board to approve the Memorandum of Agreements without

BOARD OF DENTAL EXAMINERS  
MINUTES OF MEETING  
DECEMBER 13-14, 1996  
PAGE 8

an expiration date so the board would not need to approve an exemption every two years.

On a motion made by Pendergrast, seconded by Crooks and carried unanimously, it was

**RESOLVED** to accept the current Memorandum of Agreements with Dr. Hansen and Dr. Rader as ongoing, rather than reviewing them every two years, unless there was a change of status.

Investigative Report

Slisz presented the Investigative Report to the board. Pendergrast asked if an investigation could be done on an applicant that answered "Yes" on an application. Slisz answered "yes," and clarified that it was up to the licensing examiner to inform the investigator of any "yes" answers on applications.

Off the record: 2:50 p.m.

On the record: 3:02 p.m.

**Agenda Item 8**

Tetracycline Impregnated Fibers

The board reviewed the questionnaire from Procter & Gamble received by the board regarding continuing education. The board discussed the question: "Can hygienists place tetracycline impregnated fibers, actisite in your state?"

On a motion made by Clark, seconded by Stewart and carried unanimously, it was

**RESOLVED** that the board felt that when prescribed by the dentist, the placement of tetracycline impregnated fibers could be delegated to a trained and registered dental hygienist with indirect or direct supervision.

**Agenda Item 9**

Anesthesia Supervision

The board reviewed the letter addressed to the board from the Western Regional Examining Board. Arneson is to answer the questions on behalf of the board.

February 13, 1998

Representative Gene Therriault  
Alaska State Legislature

Dear Representative:

I wish to express my support for the intent of HB 387. As I understand this bill, the intent is to enable or facilitate the licensing of dentists in Alaska who may not be physically able, providing that they have certified staff present, or required by necessity to be able to perform cardiopulmonary resuscitation (CPR) while performing their professional functions.

I do not believe that dentists who suffer physical handicaps but who are still able to provide quality care to their patients should be barred from practicing if provisions for patient protection can be accomplished. Nor do I believe that dentists who are performing non-clinical administrative functions should be required to be ready and able to perform CPR.

I am concerned that the language of HB 387, as I have seen it, would allow practicing dentists who are not in the above categories to apply for waivers when they have failed to obtain recertification for CPR. I would not like to see a "loophole" such as this created.

I absolutely approve of a bill to allow the Board of Examiners to grant waivers in the licensing process through Memoranda of Agreement for dentists who are not capable or required by their job functions to perform CPR. I encourage the approval of a modification of HB 387 which has language which prevents potential implementation problems.

Please continue to pursue this legislation. If I may be of assistance in the future, do not hesitate to contact me.

Sincerely,  
Kenneth L. Crooks, DDS

THOMAS & PATRICIA VINCENT  
P.O. Box 1485 Kenai, Alaska 99611 (907) 283-3378

February 17, 1998

Representative Norm Rokeberg, Chairman of the House Judiciary Committee  
and Committee Members  
State Capital  
Juneau, Alaska 99801

RE: HOUSE BILL NO. 49

Dear Representative Rokeberg and Committee Members:

We are writing to express our strong support for HB 49. We favor any legislation that protects the consumers in the State of Alaska, and urge you to do the same!

Unfortunately, we have first-hand knowledge of how the system works for consumers with justified complaints, and we can't begin to tell you how unfair the current system of solving disputes is to the consumer. What we can say with all certainty is that there are no monetary winners except for the lawyers involved! The giant corporations and/or insurance companies may "win" the case, but you can bet your life the consumers will have those costs passed back to us in higher cost of products and/or insurance premiums. This is unfair to everyone!

Every single penny we have had to spend on our litigation has had to come right out of our pocket. There is no insurance available to people in our situation to cover attorney fees. The other person's insurance company is paying all of his legal fees. What can be fair in this system when the person with the most money is the probably the only one left standing when the dust clears?

The Judge in our case has urged us all to settle out of Court, and that would certainly be our preference. However, unless the insurance company and the defendant are able to compensate us with a reasonable amount of money to repay our expenses for the repairs that have had to be done to make our home habitable, we are not financially able to "settle" - a jury of our peers will be forced to decide the outcome. The most we can even expect to receive to cover our attorney fees is 30%, if we "win" the litigation, and if the jury feels this is a fair compensation! Obviously, right doesn't always mean justice prevails.

The Judge told us all at a pretrial hearing that the six days the Court has set aside to hear this case will cost close to \$3,000,000. The cost of our trial will be paid in some way by every

**HB**

**388**

# HOUSE COMMITTEE REPORT

(7)

Date Referred to Committee: April 17, 1998

FURTHER REFERRALS:

Date of Committee Action: 5/1/98

The LABOR AND COMMERCE Committee considered:

HB 388

HOUSE BILL NO. 388

RIGHT TO REFUSE TO SERVE LIQUOR

“An Act relating to the right to refuse to sell, give, or serve an alcoholic beverage.”

recommends it be replaced  the same title  
 with the following committee substitute \_\_\_\_\_  a new title

additional referral to \_\_\_\_\_ Committee  
 attached amendment(s)

ADOPTS: \_\_\_\_\_ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) \_\_\_\_\_ APPROVES PREVIOUS: (Dept/Date) \_\_\_\_\_  
 fiscal note(s) \_\_\_\_\_  fiscal note(s) \_\_\_\_\_  
 zero fiscal note(s) DOR \_\_\_\_\_  zero fiscal note(s) \_\_\_\_\_

SIGNING WITH RECOMMENDATIONS	DP	DNP	NR	AM
<i>John Caudwell</i>	✓			
<i>Bill Hudson</i>			✓	
<i>Fred Ryan</i>	✓			
<i>Steve Kately</i>			✓	
<i>Greg Saper</i>			✓	

CHAIR'S SIGNATURE *Steve Kately* 5/1/98

HOUSE COMMITTEE REPORT

(7)

Date Referred to Committee: February 6, 1998

FURTHER REFERRALS: Labor and Commerce

Date of Committee Action: 4/16/98

The HEALTH, EDUCATION AND SOCIAL SERVICES Committee considered:

HB 388

HOUSE BILL NO. 388

RIGHT TO REFUSE TO SERVE LIQUOR

"An Act relating to the right to refuse to sell, give, or serve an alcoholic beverage."

recommends it be replaced with the following committee substitute \_\_\_\_\_  the same title  a new title

additional referral to \_\_\_\_\_ Committee  
 attached amendment(s)

ADOPTS: \_\_\_\_\_ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) \_\_\_\_\_

APPROVES PREVIOUS: (Dept/Date) \_\_\_\_\_

fiscal note(s) \_\_\_\_\_

fiscal note(s) \_\_\_\_\_

zero fiscal note(s) Revenue

zero fiscal note(s) \_\_\_\_\_

SIGNING WITH RECOMMENDATIONS	DP	DNP	NR	AM
<i>Frank Jones</i>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>		
<i>Joseph [unclear]</i>			<input checked="" type="checkbox"/>	
<i>Car Bunker</i>	<input checked="" type="checkbox"/>			
<i>Bryan [unclear]</i>	<input checked="" type="checkbox"/>			
<i>[unclear]</i>			<input checked="" type="checkbox"/>	
<i>Tom [unclear]</i>			<input checked="" type="checkbox"/>	

CHAIR'S SIGNATURE

*Car Bunker*

Revision Date: \_\_\_\_\_ Dept. Affected: Revenue  
 Title: Right to Refuse to Serve Liquor BRU: ABC Board  
 Component: ABC Board  
 Sponsor: Representative Dyson  
 Requestor: (H) HES COMPONENT SERIAL NO. 100

Expenditures/Revenues: (Thousands of Dollars)

	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
<b>OPERATING EXPENDITURES</b>						
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
<b>CAPITAL EXPENDITURES</b>						
<b>CHANGE IN REVENUES ( )</b>						

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year cost 0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

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

This bill gives liquor licensees the right to refuse alcoholic beverage service to a pregnant woman in order to protect the health of the unborn child. The provision is discretionary.

Prepared by: Doug Griffin, Director Phone: 277.8638  
 Division: Alcoholic Beverage Control Board Date: April 13, 1998  
 Approved by Commissioner: Wilson L. Condon *Ross G. Kennedy* Date: April 13, 1998  
 Agency: Department of Revenue

## Sponsor Statement for HB 388

**"An Act relating to the right to refuse to sell, give, or serve an alcoholic beverage."**

Alaska is poisoning pre-born children with alcohol at the highest rate in the nation. Pre natal alcohol poisoning is the leading cause of mental retardation in our country. Children with full-blown Fetal Alcohol Syndrome have a reduced stature, smaller brains, IQs below 80, facial disfiguration and a series of health problems. In a lifetime the State of Alaska spends over a million dollars on each of these children. In one case within the sponsor's district, the state has spent a million dollars on health care in just the first year of the child's life.

For children with the less severe Alcohol Related Neurological Defects (ARND), where the effects are not physically visible, the children have permanent mental dysfunction that leave them with reasoning deficiencies and a limited capacity to identify with others; this is almost the exact definition of a sociopath. Invariably, this can result in relational problems that occur throughout their lives. Experts now believe that more than half of our prison population has ARND related problems.

The impact for the families of these children is profound because of the disproportionate amount of attention and care that these children require.

There are communities in our state where the experts believe that up to half of the entering kindergarten/grade one children have permanent alcohol related mental retardation. The school systems spend an immense amount of resources on these innocent victims.

As a state, we continue to struggle with this unfolding tragedy and to find ways to prevent further damage to our kids. We are increasing our efforts at education and early intervention with women who are highly likely to drink while they pregnant. We have women in our state who have produced eight FAS/ARND children and one of the leading advocates involved in the FAS/ARND issue is a woman who has produced three of these children.

The liquor industry has been concerned about the prenatal poisoning of pre born children, both from a liability perspective and because of the irreversible damage to the children. Many bar owners make a practice of refusing to serve a pregnant woman but they believe they are on uncertain ground because the Alaska statues allow for refusal of service only on the basis of the potential of the person being a danger to themselves or to others. The industry has asked us to insert wording into the statues to protect them from legal actions that might result from the refusal to serve. This bill accomplishes that and strengthens the industry's ability to protect unborn children.

Author: cslats@usa.net (Cindy Slats) at CC2MHS1

Date: 4/16/98 8:14 AM

Priority: Normal

TO: Representative Fred Dyson at LAA\_TRANS

Subject: HB 388

Representative Dyson- As the mother of an alcohol affected child, I would like to thank you for sponsoring House Bill 388. Although it will not prevent pregnant women from drinking, I see it as a first step in raising awareness regarding this 100% preventable, irreversible, birth defect. I would also like to urge you and the other legislators of this state to view mothers with addictions with compassion, realizing that the addiction is not a choice, and precludes making good judgements and choices. This bill sends the message that the citizens of this state find drinking while pregnant socially unacceptable, and that is good in my opinion. We must also have something to offer these women, not punishment for something they can no more help than having diabetes or any other disease. It is very difficult for a person who has not suffered with an addiction to understand, and too easy to judge and say "just don't drink when you are pregnant."

On behalf of my daughter, the many other alcohol affected children in this state, and the unborn future citizens of this state and the world, I thank you.

Cindy Slats

Napakiak, Ak. (winter)

Fairbanks, Ak. (summer/permanent)